



This attachment summarizes preliminary feedback from a panel of wireless industry stakeholders and Planning Commission study sessions regarding the Preliminary Draft Code. The draft code for Planning Commission review reflects the staff responses to comments shown in this document. The public process may change the proposal and staff responses in this matrix.

	Comment Description and Staff Response
<p>1.</p>	<p>Purpose and Applicability – Remove preference to “eliminate visual impacts”. Eliminating visual impacts is an unattainable goal. <i>Response:</i> <i>The preference to eliminate visual impacts is a statement of intent. This is why the proposal reduces permit requirements for facilities that minimize visual impacts (i.e., behind the parapet of a building, a tower-based facility disguised to look like a tree or other natural feature).</i></p>
<p>2.</p>	<p>Purpose and Applicability – Exempt temporary facilities Add exemptions for temporary wireless communication facilities that provide service:</p> <ul style="list-style-type: none"> • At special events (e.g., fairs, concerts). • When repairing or reinstalling an existing location. • When emergency or routine repairs are needed. Use language such as “do not significantly change the visual impacts” instead of “identical dimensions and appearance”. Identical dimensions is overly restrictive with changes to industry technology. <p><i>Response:</i> <i>These changes meet the purpose section criteria by providing wireless infrastructure. Exemption from obtaining a land use permit will extend to some of these facilities in section 17.530.010 B. ‘Exemptions’.</i></p> <p><i>Emergency or routine repairs may occur through the letter of exemption permits. Repairs and reconstruction are subject to the required land use approvals relative to substantial change criteria in section 17.530.030 A ‘Permits required’.</i></p> <p><i>The use of “significantly change” regarding visual impacts would not be a clearly defined standard. The County worked with members of the Washington Association of Telecommunication Officers and Advisors (WATOA) and the National Association of Telecommunication Officers and Advisors (NATOA). Multiple generations of equipment remaining in provider inventory. “Identical or of smaller dimension” assures that Kitsap County receives the newest modular equipment similar to large municipalities.</i></p>

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3.	<p>Purpose and Applicability – Allow facilities on historic structures with review. (no explanation provided)</p> <p><i>Response:</i> 2016 Comprehensive Plan Land Use Strategy 3 suggests “Projects and Programs: Consider establishing a historic review board for Kitsap County.” Prohibiting the construction of wireless facilities on historic structures remains consistent with Land Use Policy 22 in the absence of a historic review board.</p>
4.	<p>Purpose and Applicability – Allow facilities that create a more than moderate visual impact such as guy wire towers and towers that require lighting per FAA requirements. (no explanation provided)</p> <p><i>Response:</i> The proposal prohibits these facilities to implement the 2016 Comprehensive Plan Land Use Goal 13: Protect Kitsap County’s unique rural character and Capital Facilities and Utilities Policy 11 to minimize visual impact. The proposal allows the installation of macrosites will specific size limitations.</p>
5.	<p>Permitting – Use performance based criteria to allow different facilities in certain locations.</p> <p>For example: Park locations are places where people congregate and often an area of need for wireless service. Parks also provide good locations for mono-pines or other stealth designs that are compatible with surroundings. Allow Mono-pine towers within normal setbacks for the zone. This stealth technology significantly reduces the visual impact, if not removes it, even when placed in plain sight. Reserve the increased setbacks for lattice towers and guy wire towers, facilities that still have visual impacts.</p> <p><i>Response:</i> The proposal changed to encourage more effective use of stealth technology. Towers that use stealth technology to completely disguise a tower-based facility as a tree or other natural feature shall be permitted through an administrative conditional use permit (ACUP). The proposal still requires screening the related equipment on all sides. The change allows tower-based facilities within 300 feet of a park boundary. However, the tower must comply with the setback and visual screening requirements.</p>

	Comment Description and Staff Response
6.	<p>Permitting – Reduce land use permit requirements to a letter of exemption for all collocations and small wireless facilities provided they meet prescriptive criteria. Building permits, right of way permits, and franchise agreements requirements still apply. This still protects public health, safety, and welfare and removes barriers for deployment of collocated facilities.</p> <p><i>Response:</i> <i>The proposal changed to reduce permit requirements for some collocated facilities and tower-based facilities within 500 feet of an existing tower. Changing the land use requirement to a letter of exemption, instead of an ACUP, may have other affects to the code. Staff must analyze the effect of these changes. The Department is waiting until the public comment period ends to determine if other alternatives must be analyzed.</i></p> <p><i>The proposal allows the installation of macro-sites and small wireless facilities to improve wireless infrastructure across the County. However, the proposal encourages collocation and more effective methods of stealth technology for towers to maintain the County’s visual quality.</i></p> <p><i>Using more effective methods of stealth technology and screening requirements for these facilities meets the intent to reduce, or preferably eliminate, visual impacts. Small wireless facility pole installations must be visually similar to existing poles in the right of way unless the County authorizes a different design.</i></p>
7.	<p>Permitting – Preapplication and Consultant Review (Planning Commission Comment) The shot clock requirements and the ability to batch permits should result in:</p> <ul style="list-style-type: none"> • a preapplication meeting required at the time of submittal. • hiring a consultant to process the permits at the cost of the applicant. <p><i>Response:</i> <i>The FCC order considers a pre-application meeting the start of an application shot clock. The proposed code provides the option in 17.530.030 B. The proposal removes the requirement to conduct a preapplication meeting upon an applicant that challenges the requirement to submit a specific application item.</i></p>
8.	<p>Permitting – Allow photo simulations to replace balloon or crane tests. A photo simulation can achieve the same results as a ballon or crane test. The coordination and noticing efforts are unnecessary if you can show what a facility will look like in a photo.</p> <p><i>Response:</i> <i>Photosimulations do not provide a realistic context for neighbors, primarily for large lattice towers or mono-poles. Balloon or crane simulations provide a more realistic depiction of tower height relative to surrounding trees and structures.</i></p>

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9.	<p>Permitting – Letter of Exemption. General development standards don’t apply via FCC rule 6409. The ruling requires compliance only with the substantial change criteria and building and safety codes. The remainder of local zoning codes do not apply.</p> <p><i>Response:</i> <i>The FCC ruling related to Section 6409(a) of the Spectrum Act, 47 USC 1455(a), is FCC 14-153. The County has reviewed this ruling and interprets it to allow not only the application of the substantial modification criteria in 47 CFR 1.40001 (now 47 CFR 1.6100), but also that the county may continue “to enforce and condition approval on compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.” FCC 14-153 at ¶188. The proposal intends to provide general and “objectively reasonable” wireless standards relating to concealment/aesthetics, lighting, noise, and other construction requirements.</i></p> <p><i>The County’s definition for towers could apply to small wireless facilities, but that was not the intent. We will continue to review this issue to address the broad definition. The proposal changed Section 17.530.040 ‘General Development Standards’ to include an exception for:</i> <i>Subsection A ‘Height’.</i> <i>Subsection B ‘Visual Analysis’.</i> <i>Subsection D ‘Noise’.</i></p>
10.	<p>Permitting – Applications for Administrative Conditional Use Permit (ACUP) should not require a lease agreement. The County doesn’t require a copy of a lease agreement for any other type of planning permit.</p> <p><i>Response:</i> <i>The County requires proof of authority for every permit. A lease agreement provides the proof of authority and an understanding of the long term requirements, such as buffer requirements.</i></p>
11.	<p>Permitting – Applications for Conditional Use Permit (CUP). The effort to collocate a facility should be limited to wireless facilities or other tall structures within ½ mile of the proposed site.</p> <p><i>Response:</i> <i>The County requires a documented attempt to collocate to reflect the “collocation” first approach to new wireless facilities.</i></p>

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12.	<p>Permitting – Add severability option Decisions for each application should be separate. The denial of one application should not mean the denial of the entire batch of applications. <i>Response:</i> <i>A single batch of multiple applications yields only one permit number. Official denial requires denial of the permit, not an application within the permit. An application with an expected denial can be removed by the applicant from the permit.</i></p>
13.	<p>Permitting – (Planning Commission) Code should reflect cost recovery. The FCC rulings allow jurisdictions to track reasonable costs and charge those amounts. This should be stated in code. <i>Response:</i> <i>The Department tracks costs and adopts a fee schedule each year. Cost recovery is generally included in that process.</i></p>
14.	<p>Permitting and Regulations for non-tower and small wireless communication facilities – requirement to demonstrate attempted collocation is inconsistent with FCC order 18-133. <i>Response:</i> <i>The proposal allows the construction of non-tower and small wireless facilities. The County interprets the FCC ruling to allow the requirement to demonstrate efforts to collocate non-small wireless facilities.</i></p>
15.	<p>Permitting and Regulations for tower-based wireless communication facilities – Remove gap coverage requirement or justification of facility design. The 2018 Order doesn’t allow the County to require justification to locate a facility or justify the height. Suggested removal of all language that requires propagation studies to confirm gap coverage. The 9th Circuit significant gap in service test was rejected for all facilities in the latest FCC order. Suggest that the County align the language with the 10th circuit “materially inhibit” test. <i>Response:</i> <i>The latest FCC Order, FCC 18-153, primarily addressed small wireless facilities and did not prohibit propagation or gap coverage studies for towers. The proposal changed to exempt small wireless facilities from this requirement.</i> <i>The County’s definition for towers could apply to small wireless facilities, but that was not the intent. We will continue to review this issue to address the definition.</i></p>

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16.	<p>General Development Standards – Increase the maximum height limitations Tower-based facilities height limits are infeasible because:</p> <ul style="list-style-type: none"> • Trees disrupt the signal and collocation requires vertical separation. The proposal of no more than 20 feet above the tree line doesn’t account for tree growth and limits a tower to two collocated facilities. • 125 foot limit doesn’t allow antennas to extend beyond the top of tall trees. <p><i>Response:</i> <i>Maximum height limitations intend to reduce visual impacts to surrounding uses. The proposal changed section 17.530.060 A.3. to increase the maximum height limitation. The 125 foot maximum height limitation changed to 40 feet taller than surrounding trees not to exceed more than 200 feet. A facility that exceeds 200 feet in height requires lighting per FAA regulations. This revision will:</i></p> <ul style="list-style-type: none"> • <i>increase future collocation opportunities above the tree line.</i> • <i>account for tree growth.</i> <p><i>The proposal still requires 75% screening at the time of installation. This requirement usually uses existing trees for screening. This limits the facility height based conditions surrounding the proposed facility.</i></p>
17.	<p>General Development Standards – Remove shrouding requirements for related equipment. Shrouding requirements read like design standards for small wireless facilities in a downtown district. The FCC order requires that aesthetic standards applied to small wireless facilities be the same as those applied to other similar infrastructure in the right of way. The requirement to shroud antennae effectively prohibits the deployment of small wireless facilities. This would require many new poles to achieve the network coverage and capacity objectives.</p> <p><i>Response:</i> <i>The dimensional standards for related equipment meet the intent to disguise or hide the related equipment. Wireless facilities are regularly shown with shrouds or covers that hide the antenna and related equipment. The proposal is a tiered approach towards shrouding a facility. The applicant can demonstrate at each tier that the shrouding requirements are infeasible.</i></p> <p><i>The County worked with members of the Washington Association of Telecommunication Officers and Advisors (WATOA) and the National Association of Telecommunication Officers and Advisors (NATOA) to determine antenna and shrouding dimensions. The proposal reflects these dimensions.</i></p>

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18.	<p>General Development Standards – Visual impact analysis. More than a moderate visual impact is too vague. Section 17.530.030 B.2.b identifies almost all views within the county. The code prohibits almost any tower proposed in Kitsap County because the views listed are too comprehensive.</p> <p><i>Response:</i> <i>This requirement encourages facilities that use more effective stealth technology. This regulation may not apply to small wireless facilities or tower-based facilities that use stealth technology. A tower can be completely disguised as a douglas-fir or cedar snag that is compatible with the surrounding trees. However, a facility resembling a 200 foot tall douglas-fir or cedar snag located in a large field may become the predominant visual feature in that viewscape and rendered prohibited.</i></p>
19.	<p>General Development Standards – Lighting. The County should allow facilities that require lighting according to FAA regulations.</p> <p><i>Response:</i> <i>This requirement intends to prevent light pollution in Kitsap County and retain the rural character aesthetic. Towers can exceed the 200 foot height limitiation above a 700 foot elevation and more than ½ mile from a residential area. This restricts taller towers to the Green Mountain area as the existing code allows.</i></p>
20.	<p>General Development Standards – Related Equipment. Dimensional standards don't allow for antenna tilt required to account for Kitsap County's hills, trees, and other obstructions. Dimensional standards are inconsistent with the FCC order 18-133 volume allowances for small wireless facilities.</p> <p><i>Response:</i> <i>The dimensional standards for related equipment meet the intent to disguise or hide the related equipment. Wireless facilities are regularly shown with shrouds or covers that hide the antenna and related equipment. The proposal is a tiered approach towards shrouding a facility. The applicant can demonstrate at each tier that the shrouding requirements are infeasible.</i></p> <p><i>The County worked with members of the Washington Association of Telecommunication Officers and Advisors (WATOA) and the National Association of Telecommunication Officers and Advisors (NATOA) to determine antenna and shrouding dimensions. The proposal reflects these dimensions.</i></p>

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21.	<p>Regulations for non-tower, tower, small wireless facilities - Tree Trimming. Will tree trimming requirements from this code supercede community design standards (e.g., Silverdale Design Standards)</p> <p><i>Response:</i> <i>The County applies the most restrictive regulations. The County will further review the implications of design guidelines regarding the proposal.</i></p> <p><i>Generally, small wireless facilities do not require tree trimming or removal. Sometimes the pole owner (often PSE) performs routine maintenance of vegetation in order to clear branches from the vicinity of the pole for installation of equipment and to leave the lines clear.</i></p>
22.	<p>Regulations for tower-based facilities – Use of property and setbacks. These facilities can be designed with a break off point. A break off point should allow towers installations with smaller setback requirements.</p> <p><i>Response:</i> <i>The 110% setback requirement directly impacts public health, safety, and welfare. A tower that falls regardless of a breakoff point, ice drop, or other debris has the potential to impact a neighboring parcel to a distance of slightly more than the height of the tower.</i></p>
23.	<p>Adjustments to standards. Suggest adding an adjustments section for when compliance with standards would materially inhibit the provision of wireless services or when visual impacts can be minimized with such an adjustment.</p> <p><i>Response:</i> <i>An applicant may use the variance process in chapter 17.560 'Variances'.</i></p> <p><i>The proposal applies equally to any wireless infrastructure deployment. Local aesthetic requirements are not preempted (thus, would not materially inhibit) if they meet all three criteria:</i></p> <ol style="list-style-type: none"> <i>1. The regulations are reasonable</i> <i>2. The regulations are no more burdensome that those applied to other types of infrastructure deployments.</i> <i>3. The regulations are objective and published in advance. This means that they must incorporate clearly-defined and ascertainable standards.</i>

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24.	<p>Address Radio Frequency Emissions concerns (public comment) These emission are known to be harmful to humans. Please include strict safety guidelines to protect against radio frequency emissions.</p> <p><i>Response:</i> <i>Proposed facilities, in conjunction with other facilities, must not “generate radio frequency emissions that exceed the standards and regulations of the FCC. These regulations include at least the FCC Office of Engineering Technology Bulletin 65 entitled “Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields,” as amended (see section 17.530.040).</i></p>
25.	<p>Dissent letter that challenges the FCC ruling. Why go forward when appeals are pending? (Planning Commission)</p> <p><i>Response:</i> <i>The County must operate under the FCC ruling, effective January 14, 2019. The County must continue updates to Kitsap County Code to maintain consistency with federal standards. This proposal includes a process used to periodically review, possibly on an annual basis, section 17.530 ‘Wireless Communication Facilities’ against new rulings or interpretations.</i></p>
26.	<p>Administrative appeals and the permit review time (i.e., Shot Clock) Permit requirements should be reduced if administrative appeals must be completed within the shot clock timeframes.</p> <p><i>Response:</i> <i>This issue includes legal ambiguity. The County interprets the FCC ruling to not include administrative appeal time in the shot clock timeframes. The County has a compelling interest to allow citizens their due process to appeal the County’s decisions.</i></p>
27.	<p>Definitions – Tower. The County should not consider a small wireless facility support structure as a tower.</p> <p><i>Response:</i> <i>Small wireless facilities by definition can be upwards of 50 feet. The support structure and facility can be distinctly separate. However, the proposal changed to exempt small wireless facilities from justifying the design of the facility (e.g., justifying designed height). The proposal also changed Section 17.530.040 ‘General Development Standards’ to exempt small wireless facilities from the requirements in:</i> <i>Subsection A ‘Height’.</i> <i>Subsection B ‘Visual Analysis’.</i> <i>Subsection D ‘Noise’.</i></p>

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28.	<p>Definitions – Minimum Functional Height. The County should remove this definition as it relates to the justification of a facility. The 2018 Order doesn't allow the County to require justification to locate a facility or justify the height. Suggested removal of all language that requires propagation studies to confirm gap coverage. The 9th Circuit significant gap in service test was rejected for all facilities in the latest FCC order. Suggest that the County align the language with the 10th circuit "materially inhibit" test.</p> <p><i>Response:</i> <i>The latest FCC Order, FCC 18-153, primarily addressed small wireless facilities and did not prohibit propagation or gap coverage studies for towers. The County proposes these studies for only for towers, not small wireless facilities. The County's definition for towers could apply to small wireless facilities, but that was not the intent. However, the proposal changed to exempt small wireless facilities from justifying the design of the facility (e.g., justifying designed height). The proposal also changed Section 17.530.040 'General Development Standards' to exempt small wireless facilities from the requirements in:</i> <i>Subsection A 'Height'.</i> <i>Subsection B 'Visual Analysis'.</i> <i>Subsection D 'Noise'.</i></p>