**ACTION REQUEST FORM**

<table>
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<th>DATE:</th>
<th>December 31, 2014</th>
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<tbody>
<tr>
<td>TO:</td>
<td>The Honorable Mayor and City Council</td>
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<tr>
<td>FROM:</td>
<td>A. Paul Norby, Director of Planning and Development Services</td>
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**COUNCIL ACTION REQUEST:**

Request for Public Hearing on Zoning Text Amendment proposed by the Community Development/Housing/General Government Committee

**SUMMARY OF INFORMATION:**

Zoning Text Amendment proposed by the Community Development/Housing/General Government Committee to amend Chapter B of the *Unified Development Ordinances* to amend transmission tower regulations in residential zoning districts (UDO-254).

**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** ACTION  
**FOR:** UNANIMOUS  
**AGAINST:** NONE  
**SITE PLAN ACTION:** NOT REQUIRED
STAFF REPORT

DOCKET #  UDO-254
STAFF:    Kirk Ericson

REQUEST

This text amendment is proposed by the Community Development/Housing/General Government Committee of the Winston-Salem City Council to amend chapter B of the Unified Development Ordinances to revise transmission tower regulations in residential zoning districts. This amendment was requested at the October 2014 Community Development/Housing/General Government Committee meeting.

BACKGROUND

City Council adopted revised transmission tower standards in February 2014. These revised standards allowed towers to be located in all residential zoning districts for the first time, provided certain conditions were met. In the summer of 2014, Council approved four new transmission towers in residential zoning under these standards.

Council modified the new tower standards in September 2014 by adopting UDO-250 (an ordinance strengthening requirements for preserving existing trees around concealed transmission towers). During discussions on UDO-250, Council identified additional issues with current standards for residential towers, based on its experience reviewing tower applications this summer. The General Government Committee directed Planning and Development Services staff to address these issues with a text amendment at its October 2014 meeting.

ANALYSIS

UDO-254 reduces the maximum height of transmission towers in residential zoning districts from 199’ to 150’. The average height of residential towers approved by Council under the current ordinance has been 150’, and Council is concerned that allowing towers taller than this may be detrimental to the residential character of neighborhoods.

This amendment also places greater limits on when monopine towers (towers designed to look like a faux pine or other tree) and monopole towers (towers consisting of a single support pole topped with an antennae array) are allowed in residential areas. Council members have expressed a preference for unipole towers (towers consisting of a pole with no external antennae) in residential zoning, with other tower types only allowed in certain situations.

This ordinance would only allow monopine towers in tree stands where 50% or more of the trees are evergreen. Council has expressed a concern that monopines constructed in primarily deciduous tree stands would be too conspicuous in winter, when deciduous trees have lost their leaves. Even in primarily evergreen stands, unipoles would be the preferred tower type, with monopines only allowed where petitioners demonstrate these towers will be compatible with the surrounding area.
Monopole towers would only be allowed to be constructed in tree stands where more than 50% of the trees are deciduous. However, even in primarily deciduous tree stands, unipoles would be the preferred tower type, with monopoles only allowed where petitioners demonstrate the compatibility of these towers with the surrounding area.

At the request of the City Attorney’s Office, UDO-254 also adds clarifying language to the current requirement for preserving existing trees around concealed towers. This language clarifies that trees may be removed from the area around proposed tower compounds in order to construct access and utility easements.

Staff believes the proposed ordinance changes will reduce the visual impact of transmission towers on residential neighborhoods, while still allowing communications providers to meet increasing service demands in residential areas.

**RECOMMENDATION**

**APPROVAL**
CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR UDO-254
DECEMBER 11, 2014

Kirk Ericson presented the staff report.

PUBLIC HEARING

FOR: None

AGAINST:

George Bryan, 1326 Glade Street, Winston-Salem, NC 27101
- Represent the Winston-Salem Neighborhood Alliance.
- When we initially met with American Towers about this issue there were a lot of assurances that unipole and transmission towers which would be concealed in such structures as church towers and monopines would be used in communities to help them be compatible with the neighborhoods. As we’ve seen, they haven’t used the unipole or monopines as much as we had hoped.
- We are pleased with the proposed changes.
- Towers don’t have to be centered on a site so sometimes they can be closer to neighborhood than the size of the lot implies.
- We’d like to challenge you about the stand of trees. Isn’t there a way to look at the circumference of the fall zone and percentage of trees so it is more polished when it goes to Council?
- We would like to propose that at least 85% of the circumference be screened with trees.
- In determining compatibility, please add more refined language saying the tower has to be agreeable with the neighborhoods. This would protect the neighborhoods.

WORK SESSION

The Board discussed the difference in the three types of towers which this amendment addresses and details about which type of tower is allowed in which setting as well as how the conditions would be certified.

Arnold King: Could staff clarify the 50% evergreen and deciduous tree requirements for monopole and monopine towers? Kirk Ericson: Monopine towers are only allowed where the majority (50% or more) of the trees in a tree stand are evergreen. Monopole towers are only allowed where the majority (at least 50%) of the trees are deciduous.
Tommy Hicks: Who would determine the ratio? Kirk Ericson: The petitioner would have to delineate on a site plan the makeup of the tree stand. It would not require the use of an arborist or a certified forester. The Council can require the petitioner to provide more information if they feel there is not enough information. It is the responsibility of the petitioner to demonstrate why what they are asking is appropriate.

Clarence Lambe: Is a survey required? How does a petitioner demonstrate that a monopine is compatible with the area? How many slick sticks does it take to replace the same coverage that a monopine or monopole provides? Kirk Ericson: No survey is required. It is the Council’s intent that a unipole (slick stick) is the preferred option. We would recommend an applicant demonstrate compatibility with photo simulations. To provide the same coverage with a unipole that a monopole or monopine would provide, there would need to be more than a 1:1 ratio but less than 1:2.

Melynda Dunigan: When someone comes in with this request, is it staff who determines whether there are enough trees to be a stand? Paul Norby: Ultimately it is up to the City Council to determine if there were enough trees. Staff could state our opinion, but it is up to the approving body. If trees are outside the area, could they count? Kirk Ericson: Trees within the radius equal to the height of the tower would be the only ones to be counted.

Chris Murphy: In any case involving trees like this or the tree save ordinance, we would research information on the area. If there’s a question we would go to the site and evaluate it. If we feel the area does not meet the requirements we would let the applicant know.

Arnold King: The first transmission tower requests that came in were at heights of 150’. However the ordinance has 199’ for a reason. Do we know why the 199’ was selected? Does the fact that these first requests came in at 150’ mean there won’t be requests for higher towers in the future? Kirk Ericson: I shared this amendment with the people who brought in the earlier requests. While they would obviously prefer the higher allowance, they said they could live with the height of 150’.

Arnold King: If there is a need for a 199’ tower (maybe based on topography) is there a process whereby they could ask for an exception? Staff: Rezoning to a non-residential district. These rules would only be applicable to residential zoning districts. If a tower exceeds 199’ in height it has to meet FAA standards for strobe lighting. The 199’ limit was a compromise reached in a meeting between residential advocates, transmission tower advocates and City Council.

Brenda Smith: We’re using vague terms to describe things like the stand of trees. Does canopy refer to tree bases, etc.? Kirk Ericson: The language was chosen by the City Attorney because they wanted the petitioner to have the responsibility of demonstrating that monopines won’t damage property values, etc. to meet the findings which the Council has to make.

Clarence Lambe: The initial request came to us from the transmission tower consortium and the goal was to put some specific, clear guidelines where something could be agreeable with the community in a relatively quick fashion? Kirk Ericson and Paul Norby: The real purpose was to open it up to allow towers in residential areas. They were not allowed to put towers in residential areas regardless of circumstances so their request was to allow them to do so.
Melynda Dunigan: I see this as a welcome change because there were issues with the way the ordinance was implemented when it was first adopted. The original intent was for unipole but the tower companies preferred the monopole and they were allowed to use those. This amendment clarifies the original intent.

Paul Mullican: If a neighbor has an issue with one of these, how is their concern addressed? Kirk Ericson: If someone has a problem with this they go straight to the Council meeting where there is public hearing, sworn testimony, and factual evidence. Paul Norby: The Planning Board would simply state whether the site plan meets the ordinance.

Arnold King: So we don’t have to determine compatibility? Chris Murphy: That’s a finding made by the Council rather than a determination by the Planning Board. The Planning Board could express its opinion but not make any determination.

Brenda Smith: How is compatibility not tied to the site plan? Paul Norby: Language in the ordinance about compatibility clearly states that compatibility is part of the elected body’s decision and not the Planning Board’s.

MOTION: Clarence Lambe moved approval of the text amendment.
SECOND: Allan Younger
VOTE:
  FOR: Melynda Dunigan, Tommy Hicks, Arnold King, Clarence Lambe, Darryl Little, Barry Lyons, Paul Mullican, Brenda Smith, Allan Younger
  AGAINST: None
  EXCUSED: None

__________________________
A. Paul Norby, FAICP
Director of Planning and Development Services
Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the Unified Development Ordinances (UDO) is hereby amended as follows:

Section 1. Chapter B - Zoning Ordinance, Article II - Zoning Districts, Official Zoning Maps and Uses is amended as follows:

Chapter B – Zoning Ordinance
Article II – Zoning Districts, Official Zoning Maps and Uses

2-5 Use Conditions

2-5.79 TRANSMISSION TOWER (W)

(A) Applicability
Transmission towers which are principal or accessory uses shall meet the following requirements.

(1) Hierarchy of Transmission Towers and Antennae

(a) The following types of transmission towers and antennae shall only require approval from the zoning officer:
Antennae co-location on existing towers
Distributed antennae systems on private property (DAS in rights-of-way would not require approval from the zoning officer)
Antennae and towers completely concealed within other structures (such as church steeples and bell towers)
Antennae co-located on utility infrastructure (such as electric transmission line support structures and utility poles)

(b) New freestanding telecommunications towers shall be approved through the processes identified in Section B.2-5.79(A)(2) below.

(2) Types of New Telecommunications Towers

(a) Towers with Concealed Antennae (Stealth Towers). Towers with concealed antennae (stealth towers) shall be designed to complement the physical landscape in which they are intended to be located. Examples of stealth towers include but are not limited to faux pine trees, unipoles/slick sticks (unipoles shall not have any
appurtenances), bell towers, etc. New stealth towers shall be configured and located in a manner that minimizes adverse effects including visual impacts on the landscape and adjacent properties.

(i) Towers with concealed antennae with a height up to one hundred eighty (180) feet in the IP district, and up to one hundred ninety-nine (199) feet for all lots in other nonresidential districts shall receive approval from the Zoning Officer.

(ii) Towers with concealed antennae with a height of up to one hundred ninety-nine (199) fifty (150) feet located in residential zoning districts shall be approved through the Elected Body Special Use Permit Process. Additionally, such towers may be located on vacant lots in residential districts or lots in residential districts containing a residential structure in GMAs 3, 4, and 5, but not in GMAs 1 or 2.

[A] Where proposed towers with concealed antennae are not located within an existing stand of trees, monopine towers shall be prohibited.

[B] Where proposed towers with concealed antennae will be located within an existing stand of trees comprised of fifty (50) percent or greater evergreen trees, unipole or monopine towers may be allowed. Unipole towers are preferred in such locations, and monopine towers may only be approved where petitioners demonstrate such towers will be compatible with the surrounding area.

[C] Where proposed towers with concealed antennae will be located within an existing stand of trees comprised of greater than fifty (50) percent deciduous trees, unipole or monopine towers may be allowed. Unipole towers are preferred in such locations, and monopole towers may only be approved where petitioners demonstrate such towers will be compatible with the surrounding area.

(iii) Towers with concealed antennae with a height up to one hundred ninety-nine (199) feet on vacant lots in residential districts or lots in residential districts containing a residential structure shall be approved through the Elected
Body Special Use Permit Process. In addition, such towers may be located in GMAs 3, 4, and 5, but not in GMAs 1 or 2. Reserved

(iv) Monopine towers or any tower designed with the appearance of a tree shall only be located within existing stands of trees comprised of fifty (50) percent or greater evergreen trees. Where existing trees exist within a distance equal to tower height from any towers with concealed antennae, regardless of whether such towers are monopines or unipoles, such trees shall be retained for the life of the tower save and except trees necessary to be removed to construct any access and utility easements and tower compound.

(v) Photosimulations depicting a proposed concealed tower within its surrounding context will be required where concealed towers over one hundred twenty (120) feet requiring Elected Body Special Use Permit review are proposed.
(b) **Monopole Towers With Exposed Antennae.** New monopole towers with exposed antennae shall be configured and located in a manner that minimizes adverse effects including visual impacts on the landscape and adjacent properties.

(i) Monopole towers with exposed antennae with a height up to one hundred eighty (180) feet in the IP district shall be approved through the Board of Adjustment Special Use Permit Process.

(ii) Monopole towers with exposed antennae with a height up to one hundred ninety-nine (199) feet in nonresidential districts shall receive approval from the Zoning Officer.

(iii) Monopole towers with exposed antennae with a height up to one hundred ninety-nine (199) fifty (150) feet in residential districts shall be approved through the Elected Body Special Use Permit Process. Monopole towers may only be allowed in residential districts where such towers will be located within an existing stand of trees comprised of greater than fifty (50) percent deciduous trees, and only where petitioners demonstrate said towers will be compatible with the surrounding area.

Photosimulations for such towers shall be required and shall depict the proposed tower within its surrounding context. This photosimulation shall depict the monopole with the maximum number of antennae it is designed to hold.

(iv) Where existing trees exist within a distance equal to tower height from any monopole towers within residential districts, such trees shall be retained for the life of the tower save and except trees necessary to be removed to construct any access and utility easements and tower compound.

Section 2. This ordinance shall be effective upon adoption.