



PROPOSED COMPREHENSIVE PLAN AMENDMENT ADDENDUM

ITEM: PA 2017-CW-1CP

Original Staff Report published March 15, 2017

Date of Addendum: June 7, 2017

GENERAL LOCATION: Countywide

SUPERVISOR DISTRICT: All

PLANNING AREA: All

PLANNING DISTRICT: All

SUB-DISTRICT DESIGNATION: All

PARCEL LOCATION: All

Mobile and Land Based Telecommunications Policy Plan Amendment
For additional information about this amendment call (703) 324-1380.

PLANNING COMMISSION PUBLIC HEARING:
Wednesday, June 21, 2017 @ 8:15 PM

BOARD OF SUPERVISORS PUBLIC HEARING:
Tuesday, July 25, 2017 @ 4:00 PM

**PLANNING STAFF DOES RECOMMEND
THIS ITEM FOR PLAN AMENDMENT**



Reasonable accommodation is available upon 48 hours notice. For additional information about accommodation call the Planning Commission office at (703) 324-2865, or the Board of Supervisors office at (703) 324-3151.

MAP NOT APPLICABLE

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PLAN AMENDMENT 2017-CW-1CP
STAFF REPORT ADDENDUM
June 7, 2017

This staff report addendum provides additional revised recommendations for the proposed Policy Plan Amendment language, as outlined below.

DISCUSSION

The Fairfax County Board of Supervisors, on January 24, 2017, authorized a Plan Amendment (2017-CW-1CP) for the Mobile and Land-Based Telecommunication Services Policy Plan to reflect enactment of the Spectrum Act, codified at 47 U.S.C. §1455. The Spectrum Act advances wireless broadband service and governs state and local review of requests to modify existing telecommunications facilities. On April 26, 2017, the Governor signed Virginia Senate Bill 1282 (SB 1282) into law. In response, on May 16, 2017, the Fairfax County Board of Supervisors authorized proposed Plan Amendment 2017-CW-1CP to be expanded to also reflect SB 1282. SB 1282 was adopted by the 2017 Virginia General Assembly with an effective date of July 1, 2017. SB 1282 concerns Wireless Communications Infrastructure and provides a uniform procedure for the way localities review and approve small cell facilities on existing structures. This legislation also requires the Virginia Department of Transportation to grant access to wireless service provider and wireless infrastructure provider applicants to install and maintain small cell facilities on existing structures in VDOT's public rights-of-way. This proposed Plan amendment will reference the Spectrum Act and SB 1282 in the objectives and policies of the Public Facilities portion of the Comprehensive Plan's Policy Plan.

The proposed Policy Plan Mobile and Land-Based Telecommunication Services changes are the result of the Planning Commission Telecommunications Committee's review of the existing Plan text with input from staff. Currently, most requests to modify existing facilities are reviewed administratively according to provisions of Objectives 45 and 46 in the Public Facilities Policy Plan, which includes policies guiding the placement of antennae and associated equipment. Objective 46, policies a. through f., specifies standards for modifying existing telecommunication facilities on building surfaces, electrical transmission towers, existing monopoles and towers, and within existing structures. Guidance in Objective 46 chiefly corresponds with the Fairfax County Zoning Ordinance (ZO) requirements in Section 2-514 for the regulation of telecommunications facilities. The proposed changes to the Policy Plan text primarily respond to enactment of the Spectrum Act, which provides that "a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station." An eligible facilities request is any request involving modifications to co-locate, replace, or remove transmission equipment on existing telecommunications facilities.

The Federal Communications Commission adopted a Final Rule in 2014, published in 2015 (47 CFR Parts 1 and 17), clarifying criteria for eligible facilities to be approved under Section 6409(a) of the Spectrum Act. Modifications that substantially change the physical dimensions of a tower or base station fall outside of Section 6409(a). A change is substantial if it meets any of the following:

- For towers and base stations outside of rights-of-way (ROW), the height is increased by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater;
- For towers and base stations in a ROW, the height is increased by more than 10 percent or 10 feet, whichever is greater;
- For towers and base stations outside a ROW, the modification protrudes from the edge of the tower more than 20 feet, or more than the width of the tower or structure at the level of the appurtenance, whichever is greater;
- For towers and base stations in a ROW, the modification protrudes from the edge of the structure more than 6 feet;
- For towers and base stations outside a ROW, the modification involves installation of more than 4 equipment cabinets;
- For towers and base stations in a ROW, the modification involves the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure;
- The modification entails any excavation or deployment outside the current site of the tower or base station;
- The modification would defeat the existing concealment or camouflage elements of the tower or base station; and
- The modification does not comply with development conditions associated with zoning approval of construction of the tower or base station, unless the non-compliance is due to an increase in height, width, or addition of cabinets that does not exceed the “substantial change” thresholds.

State and local governments are also required to act on “any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time” per the Telecommunications Act of 1996. Under 6409(a) of the Spectrum Act, the review of eligible telecommunications modifications must be completed within 60 days unless there is a mutual agreement to extend review time.

The zoning approval process prescribed in SB 1282 supersedes the Virginia Code Section 15.2-2232 review process with respect to proposed small cell facilities on existing structures. A small cell facility is defined as a wireless facility with each antenna located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna could fit within an imaginary enclosure of no more than six cubic feet. All other wireless equipment associated with the facility may not exceed a cumulative volume of 28 cubic feet. SB 1282 requires a locality to approve or disapprove an application within 60 days of receipt of a complete application for a small cell facility. The 60-day period may be extended by the locality for an additional 30 days. Localities may charge reasonable fees for processing a small cell application not to exceed \$100 each for up to five facilities on a permit application and \$50 for each additional facility. An application may only be disapproved if there is potential interference with other pre-existing communications facilities or public safety communication facilities; if there

is a conflict with a historic property; or if the facility will be placed on public property, excluding privately owned structures, and it will have aesthetic impacts or lacks all required approvals. Nothing shall prohibit an applicant from voluntarily submitting any conditions to address potential visual or aesthetic effects resulting from the placement of a small cell facility.

DESCRIPTION AND ANALYSIS OF PROPOSED AMENDMENT

In October and November, 2016, and in February, 2017, the Planning Commission Telecommunications Committee met and discussed the proposed Plan amendment and the four objectives in the Mobile and Land Based Telecommunications Facilities portion of the Policy Plan. Objectives 43 and 44 are general guidelines for the siting and mitigation of telecommunications facilities and contain standards for new facilities requiring a public hearing. Objective 45 is comprised of feature shown guidelines and Objective 46 provides guidance for administrative review. This proposed amendment focuses mainly on Objectives 45 and 46.

Objective 45 describes consideration of the feature shown review process for telecommunication facilities to be located on existing or replacement structures. This objective is revised for clarification and for distinction from the administrative review process of Objective 46. Proposed Plan text increases the diameter of antenna canister caps on utility distribution poles and increases the allowed cubic feet of equipment on utility poles. This allows for telecommunication equipment co-location on utility poles and consistency with the Zoning Ordinance. Editorial changes are proposed to Objective 45, policies a. and b., and Objective 46, policies a. and b., to better conform to the Zoning Ordinance for locating telecommunications facilities on building surfaces and electrical transmission towers. Objective 46, policies c. through f., include guidance for installation of telecommunications equipment on existing monopoles and towers and within existing structures, and standards for modification of existing facilities. Objective 46 policies focus on the administrative approval of modifications to existing telecommunication facilities. Staff suggests the deletion of policies c. through f. due to the Section 6409(a) of the Spectrum Act requirements that now address telecommunication modifications to existing facilities.

CONCLUSION

The proposed amendment updates the feature shown and administrative review objectives and policies of Mobile and Land-Based Telecommunications Services in the Public Facilities Section of the Policy Plan element of the Comprehensive Plan. The update brings Policy Plan objectives into compliance with both the Spectrum Act and Senate Bill 1282 Wireless Communications Infrastructure.

RECOMMENDATION

Staff recommends the Comprehensive Plan be modified as shown below. Text proposed to be added is shown as underlined and text proposed to be deleted is shown with a ~~striketrough~~.

ADD: Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Public Facilities, amended through 11-1-2016, Mobile and Land Based Telecommunication Services, page 38:

**“MOBILE AND LAND-BASED
TELECOMMUNICATION SERVICES**

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The 1996 Telecommunications Act, implemented by the Federal Communications Commission (FCC), and the federal courts defers to state and local governments (subject to certain exceptions) with respect to the placement, construction, and modification of facilities used to provide cellular, broadband, and other personal wireless services. State and local governments may not regulate these facilities based on the potential health or environmental effects of radio frequency (RF) emissions, to the extent that the facilities comply with established FCC regulations. Information on the FCC regulations is available for review on their Website.

In February 2012, Section 6409(a) of the Spectrum Act (codified at 47 U.S.C. §1455) was enacted to require state and local governments to approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.. The FCC adopted a Report and Order in 2014, clarifying criteria and timing for eligible facilities to be approved under Section 6409(a) of the Spectrum Act. In the County, such modifications are administratively approved following zoning review.

The 2017 Virginia General Assembly adopted Senate Bill 1282 related to wireless communications review of small cell facilities with an effective date of July 1, 2017. Small cell facilities are a type of wireless facility with antennas and associated equipment as defined in Virginia Code Section 15.2-2316.3. SB 1282 provides a uniform procedure for the installation of a small cell facility by a wireless services provider or wireless services infrastructure provider on an existing structure, including in a right-of-way, subject to Section 15.2-2316.4 of the Code of Virginia and subject to compliance with applicable provisions of the Zoning Ordinance.”

MODIFY: Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Public Facilities, amended through 11-1-2016, Feature Shown and Administrative Review Guidelines, pages 41 - 49:

“FEATURE SHOWN GUIDELINES

~~Objective 45: With Planning Commission approval, consider mobile and land-based telecommunication facilities to be located on existing or replacement structures a “feature shown” of the Comprehensive Plan to be processed without a public hearing when placed in conformance with the following policies:~~

Objective 45: With Planning Commission approval, first time mobile and land-based telecommunication facilities proposed on existing or replacement structures may be processed without a public hearing as a “feature shown” of the Comprehensive Plan when in conformance with the following policies:

Policy a. Locate telecommunication facilities on existing buildings and structures at the following properties:

- In any zoning district on buildings and structures owned or controlled by a public use or Fairfax County governmental unit (as defined under Sect. 2-514 of the Zoning Ordinance);
- Commercial and industrial zoned property and in the commercial areas of PDH, PDC, PRM, PRC and PTC zoning districts;
- Residential properties zoned for and developed with multiple family dwellings 35 feet or greater in height; and
- Institutional and quasi-public property (as defined under Section 2-514 of the Zoning Ordinance).

Policy b. Utilize the following types of existing or replacement poles and towers for telecommunication facilities to avoid the construction of new monopoles and towers:

- Utility poles and towers that are within an easement 90 feet and greater in width, including “Fort Worth” or similar mounts that are designed to integrate a pole or other supporting structure within a transmission tower (See Figure 13.);
- Utility distribution poles on property zoned for residential uses provided:
 - The pole is located either within 10 feet of the pavement of an existing Principal or Minor (Type A) Arterial roadway as defined in Appendix 1 (Functional Classification) of the Transportation element of the county’s Policy Plan; or is located on land that is developed with a public or nonresidential use; or is located on land that is undeveloped and planned for public or nonresidential use;
 - The antennas on the pole are either concealed within a cap enclosure that resembles the pole, is no greater than ~~12~~ 20 inches in diameter, and is no higher than 7 feet above the top of the pole

- (See Figure 14.); or the antennas are flush-mounted panels no higher than the top of the pole and are limited to four in number; or the antennas are omni-directional (whips) that either extend no more than 4 feet above the top of the pole and are limited to 3 in number or extend no more than 8.5 feet above the top of the pole and are limited to 1 in number;
- There is no more than one related equipment cabinet which is either (1) located on and painted to match the pole and is ~~20~~ 32 cubic feet or less in volume, or (2) is located on the ground immediately adjacent to the pole, is 70 cubic feet or less in volume and no more than 5 feet in height, and is screened according to Zoning Ordinance provisions; and
 - The height of a replacement pole or standard, including antennas, shall not exceed sixty-four (64) feet in height. The diameter of a replacement pole shall not exceed eighteen (18) inches.
- Utility distribution poles on property zoned for commercial or industrial uses or that is within the right-of-way of an interstate highway or the Dulles Airport Access/Toll Road provided:
 - The antennas on the pole are either concealed within a cap enclosure that resembles the pole, is no greater than ~~12~~ 20 inches in diameter and is no higher than 7 feet above the top of the pole; or the antennas are flush-mounted panels and are placed no higher than the top of the pole and are limited to 12 in number; or the antennas are placed in a unified design, such as a candelabra with cylindrical shells covering each antenna (See Figure 15.), and are limited to 12 in number; or the antennas are omni-directional (whips) that either extend no more than 4 feet above the top of the pole and are limited to 3 in number or extend no more than 8.5 feet above the top of the pole and are limited to 1 in number; and
 - There is no more than one related equipment cabinet which is (1) located on and painted to match the pole and is ~~20~~ 32 cubic feet or less in volume; or (2) is located on the ground no larger than 250 square feet in size, setback a minimum distance of 10 feet from any property line or setback a minimum distance of 20 feet from any right-of-way easement line when located in road right-of-way, or utility easement or right-of-way and screened according to Zoning Ordinance provisions.
 - Water tanks and water towers;
 - Communication towers and monopoles;
 - Light and camera standards in rights-of-way of an interstate highway or the Dulles Airport Access/Toll Road provided the antennas on the standard are either concealed within a cap enclosure that resembles the standard, is no greater than ~~12~~ 20 inches in diameter, and is no higher than 7 feet above the top of the pole; or the antennas are flush-mounted panels and are placed no higher than the top of the standard and are

limited to 12 in number; or the antennas are placed in a unified design, such as a candelabra with cylindrical shells covering each antenna, and are limited to 12 in number; and

- Replacement utility poles or poles extended in height to accommodate telecommunication antennas provided the diameter and overall height of the new or extended pole are no more than 25% greater than that of the originally approved structure and provided such poles: (a) are located on a parcel of land developed with a public or nonresidential use or are on a vacant parcel that is planned for public or nonresidential use; and (b) are outfitted with antennas consistent with the sizes and numbers described above in this objective under the “utility distribution poles” bullets.

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ADMINISTRATIVE REVIEW GUIDELINES

Objective 46: Consider the placement of antennas and their associated equipment to be an Administrative Review “feature shown” of the Comprehensive Plan requiring no formal Planning Commission review when the placement of the antennas and the related equipment structures is in full conformance with all Fairfax County Zoning Ordinance provisions and the following applicable policies:

Policy a. Locate telecommunication facilities on building surfaces (including water tanks or towers) in accordance with the following standards:

- The antenna shall be placed directly in front of the building’s or tank’s surface, including the surfaces of the penthouse and other structures on the building’s roof, and be no greater than 102 inches in height, 24 inches in width, and 6 inches in depth, or, when a dish antenna, no more than 24 inches in diameter;
- No part of the antenna shall extend above the surface of the building or tank on which it is placed and no part of the antenna’s mounting shall extend more than 6 inches above the surface of the building on which it is placed;
- The back of the antenna shall be no more than one foot horizontally from the surface on which it is placed;
- The antenna and its mounting shall be of a color or finish that closely matches and blends with the surface on which they are placed.
- The equipment cabinet or shelter shall be either:
 - Located inside the building, building penthouse or inside the building parking structure on a level other than the roof;
 - Located on the ground and enclosed within a structure no greater

than 500 square feet in area and 12 feet in height that is attached to the building and constructed of the material that is the same as, or visually the same as, the color and pattern of the building;

- Located on the ground behind a solid fence, wall, berm, or planted hedge, or combination thereof, as required by the Zoning Ordinance, and shall be no greater than 500 square feet in area and 8 feet in height; or,
- Located on the roof of the building immediately adjacent to its penthouse or other structure on the roof, is no greater than 500 square feet in area and ~~12~~ 14 feet in height, and shall be screened by a material of the same, or visually the same, color or pattern and of an equal or lesser height as the adjacent rooftop structure.

Policy b. Locate telecommunication facilities on electrical transmission towers in accordance with the following standards:

- The electrical transmission tower shall be within an easement of 100 feet or greater;
- The top of the antenna shall be no higher than 15 feet above the top of the existing transmission tower;
- The color of the antenna and its mounting shall closely match the surface on which they are placed; and
- The related equipment cabinet or shelter shall be located under or adjacent to the tower, within the easement, and match the color of the tower structure.

~~Policy c. Locate telecommunication facilities on existing monopoles and towers in accordance with the following standards:~~

- ~~• The antenna shall be self-supporting and its top shall be located no more than 15 feet above the top of the existing structure.~~
- ~~• The color of the antenna and its mountings shall closely match the surface on which they are placed.~~
- ~~• The related equipment cabinet or shelter area shall be no greater than 500 square feet in area and 12 feet in height and shall be placed within an existing telecommunications compound. The compound must meet the screening requirements of the Zoning Ordinance; and~~
- ~~• The structure shall be located on property that is zoned I-1 through I-6 industrial zoning district.~~

~~Policy d. Install telecommunication facilities within existing structures in accordance with the following standards:~~

- ~~• The antenna shall be located totally within an existing structure; and~~

- ~~The equipment cabinet or shelter shall be located totally within an existing structure.~~

Policy e. ~~Expand and/or modify telecommunications facilities at existing installations in accordance with the following standards:~~

- ~~The surface area (as measured for panel antennas as height times width and for whip antennas as height times diameter) of a replacement antenna shall be no more than 50% greater than the antenna originally approved by the Planning Commission;~~
- ~~The top of the replacement antenna shall be mounted at a level no higher than the level of the top of the antennas being replace;~~
- ~~The color of the replacement antenna and its mountings closely match the background on which placed; and~~
- ~~The square footage and the height of the replacement or expanded equipment cabinet or shelter shall be no more than 25% greater than the square footage and the height of the original equipment cabinet or shelter approved by the Planning Commission for the provider at the site.~~

Policy f. ~~As an option for approved monopoles (camouflaged or non-camouflaged), add telecommunication facilities in accordance with the following standards:~~

- ~~Antennas allowed within the maximum number identified for the platform elevations in the original monopole approval;~~
- ~~Antennas allowed within the allowable size;~~
- ~~Pad sites and equipment cabinet/shelters allowed within the maximum number identified in the originally approved monopole equipment compound; and~~
- ~~Proposed telecommunication facilities must be in accordance with the Zoning Ordinance.”~~