



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Planning Board Date
June 27, 2002
Agenda Item No. 16

OFFICE OF
THE GENERAL COUNSEL

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MEMORANDUM

TO: Montgomery County Planning Board

FROM: Tariq El-Baba, Associate General Counsel *TAB*

RE: Zoning Text Amendment No. 02-03 (Telecommunications Facilities)

Staff Recommendation: Transmit supplemental comments to Montgomery County Council on above-referenced text amendment.

Pursuant to the Planning Board's directive at the public hearing on June 13, 2002, Staff has scheduled a meeting with the representatives of County government agencies in order to address certain issues raised at the public hearing. The above-mentioned meeting will take place on June 26, 2002. Staff will advise the Board of any recommended changes to the language of the Zoning Text Amendment (No. 02-03) at the June 27 public hearing and will provide the Board with any relevant documents at such time.

Please find attached, for the Board's reference, Staff's proposed language from the June 13 public hearing on this item.

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Zoning Text Amendment No: 02-03
Concerning: Telecommunications Facilities
Special Exceptions
Draft No. & Date: 2 – 3/28/02
Introduced: March 5, 2002
Public Hearing: April 9, 2002; 1:30 PM
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Praisner

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- (1) revising the standards for the grant of a telecommunication facility special exception, and
- (2) generally amending the standards for the grant of a telecommunication facility special exception.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 59-A-6	“USES PERMITTED IN MORE THAN ONE CLASS OF ZONE”
Section 59-A-6.14	“Antenna for a private telecommunication facility mounted on a rooftop or structure located on privately owned land”
DIVISION 59-G-2	“SPECIAL EXCEPTIONS—STANDARDS AND REQUIREMENTS”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

Shaded text indicates text deleted or added following transmission of Planning Board comments to County Council following the April 4, 2002 public hearing.

** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. Division 59-A-2 is amended as follows:**

2 **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3 **Sec. 59-A-2.1. Definitions.**

4
5 * * *

6 **Monopole:** A single, freestanding pole-type structure, tapering from base to top
7 and supporting one or more antenna for wireless transmission. For purposes of this
8 chapter, a monopole is ~~[[not]]~~ a telecommunications tower.

9 * * *

10 **Telecommunication facility:** Any facility established for the purpose of
11 providing ~~[[wireless voice, data and image transmission]]~~ personal wireless service
12 (as defined under the Federal Telecommunications Act of 1996, as may be
13 amended from time-to-time) within a designated service area. A
14 telecommunication facility must not be staffed. A telecommunication facility
15 consists of one or more antennas attached to a support structure, and any related
16 equipment, including any accessory structures such as pads or frames necessary to
17 house or support such equipment. Antennas are limited to the following types and
18 dimensions: omni-directional (whip) antennas not exceeding 15 feet in height and
19 3 inches in diameter; directional or panel antennas not exceeding 6 feet in height
20 and 2 feet in width; and satellite or microwave dish antennas not exceeding 6 feet
21 in diameter. An antenna may be mounted to a structure, a building rooftop or a
22 ~~[[freestanding monopole]]~~ telecommunications tower in accordance with Section
23 59-A-6.12, 59-A-6.14, and 59-G-2.43. Equipment may be located within a
24 building, and equipment cabinet, or an equipment room within an existing
25 building. No lights or signs are permitted on an antenna or support structure unless
26 required by the Federal Communications Commission, the Federal Aviation
27 Administration, or the County. A telecommunications facility does not include a
28 telecommunications tower.

29 * * *

1 **Telecommunications tower:** Any structure designed and constructed primarily
2 for the purpose of providing personal wireless services (as defined under the
3 Federal Telecommunications Act of 1996, as may be amended from time-to-time),
4 which structure is capable of supporting one or more antennae, satellite or
5 microwave dishes and includes, but is not limited to, self-supporting lattice towers,
6 guyed towers, and monopoles.

7 * * *

8 **Tower:** A lattice-type structure, guyed or freestanding, supporting antennas used
9 for radio, television broadcasting, and wireless transmissions not governed by the
10 Federal Telecommunications Act of 1996, as may be amended from time-to-time.
11 Telecommunication towers are excluded from this definition.

12
13 **Sec. 2. Division 59-A-6 is amended as follows:**
14 **DIVISION 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF**
15 **ZONE.**

16 * * *

17 **Sec. 59-A-6.14. Antenna for a private telecommunication facility mounted on**
18 **a rooftop or structure located on privately owned land.**

19 (a) An antenna and a related unmanned equipment building or cabinet
20 may be installed on a rooftop as a matter of right if [[it meets]] the
21 following standards are met.

22 (1) The building must be at least 30 feet in height in any multi-
23 family, commercial or industrial zone.

24 (2) The building must be greater than 50 feet in height in any one-
25 family residential zone. However, a rooftop telecommunication
26 antenna is not permitted on a one-family residence or a building
27 or structure accessory to a one-family residence.

1 (3) An antenna may be mounted on the facade of the building at a
2 height of at least 30 feet in a multi-family, commercial, or
3 industrial zone, and at a height greater than 50 feet in a one-
4 family residential zone. However, a telecommunication antenna
5 must not be mounted on the facade of a one-family residence or
6 a building or structure accessory to a one-family residence.

7 (4) An unmanned equipment building or cabinet must not exceed
8 560 square feet and 12 feet in height (14 feet in height for
9 rooftop structures), except that a single equipment building in
10 excess of 560 square feet, located at ground level, may be used
11 for more than one telecommunication provider, if:

12 (i) the overall square footage does not exceed 1500 square
13 feet and 12 feet in height,

14 (ii) the building is used for more than one telecommunication
15 provider operating from the same monopole or tower,
16 and

17 (iii) the building is reviewed by the Telecommunications
18 Transmission Facility Coordinating Group in accordance
19 with Sec. 2-58E of the County Code.

20 If the equipment building or cabinet is at ground level in a
21 residential zone, the building or cabinet must be faced with
22 brick or other suitable material on all sides and surrounded by
23 landscaping providing a screen of at least ~~[[3]]~~ 6 feet in height
24 at the time of planting, and must conform to the ~~[[applicable]]~~
25 setback standards of the applicable zone.

26 (5) If the equipment building is located on the roof of a building,
27 the equipment building or cabinet and other structure, in

1 combination with any other equipment building and structure,
2 must not occupy more than 25% of the roof area.

3 (b) In addition to a rooftop, an antenna may be attached as a matter of
4 right to an existing structure on privately owned land, including but
5 not limited to a radio, television, or telephone transmission tower, a
6 monopole, a light pole, a water tank, or an overhead transmission line
7 support structure. An equipment building located on such a structure
8 is subject to the requirements of subsection (a)(4). A structure
9 constructed for the support of: (1) an antenna that is part of an
10 amateur radio station licensed by the Federal Communications
11 Commission, or (2) an antenna to receive television imaging in the
12 home, may not be used as a support structure for any other antenna.
13

14 **Sec. 3. Division 59-G-2 is amended as follows:**

15 **DIVISION 59-G-2. SPECIAL EXCEPTIONS—STANDARDS AND**
16 **REQUIREMENTS.**

17 * * *

18 **59-G-2.43. Public utility buildings, public utility structures,**
19 **telecommunications towers and telecommunication facilities.**

20 * * *

21 (e) Examples of public utility buildings and structures for which special
22 exceptions are required under this section are buildings and structures for
23 the occupancy, use, support or housing of switching equipment,
24 regulators, stationary transformers and other such devices for supplying
25 electric service; telephone offices; railroad, bus, trolley, air and boat
26 passengers stations; radio or television transmitter towers and stations;
27 telecommunication facilities and towers; above ground pipelines.

1 Additional standards for telecommunications ~~[[facilities]] towers~~ are
2 found in subsection (j).

3 * * *

4 (j) Any telecommunications ~~[[facility]] tower~~ must satisfy the following
5 standards:

6 [(1) The minimum parcel or lot area must be sufficient to accommodate
7 the location requirements for the support structure under paragraph
8 (2), excluding the antenna(s), but not less than the lot area required in
9 the zone. The location requirement is measured from the base of the
10 support structure to the property line. The Board of Appeals may
11 reduce the location requirement to not less than the building setback
12 of the applicable zone if the applicant requests a reduction and
13 evidence indicates that a support structure can be located on the
14 property in a less visually unobtrusive location after considering the
15 height of the structure, topography, existing vegetation, adjoining and
16 nearby residential properties, if any, and visibility from the street.]

17 ~~[(2)](1)A telecommunications ~~[[facility]] tower~~[[,including support structure
18 and antenna]] ~~[[excluding antenna and related unmanned equipment
19 buildings installed on a rooftop,]]~~ must not be located within 1,500 feet of
20 another telecommunications ~~[[facility]] tower~~ [[, unless a closer proximity is
21 required for service]]. ~~The Board of Appeals may reduce ~~[[the location
22 requirement]] this minimum distance if the applicant ~~[[requests a reduction
23 and evidence indicates that a support structure]] demonstrates that this
24 requirement would result in a significant gap in service. The Board of
25 Appeals also may reduce the location requirement if the applicant requests a
26 reduction and compelling evidence indicates that a telecommunications
27 tower can be located on the property in a less visually obtrusive or a more~~~~~~~~

1 environmentally appropriate location after considering the height of the
2 structure, topography, existing vegetation and environmental features,
3 adjoining and nearby residential properties, if any, other nearby towers and
4 [[monopoles]] telecommunications towers and visibility from the street. A
5 [[support structure]] telecommunications tower must be [located] set back
6 from [[the]] any property line as follows:

- 7 a. In agricultural and residential zones, a distance of one foot from
8 [[the]] any property line for every foot of height of the [[support
9 structure]] telecommunications tower.
- 10 b. In commercial and industrial zones, a distance of one-half foot
11 from property line for every foot of height of the support
12 structure from a property line separating the subject site from
13 commercial or industrial zoned properties, and one foot for
14 every foot of height of the [[support structure]]
15 telecommunications tower from residential or agricultural
16 zoned properties.
- 17 c. [These location requirements apply to perimeter lot lines and
18 not to interior lot lines.] The setback from a property line is
19 measured from the base of the [[support structure]]
20 telecommunications tower to perimeter property lines and not
21 to interior lot lines. [[the property line.]]
- 22 d. The Board of Appeals may reduce the setback requirement to
23 not less than the building setback of the applicable zone if the
24 applicant requests a reduction and evidence indicates that a
25 [[support structure]] telecommunications tower can be located
26 on the property in a less visually [[un]]obtrusive location after
27 considering the height of the structure, topography, existing

1 vegetation, adjoining and nearby residential properties, if any,
2 and visibility from the street.

3 (2) A [[support structure]] telecommunications tower must be set back
4 from any [[residential building or structure]] [[dwelling unit]]
5 habitable structure as follows:

6 a. In agricultural and residential zones, a distance of 300 feet.

7 b. In all other zones, one foot for every foot in height.

8 c. The setback is measured from the base of the [[support
9 structure]] telecommunications tower to the base of the
10 [[residential building or structure]] habitable structure.

11 (3) The [[support structure]] telecommunications tower, [[and antenna]]
12 including any components of a telecommunication facility, must not
13 exceed 155 feet in height, unless additional height up to 199 feet is
14 needed to accommodate collocation or service.

15 (4) The antenna and [[support structure]] telecommunications tower must
16 be designed [[and sited]] to minimize the visual impact on the
17 community. The antenna and [[support structure]]
18 telecommunications tower should be designed to blend into the
19 surrounding environment by use of available camouflaging, stealth
20 design technology, or other means. [[If [[T]]the support structure and
21 any related equipment buildings or cabinets are]] Any
22 telecommunications facility components at ground level[[, they]] must
23 be surrounded by landscaping that provides a screen of at least [[3]] 6
24 feet in height at the time of planting.

25 [(3)](5)The property owner must be an applicant for the special exception
26 for each [[support structure]] telecommunications tower. A
27 [freestanding] [[support structure]] telecommunications tower must be

1 constructed to hold no less than 3 telecommunication carriers. The
2 Board may approve a support structure holding less than 3
3 telecommunication carriers if: 1) requested by the applicant and a
4 determination is made that collocation at the site is not essential to the
5 public interest; and 2) the Board decides that construction of a lower
6 [[support structure]] telecommunications tower with fewer
7 telecommunication carriers will promote community compatibility.
8 The equipment compound must have sufficient area to accommodate
9 equipment sheds or cabinets associated with the telecommunication
10 facility for all the carriers.

11 ~~[(4)](6)~~ No signs or illumination are permitted on the antennas or ~~[[support~~
12 ~~structure]] telecommunications tower~~ unless required by the Federal
13 Communications Commission, the Federal Aviation Administration,
14 or the County.

15 ~~[(5)](7)~~ Every ~~[[freestanding]] [[support structure]] telecommunications~~
16 ~~tower and telecommunications facility~~ must be removed at the cost of
17 the applicant when the telecommunications ~~[[facility]] tower~~ is no
18 longer in use by any telecommunication carrier for more than 12
19 months.

20 (8) All [[support structures]] telecommunications towers must be
21 identified by a sign no larger than 2 square feet affixed to the
22 [[support structure]] telecommunications tower or any equipment
23 building. The sign must identify the owner and the maintenance
24 service provider of the support structure or any attached antenna and
25 provide the telephone number of a person to contact regarding the
26 [[structure]] telecommunications tower.

27 (9) Outdoor storage of equipment or other items is prohibited.

1 (10) Each applicant for the special exception is responsible for maintaining
2 the telecommunication tower and facility[[,]] in a safe condition.

3 (11) The applicants for the special exception must file with the Board of
4 Appeals a recommendation from the Telecommunications
5 Transmission Facility Coordinating Group regarding the
6 telecommunication facility. The recommendation must be no more
7 than one year old and must be filed with the Board no later than two
8 months prior to the Board of Appeals Public Hearing.

9 (12) Prior to the Board granting any special exception for a
10 telecommunication tower and/or telecommunication facility, the
11 proposed telecommunication tower and/or telecommunication facility
12 must be reviewed by the County Telecommunication Transmission
13 Facility Coordinating Group. The Board and Planning Board must
14 make a separate, independent finding as to need for and location of a
15 telecommunications facility.

16 (k) Every telecommunications facility must be removed at the cost of the
17 applicant when the telecommunications facility is no longer in use by any
18 telecommunication carrier for more than 12 months. The Board of Appeals
19 may require the applicant to post a bond to cover the cost of removal of a
20 telecommunications facility.

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23
24 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
25 date of Council adoption.

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27 This is a correct copy of Council action.

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5 Mary A. Edgar, CMC

6 Clerk of the Council

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