



MEMORANDUM

To: Development Review and Regulations Committee

From: Candice E. Perkins, AICP, Senior Planner *cep*

Subject: September Meeting and Agenda

Date: September 16, 2011

The Frederick County Development Review and Regulations Committee (DRRC) will be meeting on Thursday, September 22, 2011 at 7:00 p.m. in the **first floor conference room (purple room)** of the County Administration Building, 107 North Kent Street, Winchester, Virginia. The DRRC will discuss the following agenda items:

AGENDA

- 1) **Riparian Buffers.** Continued discussion on revisions to the Frederick County Zoning Ordinance to revise the riparian buffer requirements.
- 2) **Commercial Telecommunication Towers.** Discussion on revisions to the Frederick County Zoning Ordinance to revise § 165-204.19 Telecommunications facilities, commercial.

Please contact this office if you will not be able to attend the meeting. Thank you.

Access to this building is limited during the evening hours. Therefore, it will be necessary to enter the building through the rear door of the four-story wing. I would encourage committee members and interested citizens to park in the County parking lot located behind the new addition or in the joint Judicial Center parking lot and follow the sidewalk to the back door of the four-story wing.

CEP/bhd

Attachments

Item #1: Riparian Buffers

At the DRRC's July 2011 meeting changes to the allowable disturbance for riparian buffers was discussed. At the July DRRC meeting the committee directed staff to work with the applicant to further refine the proposed changes. Since the July meeting, staff has worked with the applicant and the ordinance has been modified.

This ordinance amendment proposes to revise § 165-201.08 (Protection of environmental features) to include additional allowances for the disturbance of natural waterways and environmental features. The revision also includes revisions to the definition of "street" and "road". Staff has prepared an ordinance amendment that includes the following:

- Revision to the definition of "street" and "road" to strike the word "existing". This change will allow the disturbance of riparian buffers for the construction of new streets or roads.
- Amendment to allow riparian buffers to be disturbed for the following uses or activities:
 - Private utilities
 - Access to a property
 - Riparian buffer restoration or enhancement projects;
 - Creation of wetlands;
 - Pedestrian, recreational and/or bicycle trails; and,
 - The Planning Commission may allow for the disturbance of riparian buffers for the creation of park areas or for stormwater management purposes.

If the DRRC is supportive of this ordinance amendment, staff will forward it to the Planning Commission and Board of Supervisors for their consideration.

Attachments: 1. Revised ordinance with additions shown in bold underlined italics.

ARTICLE I
GENERAL PROVISIONS, AMENDMENTS, AND CONDITIONAL USE PERMITS

§ 165-101.02 Definitions & word usage.

RIPARIAN BUFFER - An area of trees, shrubs, or other vegetation that permits inundation by water and is at least 35 feet in width, measured outward from both sides of a natural waterway beginning along the slope of the ground from the channel scar line. A riparian buffer is managed to maintain the integrity of stream channels and reduce the effect of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals.

ROAD - A street dedicated to or owned by Frederick County or the Virginia Department of Transportation; also, ~~existing~~ privately owned rights-of-way which serve as the principal means of access to more than one property.

STREET - A roadway dedicated to or owned by Frederick County or the Virginia Department of Transportation; also, ~~existing~~ privately owned rights-of-way which serve as the principal means of access to more than one property.

Article II
SUPPLEMENTARY USE REGULATIONS, PARKING, BUFFERS, AND REGULATIONS FOR SPECIFIC USES

§ 165-201.08 Protection of environmental features.

B. All developments which require a rezoning, master development plan, subdivision design plan, site plan, or preliminary sketch plan shall preserve the following environmental features as described:

- (3) Wetlands, natural waterways, and riparian buffers. Disturbance of wetlands is only permitted in accordance with the requirements of the United States Army Corps of Engineers or other qualified state or federal agency. The disturbance of natural waterways and riparian buffers is prohibited, except when necessary for, and only in conformance with Part 702, the following:
- i. Public or private utilities;
 - ii. Public facilities, access to a property or roads;
 - iii. Riparian buffer restoration or enhancement projects;
 - iv. Creation of wetlands;
 - v. Pedestrian, recreational and/or bicycle trails; and,
 - vi. The Planning Commission may allow for the disturbance of riparian buffers for the creation of park areas or for stormwater management purposes.

Additional Definitions for reference:

NATURAL WATERWAY - Creeks, streams, runs, or other annual or perennial waterways identified on United States Geological Survey, Commonwealth of Virginia or Frederick County maps.

ACCESS - A way or means of vehicular or pedestrian approach to provide physical entrance to a property.

Item #2: Commercial Telecommunication Towers

Staff has been requested to revise § 165-204.19 - Telecommunications facilities, commercial. The primary changes proposed are as follows:

- Changes to the introductory language to include recognition of a 15.2-2232(A) (Code of Virginia) review in the ordinance.
- Addition of language that states there must be a need for a facility.
- Clarifying that co-location efforts should extend to buildings and structures generally and not just existing telecommunication towers.

If the DRRC is supportive of this ordinance amendment, staff will forward it to the Planning Commission and Board of Supervisors for their consideration.

Attachments: 1. Revised ordinance with deletions shown in strikethrough and additions shown in bold underlined italics.

§ 165-204.19 Telecommunications facilities, commercial.

The intent of this section is to ensure that the siting of No commercial telecommunication facilities facility shall be sited, constructed, or operated except pursuant to a occur through the conditional use permit issued through the public hearing process defined in Part 103 of Article I of this chapter. Commercial telecommunication facilities that locate on existing structures and towers shall be exempt from the conditional use permit requirement. The issuance of a conditional use permit for the siting, construction, and operation of a commercial telecommunication facilities facility is permitted within the zoning districts specified in this chapter, provided that, pursuant to Section 15.2-2232(A) of the Code of Virginia (1950, as amended), the general location or approximate location, character, and extent of such facilities is substantially in accord with the adopted comprehensive plan or part thereof and that adjoining properties, residential properties, land use patterns, scenic areas and properties of significant historic value are not negatively impacted.

A. Information required as part of the conditional use permit application and that the Planning Commission and the Board of Supervisors may consider in acting on the application shall include, but not be limited to, the following:

(1) Information regarding the need for the facility, including but not necessarily limited to usage statistics, operational data, and maps and reports showing current and anticipated radio frequency propagation.

~~(1)~~ (2)A map depicting the search area used in siting each the proposed commercial communications facility.

~~(2)~~ (3)Identification of all service providers and commercial telecommunication facility infrastructure within a proposed search area. The applicant shall provide confirmation that an attempts to collocate on an existing structures or towers telecommunication facility has have been made and, if such attempts were unsuccessful, the reasons so.

~~(3)~~ (4)Information demonstrating that the proposed commercial telecommunication facility is in compliance with the Federal Communication Commission's established ANSI/IEEE standards for electromagnetic field levels and radio frequency radiation.

~~(4)~~ (5)An affidavit signed by the landowner stating that he/she is aware that he/she may be held responsible for the removal of the commercial telecommunications facility as stated in § 165-204.19B(7).

B. If the Board of Supervisors grants a conditional use permit under this section, the The following standards shall then apply to any property in which a commercial telecommunication facility is sited, in order to promote orderly development and mitigate the negative impacts to adjoining properties, residential properties, land use patterns, scenic areas and properties of significant historic value:

(1) The Planning Commission may reduce the required setback distance for commercial telecommunication facilities as required by § 165-201.03B(8) of this chapter if it can be demonstrated that the location is of equal or lesser impact. When a reduced setback is requested for a distance less than the height of the tower, a certified Virginia engineer shall provide verification to the Planning Commission that the tower is designed, and will be constructed, in a manner that if the tower collapses for any reason the collapsed tower will be contained in an area around the tower with a radius equal to or lesser than the setback, measured from the center line of the base of the tower. In no case shall the setback distance be reduced to less than 1/2 the distance of the tower height. Commercial telecommunication facilities affixed to existing structures shall be exempt from setback requirements, provided that they are located no closer to the adjoining property line than the existing structure.

(2) Monopole-type construction shall be required for new commercial telecommunication towers. The Board of Supervisors may allow lattice-type construction for new telecommunication towers when existing or planned residential areas will not be impacted and when the site is not adjacent to identified historical resources.

(3) Advertising shall be prohibited on commercial telecommunication facilities except for signage providing ownership identification and emergency information. No more than two signs shall be permitted. Such signs shall be limited to 1.5 square feet in area and shall be posted no higher than 10 feet above grade.

(4) When lighting is required on commercial telecommunication facility towers, dual lighting shall be utilized which provides daytime white strobe lighting and nighttime red pulsating lighting unless otherwise mandated by the Federal Aviation Administration or the Federal Communications Commission. Strobe lighting, shall be shielded from ground view to mitigate illumination to neighboring properties. Equipment buildings and other accessory structures operated in conjunction with commercial telecommunication facility towers shall utilize infrared lighting and motion-detector lighting to prevent continuous illumination.

(5) Commercial telecommunication facilities shall be constructed with materials of a galvanized finish or painted a noncontrasting blue or gray unless otherwise mandated by the Federal Aviation Administration or the Federal Communication Commission.

(6) Commercial telecommunication facilities shall be adequately enclosed to prevent access by persons other than employees of the service provider. Appropriate landscaping and opaque screening shall be provided to ensure that equipment buildings and other accessory structures are not visible from adjoining properties, roads or other rights-of-way.

(7) Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such tower shall remove same within 90 days of receipt of notice from the Frederick County Department of Planning and Development. Removal includes the removal of the tower, all tower and fence footers,

underground cables and support buildings. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. If the tower is not removed within the ninety-day period, the County will remove the facility and a lien may be placed to recover expenses.