



City of Harrisonburg, Virginia

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To: Kurt Hodgen, City Manager
From: Planning Commission;
Adam Fletcher, Director of Planning and Community Development
Date: February 1, 2016
Re: Zoning Ordinance Amendment, Section 10-3-196 and 197

Summary: Consider a request to amend the Zoning Ordinance Sections 10-3-196 & 197 to modify the minimum setback regulation required for concealed wireless telecommunications facilities in residential districts and the MX-U district as well as the B-1 and B-2 districts.

Background: Staff is proposing to modify the Wireless Telecommunications Facilities ordinance, Article CC, by eliminating the setback regulations for collocated concealed wireless telecommunications facilities. As a reminder, concealed wireless telecommunications facilities are defined as: “Any wireless telecommunications facility that is integrated as an architectural feature of an existing structure or any new support structure designed so that the purpose of the facility or support structure for providing wireless telecommunications services is not readily apparent to a casual observer. Examples include but are not limited to: bell towers, clock towers, faux trees, flag poles, minarets, monuments, parapets, religious symbols, smoke stacks, steeples, or structures intended as art.” After applying the recently adopted regulations for the past five months on several properties throughout the City, an unintended regulatory situation presented itself at 23 Toni Street. Staff would like to amend the code to alleviate the unplanned prohibition as described below.

For the past couple of months, staff has been assisting a representative with Network Building and Consulting, LLC—a wireless site development firm contracted by Verizon Wireless—to erect several wireless telecommunications facilities on B-2 zoned property throughout the City, where the intent was to install camouflaged macrocells and industrial microcells as well as concealed wireless telecommunications facilities. Of the locations that were evaluated, preliminarily, the only property that became problematic for them was the site at 23 Toni Street, which is improved with a structure that is non-conforming to setback regulations.

At the time of their initial site analysis, their desired installation was to erect a facility by mounting it to a side of the building that is non-conforming to setback regulations. During the analysis, staff pointed out that, oddly, depending upon whether the facility was categorized as a camouflaged industrial microcell or a concealed wireless telecommunications facility, there could be an issue with whether or not the wireless facility could meet the code provisions associated with setback regulations. This is because the code states that by right concealed wireless telecommunications facilities in the B-1 and B-2 districts, and others, shall meet the minimum setback regulations of the base district (even if they are collocated) while all other by right wireless telecommunications facilities (i.e. industrial microcells, DAS, macrocells, and others) do not have minimum setback regulations because such facilities shall be collocated. In this

particular case, since their desired installation was to reach above the roofline of the building, the facility had to be classified and designed as a concealed wireless telecommunications facility, which then triggered the application of setback regulations, and therefore the facility could not be mounted on the side of the building they desired. Staff believed this created an odd situation because if camouflaged industrial microcells could be located anywhere on the non-conforming structure, but concealed wireless telecommunications facilities—those that are intended to be less obtrusive than the camouflaged facility—could not, then the existing regulation was overly burdensome.

The amendment described herein would modify the code to treat collocated concealed wireless telecommunication facilities equal to all other collocated facilities. Rather than only making the change in the code for the facilities that could be located on B-1 or B-2 property, staff is also proposing to make the change for collocated concealed wireless telecommunications facilities that could be located on any residentially zoned property and for properties zoned MX-U. Staff does not believe there would be negative consequences in making the change for facilities that could be located on residentially zoned property because any wireless telecommunications facility to be located in any of those districts must be approved by a special use permit and therefore be subject to public review.

Key Issues: Specifically, the proposed amendments would occur within Section 10-3-196 (2) (a) (ii), where the regulation would be amended as shown below for residentially zoned properties and the MX-U district:

- Unless collocated, mMinimum setback regulations shall be controlled by the district in which it is located or as may be more strictly conditioned and approved by city council.

And then for the changes necessary for facilities located on B-1 or B-2 property, the modifications would occur within Section 10-3-197 (1) (a) (ii), where the regulation would be amended as shown:

- Unless collocated, mMinimum setback regulations shall be controlled by the district in which they are located.

Environmental Impact: N/A

Fiscal Impact: N/A

Prior Actions: N/A

Alternatives: Do not approve the amendments and continue requiring collocated concealed wireless telecommunications facilities to meet minimum setback regulations of the base district.

Community Engagement: As required, the request was published in the local newspaper twice for Planning Commission's review and twice for the City Council review.

Recommendation: Staff recommends approving the proposed Zoning Ordinance amendments.

Attachments: Planning Commission extract; staff report; Ordinance – reflecting proposed changes

Review: Planning Commission recommended approval (7-0) of the Zoning Ordinance amendment that would eliminate the required minimum setback for concealed wireless telecommunications facilities when such facilities are collocated. The amendments would occur within Section 10-3-196 (2), which allows concealed facilities by special use permit within all residential districts and the MX-U, Mixed Use Planned Community District; and within Section 10-3-197 (1), which allows concealed facilities by right within the B-1 and B-2 districts.