



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**Item #7**  
**04/04/02**

**DATE:** March 29, 2002  
**TO:** Montgomery County Planning Board  
**VIA:** Michael Ma, Zoning Supervisor *Ma*  
**FROM:** Greg Russ, Zoning Coordinator *GR*  
**REVIEW TYPE:** Zoning Text Amendment  
**PURPOSE:** To revise the standards for the grant of a telecommunication facility special exception by establishing a maximum height for support structures, by encouraging a support structure that is compatible with the environment, by preventing these facilities from locating within 1,500 feet of another telecommunication facility, unless a closer proximity is required for service, by requiring location at least 300 feet from any residential building in the agricultural and residential zones and by requiring the property owner to be an applicant.

**TEXT AMENDMENT:** No. 02-03  
**REVIEW BASIS:** Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance  
**INTRODUCED BY:** Councilmember Praisner  
**INTRODUCED DATE:** March 5, 2002  
**PLANNING BOARD REVIEW:** April 4, 2002  
**PUBLIC HEARING:** April 9, 2002; 1:30pm

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**STAFF RECOMMENDATION:** APPROVAL with modifications

**PURPOSE AND BACKGROUND OF THE TEXT AMENDMENT**

**Recent Text Amendments**

- Zoning Ordinance Text Amendment No. 00-15

The text amendment 00-15 (Ordinance No. 14-34) allowed an increase in the amount of square footage allocated for equipment buildings constructed in conjunction with telecommunication facilities. The proposed amendment permitted an equipment building

to be constructed to a maximum of 1,500 square feet (if used for more than one telecommunication provider) versus 560 square feet in all zones.

▪ Zoning Ordinance Text Amendment No. 97015

Adopted in November 1997, this amendment allowed a wireless telecommunication facility in the RE-2C zone by special exception. There was no clear indication in the record why the comprehensive telecommunication zoning legislation (ZTA 95028) excluded the RE-2C zone.

Issues/Concerns

The height and appearance of the tower and antennas have generated the most concerns and objections from the surrounding communities with respect to compatibility and visual aesthetics. This is a more serious problem in the up-county areas where existing tall structures or buildings are not enough to accommodate telecommunication antennas.

The proposed text amendment furthers previous amendments to provide clear and effective zoning regulations to control telecommunication facilities and balance the need for these facilities with community concerns.

Specifically, the zoning text amendment is proposed to revise the standards for the grant of a telecommunication facility special exception as follows:

- By establishing a maximum height for support structures
- By encouraging a support structure that is compatible with the environment,
- By preventing these facilities from locating within 1,500 feet of another telecommunication facility, unless a closer proximity is required for service
- By requiring location at least 300 feet from any residential building in the agricultural and residential zones
- By requiring the property owner to be an applicant
- Make plain language changes

**ANALYSIS**

The text amendment proposes to revise the standards for the grant of a telecommunication facility. Below is a discussion of each proposed change.

**Location from another Telecommunication Facility**

Section 59-G-2.43(j)(1) is proposed to be amended as follows:

- (j) *Any telecommunication facility must satisfy the following standards:*
- [(1) *The minimum parcel or lot area must be sufficient to accommodate the location requirements for the support structure under paragraph (2),*

*excluding the antenna(s), but not less than the lot area required in the zone. The location requirement is measured from the base of the support structure to the property line. The Board of Appeals may reduce the location requirement to not less than the building setback of the applicable zone if the applicant requests a reduction and evidence indicates that a support structure can be located on the property in a less visually unobtrusive location after considering the height of the structure, topography, existing vegetation, adjoining and nearby residential properties, if any, and visibility from the street.]*

*[(2)] (1) A telecommunication facility, including support structure and antenna, must not be within 1,500 feet of another telecommunication facility, unless a closer proximity is required for service..*

Staff believes that this proposal is intended to continue to allow multiple monopoles within one facility. In situations where an existing monopole is not capable of handling more than one array of antenna, yet the site is ideal for a second monopole, this flexibility should exist. The separation distance of 1,500 feet is provided to minimize the proliferation of telecommunication facilities in a particular area. Staff believes that the proposed separation distance is appropriate, especially since the review process will determine whether a closer location would be necessary for service.

#### **Support Structure Setback from the Property Line**

Section 59-G-2.43(j)(1) c and d is proposed to be amended as follows:

*[(2)](1)....A support structure must be [located] setback from the property line as follows:*

- c. [These location requirements apply to perimeter lot lines and not to interior lot lines.] The setback from a property line is measured from the base of the support structure to the property line.*

Concerns have been raised with where measurements are taken when calculating the distance from the structure and the property line. Additionally, the intent of the existing language was to address perimeter property lines as opposed to interior lot lines. As such, staff believes that the language pertaining to "perimeter lot lines and not to interior lot lines" should be retained and included with the new language of paragraph "c". The new language would read: The setback from a property line is measured from the base of the support structure to the perimeter property lines and not to interior lot lines[[ the property line]].

- d. The Board of Appeals may reduce the setback requirement to not less than the building setback of the applicable zone if the applicant requests a reduction and evidence indicates that a support structure can be located on the property in a less visually unobtrusive location after considering the height of the structure, topography, existing vegetation, adjoining and nearby residential properties, if any, and visibility from the street.

Paragraph “d” is existing language relocated from Section 59-G-2.43(j)1. In paragraph “d” above, a technical misprint exists in the phrase “a less visually unobtrusive location”. Staff believes that this phrase should read “a less visually obtrusive location”.

### **Support Structure Setback from Residential Buildings or Structures**

Section 59-G-2.43(j)(2) is proposed as follows:

- (2) A support structure must be set back from any residential building or structure as follows:
- a. In agricultural and residential zones, a distance of 300 feet.
  - b. In all other zones, one foot for every foot in height.
  - c. The setback is measured from the base of the support structure to the base of the residential building or structure.

The subject language pertains to a support structure setback from residential buildings. Staff believes that the setback of 300 feet from residential buildings in agricultural and residential zones is appropriate to address the safety concerns expressed by the communities.

### **Maximum Height of Support Structure**

Section 59-G-2.43(j)(3) is proposed as follows:

- (3) The support structure and antenna must not exceed 155 feet in height, unless additional height up to 199 feet is needed to accommodate collocation.

The height restriction of 155 feet is consistent with current and previous practices by the telecommunication industry. In fact, documentation provided by the Telecommunications Transmission Facility Coordinating Group for new facilities (special exception requests) recommended for approval indicate that 32 proposed towers

were less than 155 feet, 12 facilities were between 155 and 199 feet and one facility was greater than 200 feet. Therefore, staff has no objection to establishing this number in the zoning text.

#### **Blending and/or Screening of Support Structures and Related Equipment Buildings**

Section 59-G-2.43(j)(4) is proposed as follows:

- (4) The antenna and support structure must be designed to minimize the visual impact on the community. The antenna and support structure should be designed to blend into the surrounding environment by use of available camouflaging, stealth design technology, or other means. The support structure and any related equipment buildings or cabinets must be surrounded by landscaping that provides a screen of at least 3 feet in height.

The proposed phrase “must be designed to minimize the visual impact on the community” should be further clarified by including the phrase “and sited” after the word “designed”. The proposed inclusion of this word would address topographical and other physical conditions of a site that should be reviewed when locating a support structure and antenna. The new language is as follows:

- (4) The antenna and support structure must be designed and sited to minimize the visual impact on the community. The antenna and support structure should be designed to blend into the surrounding environment by use of available camouflaging, stealth design technology, or other means. The support structure and any related equipment buildings or cabinets must be surrounded by landscaping that provides a screen of at least 3 feet in height.

#### **Property Owner as an Applicant**

Section 59-G-2.43(j)(5) is proposed to be amended as follows:

- [(3)](5)The property owner must be an applicant for the special exception for each support structure. A [freestanding] support structure must be constructed to hold no less than 3 telecommunication carriers. The Board may approve a support structure holding less than 3 telecommunication carriers if: 1) requested by the applicant and a determination is made that collocation at the site is not essential to the public interest; and 2) the Board decides that construction of a lower support structure with fewer telecommunication carriers will promote community compatibility.

Staff believes that the proposed language assists in identifying and clarifying the setback and site area parameters of the property by including the entire site in the special

exception review verses a leased area. In the Fall of 2001, the Board of Appeals ruled that the lease area (enclosed compound) of a telecommunication facility must adhere to the site development standards of the Zoning Ordinance, including the site area requirement. Additionally, the Board ruled that the property owner must be an applicant for the special exception (ruled on Special Exception Case No S-2447).

#### **Removal of Telecommunication Facilities Not in Use**

Section 59-G-2.43(j)(7) is proposed to be amended as follows:

*[(5)](7) Every [[freestanding]] support structure must be removed at the cost of the applicant when the telecommunication facility is no longer in use by any telecommunication carrier for more than 12 months.*

Staff believes that it is appropriate to establish a time frame in which the telecommunication facility must be removed by the applicants should the facility cease operation. A 12 month maximum period for removing the equipment appears reasonable.

#### **Recommendation from the Telecommunication Transmission Facility Coordinating Group**

Section 59-G-2.43(j)(11) is proposed as follows:

*(11) The applicants for the special exception must file with the Board of Appeals a recommendation from the Telecommunications Transmission Facility Coordinating Group regarding the telecommunication facility. The recommendation must be no more than one year old.*

Staff believes that the applicants should provide the Tower Committee recommendation to the Board of Appeals within a time frame appropriate to allow for technical staff review. Ideally, the recommendation should be filed at the time of special exception application submission. However, staff believes that the recommendation should be filed no later than two months prior to the Board of Appeals public hearing. Staff has provided language that addresses this time frame as follows:

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

### **Planning Board Recommendations from Comprehensive Zoning Ordinance Review**

The Phase I of the Comprehensive Zoning Ordinance Review proposes several additional provisions in Section 59-G-2.43(j). One would require adequate area within the equipment compound to accommodate equipment for all carriers. The proposed language is as follows:

*[(3)](5)The property owner must be an applicant for the special exception for each support structure. A [freestanding] support structure must be constructed to hold no less than 3 telecommunication carriers. The Board may approve a support structure holding less than 3 telecommunication carriers if: 1) requested by the applicant and a determination is made that collocation at the site is not essential to the public interest; and 2) the Board decides that construction of a lower support structure with fewer telecommunication carriers will promote community compatibility. The equipment compound must have sufficient area to accommodate equipment sheds or cabinets associated with the telecommunication facility for all the carriers.*

The second provision would require the Board of Appeals and the Planning Board to make independent findings as to the technical need for a telecommunication facility. The proposed language is as follows:

12. *Prior to the Board granting any special exception for a telecommunication facility, the proposed facility must be reviewed by the County Telecommunication Transmission Facility Coordinating Group. The Board and Planning Board must make a separate, independent finding as to need and location of the facility.*

County Council's final review of these provisions is scheduled for April 16, 2002. Staff has included these provisions in the subject report as amendments to Zoning Text Amendment No. 02-03 (Attachment 1).

### **Additional Staff Concerns**

### Height Restrictions For Unmanned Equipment Buildings

Section 59-A-6.14 (a)4 caps the maximum height of unmanned equipment buildings to 12 feet. The telecommunications industry has expressed concern with this height restriction when pertaining to rooftop structures. In many instances, the roof of an affected building cannot support the weight of the unmanned equipment building. The industry believes that an additional two (2) feet in height is needed to provide support structures for the placement of unmanned equipment buildings on rooftops. As such, staff is recommending that a maximum height of 14 feet be provided for rooftop structures only. The proposed additional two feet in height for rooftop structures should not create additional visual impacts. The proposed changes are as follows:

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

### Screening of Unmanned Equipment Buildings

Section 59-A-6.14 (a)4 and the proposed language of Section 59-G-2.43(j)4 require landscaping that provides a screen of at least 3 feet in height around support structures and any related equipment buildings. Staff believes that the screening height should be at least 6 feet to further soften the view of the structures and buildings from adjacent properties. The proposed changes are as follows:

#### 59-A-6.14 (a)4

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

#### 59-G-2.43(j)4

- (4) *The antenna and support structure must be designed and sited to minimize the visual impact on the community. The antenna and support structure should be designed to blend into the surrounding environment by use of*



available camouflaging, stealth design technology, or other means. If  
[[T]]the support structure and any related equipment buildings or cabinets  
are at ground level, they must be surrounded by landscaping that provides  
a screen of at least [[3]] 6 feet in height at the time of planting.

## RECOMMENDATION

The staff supports the proposed text amendment to revise the standards for the grant of a telecommunication facility special exception, as modified. The modifications include technical and plain language changes and include additional changes as discussed in the technical staff report. It should be noted that the Planning Board's legal staff has not yet provided comments on this text amendment but will do so prior to the County Council's Planning, Housing and Economic Development (PHED) Committee meeting for this amendment.

Attachment 1 depicts the proposed text amendment as modified by staff. 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 (staff's changes). [[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment (staff's changes).

GR

## Attachments

1. Proposed Text Amendment 02-03 (as amended by staff)

## ATTACHMENT 1

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**

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By: Councilmember Praisner

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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.*

*\* \* \* 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:*

**Sec. 1. Division 59-A-6 is amended as follows:**

**DIVISION 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF ZONE.**

\* \* \*

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

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

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

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

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

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

- (i) the overall square footage does not exceed 1500 square feet and 12 feet in height,
- (ii) the building is used for more than one telecommunication provider operating from the same monopole or tower, and
- (iii) the building is reviewed by the Telecommunications Transmission Facility Coordinating Group in accordance with Sec. 2-58E of the County Code.

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

- (5) If the equipment building is located on the roof of a building, the equipment building or cabinet and other structure, in combination with any other equipment building and structure, must not occupy more than 25% of the roof area.

- (b) In addition to a rooftop, an antenna may be attached as a matter of right to an existing structure on privately owned land, including but not limited to a radio, television, or telephone transmission tower, a monopole, a light pole, a water tank, or an overhead transmission line support structure. An equipment building located on such a structure is subject to the requirements of subsection (a)(4). A structure constructed for the support of: (1) an antenna that is part of an amateur radio station licensed by the Federal Communications

Commission, or (2) an antenna to receive television imaging in the home, may not be used as a support structure for any other antenna.

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

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

**\* \* \***

**59-G-2.43. Public utility buildings, public utility structures and telecommunication facilities.**

**\* \* \***

(j) Any telecommunication facility must satisfy the following standards:

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

[(2)](1)A telecommunication facility, including support structure and antenna, must not be within 1,500 feet of another telecommunication facility, unless a closer proximity is required for service. A support structure must be [located] setback from the property line as follows:

- a. In agricultural and residential zones, a distance of one foot from the property line for every foot of height of the support structure.
- b. In commercial and industrial zones, a distance of one-half foot from property line for every foot of height of the support structure from a property line separating the subject site from commercial or industrial zoned properties, and one foot for every foot of height of the support structure from residential or agricultural zoned properties.
- c. [These location requirements apply to perimeter lot lines and not to interior lot lines.] The setback from a property line is measured from the base of the support structure to perimeter property lines and not to interior lot lines. [[the property line.]]
- d. The Board of Appeals may reduce the setback requirement to not less than the building setback of the applicable zone if the applicant requests a reduction and evidence indicates that a support structure can be located on the property in a less visually [[un]]obtrusive location after considering the height of the structure, topography, existing vegetation, adjoining and nearby residential properties, if any, and visibility from the street.

(2) A support structure must be set back from any residential building or structure as follows:

- a. In agricultural and residential zones, a distance of 300 feet.
- b. In all other zones, one foot for every foot in height.
- c. The setback is measured from the base of the support structure to the base of the residential building or structure.

(3) The support structure and antenna must not exceed 155 feet in height, unless additional height up to 199 feet is needed to accommodate collocation.

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

~~[(3)]~~(5)The property owner must be an applicant for the special exception for each support structure. A [freestanding] support structure must be constructed to hold no less than 3 telecommunication carriers. The Board may approve a support structure holding less than 3 telecommunication carriers if: 1) requested by the applicant and a determination is made that collocation at the site is not essential to the public interest; and 2) the Board decides that construction of a lower support structure with fewer telecommunication carriers will promote community compatibility. The equipment compound must have sufficient area to accommodate equipment sheds or cabinets associated with the telecommunication facility for all the carriers.

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



1       ~~[(5)](7)~~ Every ~~[[freestanding]]~~ support structure must be removed at the cost  
2           of the applicant when the telecommunication facility is no longer in  
3           use by any telecommunication carrier for more than 12 months.

4       (8)   All support structures must be identified by a sign no larger than 2  
5           square feet affixed to the support structure or any equipment building.  
6           The sign must identify the owner and the maintenance service  
7           provider of the support structure or any attached antenna and provide  
8           the telephone number of a person to contact regarding the structure.

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

10      (10) Each applicant for the special exception is responsible for maintaining  
11           the telecommunication facility, in a safe condition.

12      (11) The applicants for the special exception must file with the Board of  
13           Appeals a recommendation from the Telecommunications  
14           Transmission Facility Coordinating Group regarding the  
15           telecommunication facility. The recommendation must be no more  
16           than one year old and must be filed with the Board no later than two  
17           months prior to the Board of Appeals Public Hearing.

18      (12) Prior to the Board granting any special exception for a  
19           telecommunication facility, the proposed facility must be reviewed by  
20           the County Telecommunication Transmission Facility Coordinating  
21           Group. The Board and Planning Board must make a separate,  
22           independent finding as to need and location of the facility.

1       **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the  
2       date of Council adoption.

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4       This is a correct copy of Council action.

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Mary A. Edgar, CMC

10      Clerk of the Council