

## LEXINGTON PLANNING COMMISSION

**October 28, 2021 - 5:00 P.M**  
**Second Floor Conference Room, Lexington City Hall**  
**300 East Washington Street, Lexington, VA 24450**

### AGENDA

- 1. CALL TO ORDER**
- 2. APPROVAL OF THE AGENDA**
- 3. APPROVAL OF MINUTES**  
Minutes from October 14, 2021\*
- 4. CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA**
- 5. NEW BUSINESS**
  - A. ZOA 2021-03: Annual Zoning Ordinance Amendments, Small Cell facilities.
    - 1) Continued discussion of Small Cell text amendment\*
    - 2) Public Comment
  - B. Institutional District Master Plan
    - 1) Discussion of Institutional District\*\*
    - 2) Public comment
  - C. Recommendations for Sidewalk Improvements
- 6. OTHER BUSINESS**
  - A. Zoning and Planning Report – If applicable
  - B. Catalyst Project Updates – If applicable
    - 1) Bike/Ped Plan: Ongoing
    - 2) Increase Sidewalk Connectivity: Ongoing
    - 3) Accessory Dwelling Unit Ordinance: Starting soon
    - 4) Jordan's Point Park Plan Implementation
    - 5) Reprogram Traffic Signals Downtown: Complete
    - 6) Assess Stormwater Fees: Tabled until next year
  - C. Key Annual PC Milestones: Ongoing. Remaining items:
    - 1) Zoning Text Amendments: Ongoing. Remaining items:
      - a. Small Cell
      - b. Planned Unit Development
      - c. Accessory Dwelling Unit
      - d. Cottage Housing

- e. What else, if any?
- 2) Comp Plan Review: Ongoing

D. Threshold Commission joint session update

**7. CITY COUNCIL REPORT**

**8. ADJOURN**

\*indicates attachment

## MINUTES

**The Lexington Planning Commission  
Thursday, October 14, 2021 – 5:00 p.m.  
Second Floor Conference Room – City Hall  
300 East Washington Street**

### Planning Commission:

Presiding: Jamie Goodin, Chair,  
Present: Blake Shester, Vice-Chair  
Nicholas Betts  
John Driscoll  
Leslie Straughan, Council Liaison  
Matt Tuchler

### City Staff:

Arne Glaeser, Planning Director  
Kate Beard, Administrative Assistant

Absent: Pat Bradley

### CALL TO ORDER

Chair Goodin called the meeting to order at 5:02 p.m.

### AGENDA

The agenda was approved unanimously with the addition of item E to Other Business by A. Glaeser. (B. Shester / N. Betts)

### MINUTES

Minutes from the September 23, 2021 meeting were unanimously approved as presented. (L. Straughan / J. Driscoll)

### CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA

None

### NEW BUSINESS

#### **A. ZOA 2021-03: Annual Zoning Ordinance Amendments, Small Cell facilities**

- 1) Continued discussion of Small Cell text amendment – A. Glaeser suggested the Commission focus on reviewing the language proposed for the amendment to the Use and Design Standards of the Zoning Ordinance. He said the amendment would classify projects as standard process projects, administrative review-eligible projects and small cell projects, and explained the differences between these classifications. He then led the Commission through the proposed amendment to the Use and Design Standards. During the review of the Definitions and Scope section of the amendment there appeared to be general agreement that reciting the state definitions was preferable to merely referencing them. There was considerable discussion about the formatting and placement of the “Exceptions to conditional use permit requirement” section. There were suggestions to change its placement within Section B “Conditional Use Permit required” or to create a separate Section C for the exceptions, and to reference the specific section providing the exceptions in the first sentence of section B.1. A. Glaeser

pointed out that the proposed language includes a specific distance within which the City could limit the number of new structures and suggested that Lexington could adopt that language using the length of an average block in the C-1 District. After discussion of the proposed amendment to the Use Matrix, there was general agreement to further amend the Matrix to make standard process project communication towers a conditional use in the R-M and R-LC Districts.

2) Public Comment – None

#### **B. ZOA 2021-04: Annual Zoning Ordinance Amendments, Planned Unit Development**

1) Discussion of PUD text amendment summary – A. Glaeser provided various examples of PUDs adopted in other jurisdictions and asked that the Commission’s discussion aim at providing staff with direction as they research approaches for this amendment. There was discussion about PUDs as overlay or stand-alone zoning districts and whether density requirements should or should not be adopted. There was discussion about how PUDs operated prior to and after the 2017 zoning amendment. A. Glaeser noted that currently PUDs are allowed in mixed-use, commercial use and special planning areas and asked if the Commission would like staff to begin research on mixed-use PUDs. There appeared to be general agreement that mixed-use PUDs would be a good place to start.

2) Public Comment - None

### **OTHER BUSINESS**

A. Zoning Report – A. Glaeser reported the following:

- A notice of violation went out for a property on Taylor Street which is operating a workshop in a residential zone.
- City Staff met with W&L Engineering students for Capstone projects involving designing a new kayak/canoe/swimming dock at Jordan’s Point and a sewer capacity analysis for the town branch sewer shed.
- Staff also met with the W&L Engineering Club which will be designing a mid-block pedestrian crossing on Main Street in front of Hess Jewelers which was suggested in the Downtown Enhancement Plan.
- VMI Engineering students will be designing a new half pipe for the skate park.
- The Bike/Ped survey has been promoted and advertised on the City’s website, social media and water bills. It has also been emailed directly to Boards, Commissions and special interest groups to get the word out.
- Three new zoning permits were issued for three new houses in the Weatherburn subdivision.

B. Catalyst Projects Update –

1) Bike/Ped Plan: A. Glaeser reported there is a bike/ped plan meeting scheduled for October 18<sup>th</sup>. J. Driscoll reported the Green Infrastructure Group has its first meeting tentatively scheduled for October 26<sup>th</sup> and asked if the consultant, Michael Baker International, could be asked to attend and give some sort of presentation on the survey. A. Glaeser said he would make the request but the contract does not include that extra

- meeting. He suggested the Green Infrastructure Group be included in the contracted stakeholder meetings.
- 2) Increased sidewalk connectivity: A. Glaeser reported there are funds set aside for sidewalks and he may ask for Commission's input on prioritizing improvements at its next meeting.
- C. Key Annual PC Milestones –
- 1) Comp Plan Review: J. Goodin noted this is a new process and requested Commissioners' input regarding how they wished to accomplish it. He provided seven review elements identified during the July joint work session with City Council and a proposal for how to address them. L. Straughan expressed some concern with the proposed approach. She agreed a status review is necessary but noted the Commission's schedule for next year is already fairly well defined. J. Driscoll suggested it would be valuable to make priority recommendations to City Council which are based on the Comp Plan. J. Goodin asked the Commission to consider whether the annual report should be synched to the end of the fiscal year, how the review can be most helpful to Council and staff, and how the Commission wants to proceed. L. Straughan offered that by submitting the annual review at the end of the calendar year the Commission is able to offer priority recommendations to Council during the budgeting process.
- 2) L. Straughan recommended having a W&L Master Plan review session (discussed at a recent meeting) sooner rather than later as an application to amend the plan is likely to be submitted soon.
- D. Threshold Commission joint session update – J. Driscoll met with Mr. Famuliner, the proposed speaker, who recommended contacting Bob Adams from Housing Forward Virginia to speak at the presentation. Commissioner Driscoll has a meeting scheduled with Mr. Adams for next week and will report back once they have spoken.
- E. Meeting Schedule for November and December – A. Glaeser suggested Commission cancel the second meeting in November and the second meeting in December due to the holiday season. **N. Betts moved to cancel the second meetings in November and December. B. Shester seconded and the motion passed unanimously. (6-0)**

#### CITY COUNCIL REPORT

L. Straughan reported that October 15<sup>th</sup> is Arbor Day in Lexington; Jennifer Bell is the City's new Finance Director and Heidi Reynolds is the new Assistant Finance Director; and the sale of the Piovano Building closed on October 12, 2021. There will be a historical marker at Lylburn Downing Middle School which the Lylburn Downing Alumni Association has requested be placed during the Juneteenth celebration. Until its dedication during the Juneteenth celebration it will be housed in the Heritage Room at Lylburn Downing.

#### ADJOURN

The meeting was adjourned at 7:14 pm with unanimous approval. (M. Tuchler / J. Driscoll)

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J. Goodin, Chair, Planning Commission

## Draft amendments for Small Cell Facilities

In their 2017 session, the General Assembly passed SB1282 which impacts how the City assesses and approves wireless facilities both on and off city property. Small cell facility regulations are proposed to be added to a) the Lexington Zoning Chapter, b) to the Historic District Design Guidelines, and c) to the Streets and Sidewalks Chapter in accordance with the state regulations for small cell facilities.

The following report is divided into three sections and the **highlighted** items indicate proposed, amended language. The following table of contents for the Zoning Chapter identifies the two historic districts and the use and design standards for Broadcasting or Communication Tower that are proposed to be amended.

### Chapter 420. Zoning Ordinance Table of Contents

Article I. In General

Article II. Review and Approval Procedures

Article III. Use Matrix.

Article IV. Zoning District Regulations

Article V. Planned Unit Development (PUD)

Article VI. Entrance Corridor Overlay District (EC)

Article VII. Institutional District I-1

Article VIII. **Historic Downtown Preservation District**

Article IX. **Residential Historic Neighborhood Conservation District**

Article X. General Floodplain District FP

Article XI. Use and Design Standards

§420-11.1. Residential Uses

§420-11.2. Civic Uses

§420-11.3. Commercial Uses

§420-11.4. Industrial Uses

§420-11.5. Miscellaneous Uses

1. Parking Facility

2. Portable buildings

3. Portable Storage Container

4. **Broadcasting or Communication Tower**

Article XII. Off-Street Parking and Loading Requirements

Article XIII. Signs

Article XIV. Landscaping

Article XV. Exterior Lighting

Article XVI. Nonconforming Uses

Article XVII. Amendments

Article XVIII. Enforcement

Article XIX. Board of Zoning Appeals

Article XX. Definitions

## Draft amendments for Small Cell Facilities

### A. Proposed Amendments to the Zoning Chapter

The City of Chesapeake, VA updated their use and design standards for communication towers on June 18, 2019 to include the limitations adopted by the State of Virginia in 2017 and 2018, and the following draft is based on the use and design standards from the Chesapeake, VA zoning ordinance. The draft language on the next few pages will require adjustments to fit Lexington.

The drafted language remains unwieldy and staff composed the following summary in an effort to orientate the reader.

#### **Structure of the draft Communication Tower use and design standards.**

##### **A. Definitions and Scope**

- ❖ All communication towers (i.e. tower or antenna) shall be classified as an administrative review-eligible or standard process project.
- ❖ All state definitions are included.

##### **B. Conditional Use Permit required**

- ❖ All towers and antennas require a conditional use permit with exceptions for:
  - Administrative review-eligible projects,
  - Temporary portable towers,
  - Small cell facilities, and
  - Micro wireless facilities

(in an effort to disentangle the exceptions from the conditional use permit regulations, the exceptions were moved to a new section D.)
- ❖ A pre-application meeting is required prior to the submittal of a conditional use permit application.
- ❖ Additional information is required for a communication tower conditional use permit application.
- ❖ Multiple use of communications towers is required whenever feasible.
- ❖ Additional evaluation criteria are included for communication tower conditional use permits (in addition to the conditions of issuance for conditional use permits in Sec. 420-1.11.C of the zoning ordinance).

##### **C. Setback Requirements**

- ❖ Provides setback requirements for towers and antennas for which a conditional use permit is required

##### **D. Exceptions to Conditional Use Permit Requirements**

## *Article XI. Use and Design Standards (Lexington Zoning Chapter)*

The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this ordinance that may apply.

### *§420-11.5. Miscellaneous Uses.*

#### *4. ~~Broadcasting or Communication Tower.~~*

*A. ~~Applicability. The requirements set forth in this section shall control all antennas and broadcasting or communication towers except any antenna that is under 75 feet in height and is owned and operated by a federally licensed amateur radio station operator.~~ (Language in blue is deleted here but included elsewhere in this section.)*

*B. ~~General guidelines and requirements.~~*

*1. ~~A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or towers on that lot. Antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.~~*

*2. ~~Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the City an inventory of its existing facilities that are either within the City or within five miles of the City limits, including specific information about the location, height, and design of each tower. The City may share such information with other applicants applying for approvals or conditional use permits under this section or other organizations seeking to locate antennas within the City; provided, however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.~~*

*C. ~~Setbacks. The following setback requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the City may reduce the standard setback requirements if the goals of this section would be better served thereby:~~*

*1. ~~Towers must be set back a distance equal to 200% of the height of the tower from any off-site residential structure and in no case less than 400 feet.~~*

*2. ~~Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures.~~*

(The following language is from the Chesapeake, VA zoning supplemental regulations for communication towers and this language will require adjustments to fit Lexington.)

#### **A. Definitions and Scope**

**1. Communication tower is defined as a tower or antenna which supports communication (broadcasting and/or receiving) equipment utilized by commercial, government or other corporate, public and quasi-public users. Towers include radio, television, cellular telephone, personal communication services (PCS), microwave, internet, and other similar communications facilities, satellite earth station and building-supported antennas which are more than twenty-two (22) feet in height, measured from the highest point of the roof of the**

building to which the antenna is attached. The towers may be self-supporting or guy-supported. The regulations set out below do not apply to the following: (1) amateur radio communications antennas under 75 feet in height owned and operated by a federally licensed amateur radio station operator; (2) antennas and dishes limited exclusively to home use; and (3) towers owned by the city. All communication towers shall be classified as an administrative review-eligible or standard process project, as defined below.

a. Project means (i) the installation or construction by a wireless services provider or wireless infrastructure provider of a new structure or (ii) the co-location on any existing structure of a wireless facility that is not a small cell facility. "Project" does not include the installation of a small cell facility by a wireless service provider or wireless infrastructure provider on an existing structure to which the provisions of subsection 420-11.5.4.B.2.c of this ordinance apply.

(1) Administrative review-eligible project means a project that provides for:

(a) The installation or construction of a new wireless support structure, as defined below, that is no more than fifty (50) feet above ground level, provided that the structure with attached wireless facilities is (i) not more than ten (10) feet above the tallest existing utility pole located within five hundred (500) feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than thirty-five (35) percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) the new wireless support structure is designed to support small cell facilities; or

(b) The co-location on any existing structure of a wireless facility that is not a small cell facility.

(2) Standard process project means any project other than an administrative review-eligible project. All such projects shall require a conditional use permit in accordance with this ordinance.

2. Antenna means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

3. Base station means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

4. Co-locate means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. For purposes of this ordinance, "co-location" shall have the same meaning.

5. Department means the Department of Transportation.

6. Existing structure means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers. It shall also include the replacement of a structure, located within a six (6) foot perimeter of the original placement of the structure, with structures that are the same size or smaller.
7. Micro-wireless facility is defined as a small cell facility that is no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that has an exterior antenna, if any, no longer than eleven (11) inches.
8. New structure means a wireless support structure that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.
9. Small cell facility means a wireless facility that meets both of the following qualifications:
- a. each antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet; and 2) all other wireless equipment associated with the facility has a cumulative; and
  - b. all other wireless equipment associated with the facility has a cumulative volume of no more than twenty eight (28) cubic feet, or such higher limit as established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume calculation: electric meters, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
10. Utility pole means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.
11. "Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.
12. "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

13. "Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.
14. "Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.
15. "Wireless services provider" means a provider of wireless services.
16. Wireless support structure means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

#### **B. Conditional Use Permit required**

1. Except as provided in subsection D. below, all communication towers shall be handled as standard process projects and shall require a conditional use permit, obtained in accordance with the provisions of Article 1 of this ordinance. Standard process projects shall be reviewed pursuant to the criteria put forth in Virginia Code Section 15.2-2316.4:2, as amended. The processing of a standard process project application shall be subject to the following parameters:
- a. Within ten (10) days after receipt of a conditional use permit application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. All such applications shall be approved or denied within the following specified time periods:
- (1) For a new structure, as defined by this ordinance, within the lesser of one hundred and fifty (150) days of receipt of the completed application or the period required by federal law for such approval or disapproval; or
- (2) For the co-location of any wireless facility that is not a small cell facility within the lesser of ninety (90) days of receipt of the completed application or the period required by federal law for such approval or disapproval.
- (3) Any period specified above for the city council to approve or disapprove an application may be extended by mutual agreement between the applicant and the city.
- b. A completed conditional use permit application shall be deemed approved if the city council fails to approve or disapprove the application within the periods specified above or any agreed extension thereof.

- c. Any disapproval of the conditional use permit application shall be in writing and accompanied by an explanation for the disapproval, and the locality shall identify any modifications that could be made to the application which would permit the city to approve the proposed project. City council's action on disapproval of an application submitted under this section shall:
- (1) Not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; and
  - (2) Be supported by substantial record evidence contained in a written record publicly released within thirty (30) days following the disapproval.
- d. The fee for processing standard process projects shall be five hundred dollars (\$500.00), which shall not exceed the actual direct costs to process the application, including permits and inspection, in accordance with Virginia Code Section 15.2-2316.4:1, as amended.
- e. Nothing in this section shall prohibit the denial of an application because:
- (1) The proposed height of any wireless support structure, wireless facility, or wireless support structure with attached wireless facilities exceeds fifty (50) feet above ground level; provided that such denial does not unreasonably discriminate against the applicant; or
  - (2) The proposed location of the new structure or co-location of a wireless facility is in an area where all cable and public utility facilities are required or encouraged to be placed underground in accordance with Virginia Code Section 15.2-2316.4:2, as amended;
  - (3) The applicant did not provide written notice to adjacent landowners at least 15 days before it applies to locate a new structure, or
  - (4) Existing wireless support structures are available within a reasonable distance that could be used for co-location. The applicant shall be responsible for submitting evidence proving that an existing wireless support structure is incapable of supporting co-location because of unreasonable terms, technical limitations, or other valid criteria as determined by the zoning administrator or designee.

**(exceptions to conditional use permit requirements were moved to new subsection D.)**

32. Preapplication meeting required. Prior to submitting an application for a conditional use permit for a communication tower, the applicant shall meet with the director of planning to discuss the proposed location of the communication tower, the location of all existing and planned communication towers which the applicant owns or operates within the city, the feasibility of locating the communication facilities on existing towers, buildings or structures, or on municipal property and such other issues as deemed relevant by the planning director or designee. Failure to schedule or attend a preapplication meeting shall preclude the acceptance and processing of an application for a conditional use permit for a communication tower.

43. Additional information required for use permits. In addition to the information otherwise required for a conditional use permit application, any application for a conditional use permit for a communication tower shall include the following:

- a. A site plan drawn to scale specifying the location of tower(s), guy anchors (if any), transmission building and other accessory uses, parking, access, landscaped areas, fences ownership and use of adjoining properties.
- b. Certification by the manufacturer or an engineering report by a state-registered structural engineer shall be submitted indicating the communication tower or antenna height, design, structure, installation and total anticipated capacity of the structure, including number and type of antennas which could be accommodated, and demonstrating to the satisfaction of the code compliance manager that all structural requirements and safety specifications set forth in the Virginia Uniform Statewide Building Code, as supplemented and amended, will be met. In addition to the structural and safety specifications in the Virginia Uniform Statewide Building Code, the certification shall indicate that the proposed communication tower will be constructed to withstand 110 mile per hour winds.
- c. A statement from a registered engineer that the NIER (nonionizing electromagnetic radiation) emitted from the communication tower, when measured in conjunction with the emissions from all communication facilities on the tower, does not result in an exposure at any point on or outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. government or the American National Standards Institute.
- d. In order to assist the city council in determining whether it is feasible to locate the proposed communication facilities on existing communication towers, proposed communication towers which have received all necessary approvals for construction, suitable buildings and suitable structures, including, but not limited to, electric transmission structures, the applicant shall indicate on a map the location of all existing towers, and all buildings and structures suitable for the proposed communication facilities within a two-mile radius of the proposed communication tower site, including specific information about the location, height, and design of each tower.
- e. Verifiable evidence from the applicant, in written form deemed acceptable to the director of planning, of the lack of space on all existing towers within a two-mile radius of the proposed site, and all suitable buildings, and other structures which could accommodate the proposed antenna, and the lack of space on existing tower sites to construct an additional communication tower for the proposed antenna within the service area.
- f. Written confirmation of plans for multiple use of the proposed communication tower.
- g. A visual study depicting all areas the proposed facility would be visible from and what the appearance would be, including photo-simulations. A balloon test at the proposed site may also be required at the discretion of the planning director or designee.

After acceptance of an application as complete, the director of planning may request additional information and documentation relative to land use and safety issues, provided that the director shall not delay processing the conditional use permit application while the provision of such

information or documentation is pending. However, in the event that all requested information and documents are not submitted prior to a scheduled public hearing, the planning department will recommend to the planning commission that consideration of the application be continued until such information and documents have been submitted.

54. Multiple use of communication towers required whenever feasible.

- a. In the consideration of applications for the conditional use permits for the construction of communication towers, the multiple use of existing communication towers, proposed communication towers which have received necessary approvals for construction, and suitable buildings and structures, including, but not limited to, electric transmission structures shall be required whenever feasible in order to minimize the proliferation of communication towers throughout the city, to provide for adequate light and air, to facilitate the creation of a convenient, attractive and harmonious community, to preserve the character of zoning districts, and to eliminate the potential for adverse impact on established land uses within the city. However, in no event shall it be deemed a violation of this ordinance to operate a communication tower with a single user if a conditional use permit has been issued without an express stipulation requiring multiple use.

65. Evaluation criteria for conditional use permits. In determining whether a conditional use permit application for a communication tower should be approved, the planning commission and city council shall consider the following factors, in addition to the other evaluation criteria for conditional use permits set out in Article 1 of this ordinance:

- a. Whether the communication tower is consistent with the comprehensive plan as determined by the planning commission in accordance with section 15.2-2232 of the Code of Virginia.
- b. Whether approval of the communication tower will contravene good planning practices or obstruct the public aims of facilitating the creation of a convenient, attractive community, providing for adequate light and air, preserving the character of zoning districts and eliminating the potential for adverse impact on established land uses within the city.
- c. Whether the proposed communication tower is to be located in an area where it would be unobtrusive and would not substantially detract from aesthetics or neighborhood character, due either to location, to the nature of surrounding uses (such as industrial uses), or to lack or mitigation of visibility caused by natural growth, stealth design or other factors.
- d. Whether the applicant has established that collocation on existing and proposed communication towers and suitable buildings and structures is not feasible in accordance with subsection 420-11.5.4.B.5 above, and whether the applicant has agreed to provide collocation opportunities to other users and has specified the number and types of users that could be accommodated on the proposed communication tower.
- e. Whether the application represents a request for multiple use of a communication tower or site, or use on a site contiguous to an existing communication tower. Where the applicant proposes multiple use of the communication tower, the planning commission and the city council may consider whether the applicant has submitted written

confirmation of collocation plans including, but not limited to, agreements, memoranda of agreement or completed forms for multiple use provided by the city.

- f. Whether the application contains evidence that other potential users of the proposed communication tower have been contacted, and they have no current plans, to the best of their ability to determine, that could be fulfilled by joint use of the proposed communication tower.
- g. Whether the application shows how the communication tower or site will be designed or laid out to accommodate future multiple users, and if not so designed, the reasons given for failure to do so.

### **C. Setback requirements**

- 1. The following setback requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the City may reduce the standard setback requirements if the goals of this section would be better served thereby:
  - a. Towers must be set back a distance equal to 200% of the height of the tower from any off-site residential structure and in no case less than 400 feet.
  - b. Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures.

### **D. Exceptions to conditional use permit requirement**

#### 2. Exceptions to conditional use permit requirement.

1. Administrative review-eligible projects. New communication towers meeting the definition of an administrative-review eligible project, or the co-location of a wireless facility that is not a small cell facility on an existing structure, shall be considered an administrative review-eligible project. All such projects shall be reviewed pursuant to the criteria put forth in Virginia Code Section 15.2-2316.4:2, as amended, and shall be subject to the following requirements:

(1)a The wireless service provider or wireless infrastructure provider either (a) obtains the approval of the City of Lexington by virtue of a franchise agreement and right-of-way permit or lease, as required by law, if a new wireless support structure is proposed to be located in the right-of-way or on city property; or (b) the wireless service provider or wireless infrastructure provider: (i) either has permission from the owner of the land on which the administrative review-eligible project is proposed or has the permission from the owner of an existing pole, building or structure to co-locate equipment on that pole, building or structure and (ii) notifies and provides evidence of such permission to the locality in which the permitting process occurs; and

(2)b The applicant shall submit an application which shall include: (a) photographs or accurate renderings, including correct colors and exact dimensions, of each type of proposed project; (b) a statement signed by a professional engineer licensed in the Commonwealth of Virginia stating that the proposed facilities comply with all applicable Federal Communications Commission regulations, including, without limitation, regulations pertaining to the emission of radio frequency radiation; and

(c) such additional information as the planning director may reasonably require in order to determine whether the requirements of this section are met.

~~(3)~~c Within ten (10) days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. All such applications shall be approved or denied within the following specified time periods:

~~(a1)~~(1) For a new structure within the lesser of one hundred fifty (150) days of receipt of the completed application or the period required by federal law for such approval or disapproval; or

~~(b2)~~(2) For the co-location of any wireless facility that is not a small cell facility, within the lesser of ninety (90) days of receipt of a completed application, or the period required by federal law for such approval.

~~(c3)~~(3) Any period specified above for the city to approve or disapprove an application may be extended by mutual agreement between the applicant and the city.

~~(4)~~d A completed application shall be deemed approved if the director of planning fails to approve or disapprove the application within the periods specified above or any agreed extension thereof.

~~(5)~~e Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval, and the locality must describe any modifications that could be made to the application which would permit the city to approve the proposed project. The director of planning's action on disapproval of an application submitted under this section shall:

~~(a1)~~(1) Not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; and

~~(b2)~~(2) Be supported by substantial record evidence contained in a written record publicly released within thirty (30) days following the disapproval.

~~(6)~~f The fee for processing administrative review-eligible projects shall be five hundred dollars (\$500.00) in accordance with Virginia Code Section 15.2-2316.4:1, as amended.

~~(7)~~g Nothing in this section shall be interpreted to prohibit the denial of an application if the proposed height of any wireless support structure, wireless facility, or wireless support structure with attached wireless facilities exceeds fifty (50) feet above ground level.

~~(8)~~h Nothing in this ordinance shall be interpreted to prohibit the city from limiting the number of new structures or the number of wireless facilities that can be installed within a five hundred foot (500') radius of an existing wireless support structure that could support co-location at that specific location. The applicant shall be responsible for submitting evidence proving that an existing wireless support structure is incapable of supporting co-location because of unreasonable terms, technical

limitations, or other valid criteria as determined by the zoning administrator or designee. 15.2-2316.4:3. B.” Nothing in this article shall prohibit a locality from limiting the number of new structures or the number of wireless facilities that can be installed in a specific location.”

(block dimensions downtown are approximately 400’ in length by 260’ in width)

b2. Temporary portable towers. Temporary portable towers also known as cells on wheels (COWS), are permitted under the following circumstances:

(1)a For use when a duly authorized communication tower is undergoing maintenance that requires antennas to be disconnected or turned off. A permit shall be obtained from the zoning administrator authorizing the COW for a maximum of sixty (60) days, which period may be extended at the discretion of the zoning administrator.

(2)b For use in an emergency situation during the activation of the city's emergency operations center.

(3)c For special events not to exceed seven (7) days under a special event permit approved in accordance with section ~~13-1504~~ of this ordinance by the City of Lexington.

e3. Small cell facility.

(1)a Small cell facilities installed by a wireless service provider or wireless infrastructure provider on existing structures; provided that the following requirements are met: The wireless service provider or wireless infrastructure provider either

(a1) obtains the approval of the City of Lexington by virtue of a franchise agreement and right-of-way permit or lease, as required by law, if a new small cell facility is proposed to be located in the right-of-way or on city property; or

(b2) the wireless service provider or wireless infrastructure provider: (i) has permission from the owner of an existing pole, building or structure to co-locate equipment on that pole, building or structure and (ii) notifies and provides evidence of such permission to the locality in which the permitting process occurs; and

(2)b The applicant shall submit an application to the department of planning and development for administrative review and approval by the director of planning and the application shall include: (a) photographs or accurate renderings, including correct colors and exact dimensions, of each type of proposed small wireless facility; (b) a statement signed by a professional engineer licensed in the Commonwealth of Virginia stating that the proposed facilities comply with all applicable Federal Communications Commission regulations, including, without limitation, regulations pertaining to the emission of radio frequency radiation; and (c) such additional information as the planning director may reasonably require in order to determine whether the requirements of this section are met. An applicant may submit up to thirty-five (35) permit requests on a single application. All such completed applications, as determined by the director of planning, shall be approved or

disapproved within sixty (60) days of receipt of the complete application. Within ten (10) days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. The 60-day period may be extended by the locality in writing for a period not to exceed an additional thirty (30) days. The application shall be deemed approved if the locality fails to act within the initial sixty (60) days or an extended 30-day period. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The fee for processing small cell facility applications shall be one hundred dollars (\$100.00) for each application proposing up to five (5) small cell facilities and fifty dollars (\$50.00) for each additional small cell facility proposed on a permit application. The application for the small cell facility shall be approved only if the following minimum standards are met:

(a1) The small cell facility shall not have the potential to pose a material interference with other pre-existing communication facilities or with future communication facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communication facilities, as determined by the city.

(b2) The small cell facility does not create a public safety concern or inhibit critical public service needs.

(c3) If the communication small cell facility shall be installed on or in publicly owned or publicly controlled property, excluding privately owned structures, the communication small cell facility shall be substantially concealed from view by means of painting or tinting to match the surface of the building or other structure to which they are affixed or by other suitable method, such as by flush-mounting or integration into the design elements of the building or structure.

(d4) Further, electrical power and battery backup cabinets shall be roof-mounted or otherwise located so as not to be visible from a public street or, where not practicable as determined by the director of planning, such equipment shall be appropriately screened by landscaping or other means minimizing visibility from a public street.

(e5) Small cell facilities shall only be permitted in the Lexington Downtown Historic Preservation District or the Residential Neighborhood Conservation District if they meet the standards included in the Lexington Historic District Design Guidelines as amended and with a certificate of appropriateness approved by the Architectural Review Board .

(f6) This section shall not be construed to prohibit or limit an applicant from voluntarily submitting conditions to address visual or aesthetic effects resulting from the placement of small cell facilities on private property.

(3)c At such time that the small cell ceases to be used for communications purposes for three (3) consecutive months, the applicant shall remove the small cell from the property. If the applicant fails to remove the small cell within thirty (30) days of written notice from the zoning administrator, the director of planning, through his or

her own agents or employees, shall be authorized to remove the small cell facility and assess all charges incurred in such removal on the applicant or owner.

d4. Micro-wireless facilities. The installation, placement, maintenance or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles shall not require any permit from the city nor shall they be subject to any fee from the city if the applicant provides the director of planning or designee with proof of compliance with all national safety codes.

e5. Nothing herein shall be construed to exempt the applicant from the requirement for a grant of franchise from the city council pursuant to Section 15.2-2100 of the Code of Virginia, 1950, as amended.

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The existing Lexington zoning definition for “Broadcasting or Communication Tower” is recommended to be replaced by the Communication Tower definition from the Chesapeake, VA code.

#### **~~BROADCASTING OR COMMUNICATION TOWER~~**

~~Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A broadcasting or communication tower usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio towers, which are described separately. Also excluded are wireless communication antennas which fit the definition of Utility services, minor.~~

#### **COMMUNICATION TOWER**

A tower or antenna which supports communication (broadcasting and/or receiving) equipment utilized by commercial, government or other corporate, public and quasi-public users. Towers include radio, television, cellular telephone, personal communication services (PCS), microwave and other similar communications facilities, satellite earth station and building-supported. Communication towers may be self-supporting or guy-supported.

The existing zoning definition for “Utility Service, Minor” needs to be amended by removing the second sentence that mentions wireless communications antennas. The utility service minor use is allowed by right in the R-1, R-2, R-LC, C-1 and C-2 zoning district. All of the communications related regulations should be consolidated to the previous (amended) section 420-11.5.4.

#### **UTILITY SERVICE, MINOR**

Service which is necessary to support development within the immediate vicinity and involve only minor structures. Included in this use type are small facilities such as transformers, relay and booster devices, and well, water and sewer pump stations. ~~Also included in this use type are wireless communication antennas which are attached to an existing building or structure, including but not limited to utility poles, signs, broadcasting or communication facilities, and water towers, and which are not greater than 20 feet in length.~~

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
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B = By-right uses, C = Conditional uses

**Use Types**

Miscellaneous								
Amateur radio tower			B	B		B	B	B
Building, Portable	B	B	B <sup>5</sup>	B <sup>5</sup>	B <sup>5</sup>	C <sup>6</sup>	C <sup>6</sup>	C <sup>6</sup>
Broadcasting or communication tower (Standard Process Project)		C	C	C	C	C		C
Communication tower (Admin. Review Eligible Project)	B <sup>7</sup>	B <sup>7</sup>	B <sup>7</sup>	B <sup>7</sup>	B <sup>7</sup>	B <sup>7</sup>	B <sup>7</sup>	B <sup>7</sup>
Cemetery, private						C		
Garage, private			B	B		B	C	C
Parking facility		B			C	C	C	C
Recreation facility, private	B	C	B	B	B	B		
Utility service, major			C	C				C
Utility service, minor			B	B		B	B	B

<sup>1</sup> Second floor and higher

<sup>2</sup> First floor

<sup>3</sup> Bed & Breakfasts only allowed along Main, Washington, and Nelson Streets

<sup>4</sup> Bed & Breakfasts only allowed along S. Main Street

<sup>5</sup> accessory building is by right

<sup>6</sup> temporary construction office and storage sheds are by-right

<sup>7</sup> permitted if requirements of 420-11.5.4 are met



## Draft amendments for Small Cell Facilities

### B. Proposed Amendments to the Historic Design Guidelines

Section 15.2-2316.3 of the Code of Virginia also allows the City to require small cell facilities comply with architectural review guidelines in historic districts and revisions to the Lexington Historic District Design Guidelines are proposed.

The Lexington Zoning chapter includes an article for the Historic Downtown Preservation District and another article for the Residential Historic neighborhood Conservation District. Both of these articles include criteria known as considerational factors that shall be contemplated before the issuance of a Certificate of Appropriateness by the Architectural Review Board. With the adoption of design guidelines in 2020, the considerational factors were amended to add any applicable provision of the city's design guidelines in the issuance of a Certificate of Appropriateness. The design guidelines can therefore be amended with new guidelines for small cell facilities, and any future small cell facility application must be in compliance with the adopted small cell design guidelines in order for the Architectural Review Board to approve a Certificate of Appropriateness.

#### Lexington, Virginia Historic District Design Guidelines Table of Contents

(The full Lexington Historic District Design Guidelines can be found at <http://lexingtonva.gov/civicax/filebank/blobdload.aspx?t=59454.53&BlobID=28194>)

1. Introduction
2. Planning your project
3. Architectural & development overview
4. Guidelines for site design
  - A. Walkways, driveways & parking
  - B. Plantings & trees
  - C. Fences & walls
  - D. Lighting
  - E. Outbuildings, garages, & other site features
  - F. Site appurtenances
  - G. **Facilities**  
(Proposal is to add new small cell facility design guidelines after the site appurtenances section of the guidelines for site design)
5. Guidelines for existing buildings – elements
6. Guidelines for existing buildings – materials
7. Guidelines for new construction & additions
8. Guidelines for awnings, canopies & marquees
9. Guidelines for signs
10. Guidelines for painting

11. Guidelines for energy conservation
12. Guidelines for accessibility
13. Guidelines for archaeology
14. Guidelines for vacant buildings
15. Moving & demolition

**Amendment to Design Guidelines recommended by the ARB at its October 21, 2021 meeting:**

G. Facilities

In concert with the preceding guidelines for appurtenances, the following guidelines are provided pertaining to small cell, other wireless antennas, and other technological infrastructure (collectively “facilities”):

1. The aesthetic and historic character and integrity of the streetscape is to be protected to the greatest extent possible.
2. To the greatest extent practicable, facilities and cabling should be hidden from view and be as small as possible. Underground installation is preferable.
3. In no case, shall any installation of such facilities directly to a building be done in such a manner that the attachment will cause harm or degradation to the building facade, architectural features or any structural element.
4. Facilities may be required to be screened with vegetation or with material that compliments the building it is mounted on or near.
5. Collocation of facilities on existing buildings and structures is preferred over the installation of new stand-alone poles.
6. Any new support structure located along an existing sidewalk or street shall align with existing features such as utility poles and trees as to maintain organization.
7. The height of any new support structure shall be no higher than necessary consistent with the requirements for reception and transmission, but in no case shall exceed 30 feet in height.

## Draft amendments for Small Cell Facilities

### C. Proposed Amendments to the Streets and Sidewalks Chapter

Section 15.2-2316.3 of the Code of Virginia requires a city to allow an application for a right of way permit to access the public right of way for the purpose of installing small cell facilities onto privately owned structures located within the public right of way. The wireless provider must have permission from the owner of the structure to co-locate and provides notice of that agreement and co-location to the locality. Following are proposed amendments to the Lexington Streets and Sidewalks Chapter to allow access to the public right of way for the purpose of installing small cell facilities.

#### Chapter 356 Streets and Sidewalks Table of Contents (Code of the City of Lexington)

1. Street system
2. Public alleyways
3. Installation and repair of sidewalks, curbs and gutters
4. Driveway crossings over existing sidewalks
5. Duty of City Manager as to improvements and repairs
6. Care of City trucks and equipment used on streets
7. Tampering with structures on streets
8. Excavation permits & Right-of-Way Occupancy Permits
9. Wires, and Cables, and Telecommunications
10. Unauthorized occupation or use
11. Depositing wood, coal, lumber and other materials
12. Barriers around construction
13. Removal of permanent obstructions
14. Vegetation obstructing view at intersections
15. Removal of snow from sidewalk or footway
16. Discharge of water
17. Gutters for buildings where eaves project over sidewalk
18. Flags and flagstaffs
19. Parades and processions
20. Marking and naming of streets
21. Goods, wares and merchandise
22. Loafing and loitering

Code of the City of Lexington, VA  
Chapter 356 Streets and Sidewalks

§ 356-8 Excavation Permits & Right-of-Way Occupancy Permits.

- A. ~~No person shall excavate or disturb the surface of any street~~ City's right-of-way, or occupy it in a fashion that impedes pedestrian or vehicular traffic, without first obtaining from the City Manager or his designated representative a permit from the Department of Public Works for the performance of the contemplated project. The word "person" as used in this section shall include any firm, association, cooperation and utility company.
- B. Permits shall be obtained a minimum of 72 hours in advance of right-of-way disturbance or occupancy. Emergency excavations may be made without an advance permit, but application for a permit will be submitted within 48 hours after commencement of the excavation.
- C. The permit application shall be made in writing describing the project, its location, the area of street disturbance/ occupancy necessary, the contemplated dates of commencement and completion of the project, and when required, maintenance of traffic plans. Private utility companies shall document the City franchise agreement that it is operating under.
- D. Each application for a permit shall have attached a check payable to the City Treasurer in the amount documented in the City's current fiscal year Fee Schedule of \$25 to cover the permit fee, which sum shall be refunded in the event the application is denied except that in no event shall any person be required to pay an amount exceeding \$2,500 in permit fees per City fiscal year.
- E. ~~The~~ At the full discretion of the City Manager, any applicant, upon issuance of the permit, who is not otherwise under bond or a franchise, shall may be required to post a performance bond or, in lieu thereof, a certified check in such amount to be determined by the City Manager to insure as a guarantee of compliance with the restoration and repair requirements of this section, ~~†~~ The amount of such bond shall not to exceed the bond required by other franchise utilities, which bond and shall be effective for the period of one year from the date of completion of the project.
- F. ~~Any person disturbing the surface of any street shall repair the same in accordance with the current specifications of the Virginia Department of Transportation (Road and Bridge Specifications, § 303.10, Backfilling of Opening, and § 303.11, Embankments) or in accordance with subsequent amendments thereto and shall be responsible for maintaining such repairs for a period of one year from the date of project completion.~~ City's right-of-way shall restore it in accordance with the City's Design and Construction Standards. Disturbances not covered by these standards shall be repaired in conformance with current Virginia Department of Transportation standards. Permit holders shall be responsible for maintaining such repairs for a period of one year from the date of project completion.
- G. ~~Upon completion of the project, the street shall be marked by the applicant in such manner and color as may be designated and assigned by the City Manager.~~
- H.G. Any person who fails to obtain a permit as required by this section or, upon issuance of a permit, fails to comply with the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25 nor more than \$200. Each day's continuance thereof shall be a separate offense. Any such violation shall be deemed a nuisance and the court or trial justice trying the case shall have power to cause the nuisance to be abated and to commit the

offenders and all their agents and employees engaged in such offenses in jail until such order of the court shall be obeyed.

- H. The fee and bond requirements of this section shall be waived as to any person performing work on behalf of the City

§ 356-9 Wires ~~and~~, Cables, and Telecommunications

- A. All wires ~~or~~, cables, strung along or over any street shall be so located as not to interfere with the convenience and safety of travel and shall be kept in safe repair at all times and telecommunication devices within the City's right-of-way shall be installed in conformance with the National Electrical Safety Code and National Electric Code, most recent amendments. In no instance shall these facilities be installed with ~~not~~ less than 14 feet ~~above the surface of the~~ vertical clearance from City streets and walks.
- B. Entities installing such infrastructure within the public right-of-way shall have franchise agreements, or permits, in effect per Chapter 142 of the Lexington City Code.<sup>1</sup> Said entities shall additionally be liable for acquiring City Excavation Permits/ Right-of-Way Occupancy Permits per § 356-8 herein.
- C. Wires, cables, and telecommunication devices shall be installed in such a manner as to pose no threat to the health, welfare, and safety of the public. This specifically includes the occlusion of sight lines at street intersections and pedestrian crossings.
- D. Wires, cables, and telecommunication devices shall be installed in such a manner as to not interfere with accessibility of the public right-of-way.
- E. Wires, cables, and telecommunication devices shall be installed in such a manner as to not inhibit the City in the performance of its public services, such as trash and recycle collection.
- F. Wires, cables, and telecommunication devices shall be installed in such a manner as to not inhibit the City's ability to maintain the public right-of-way and associated infrastructure.
- G. Wire, cables, and telecommunication devices within the City's right-of-way which cease to be used, or which are abandoned, shall be removed from the City right-of-way within 60 days upon cessation of use or abandonment.
- H. The application, processing, and approval of the installation and maintenance of small cell facilities on existing structures and on new wireless support structures in city rights-or-way must adhere to Code of Virginia sections 56-484.26 through 56-484.32 regulating wireless communications infrastructure.

<sup>1</sup> Item B above requires entities installing wires, cables and telecommunications infrastructure within a City right-of-way to obtain a franchise agreement or permit according to requirements in Chapter 142 of the City Code. The title of Chapter 142 of the City Code is Cable Television and the focus of the franchise regulations contained in Chapter 142 are directed to Cable Television. Amendments also should be made to Chapter 142 to remove references to cable television and make those references more general to apply to other potential franchise uses in the public rights-of-way. Proposed amendments to Chapter 142 have not been drafted nor presented to the City Attorney's office for review.

# Memo

TO: Planning Commission

FROM: Arne Glaeser  
Director of Planning and Development

Date: March 11, 2021

RE: Request by Planning Commission to review the Institutional District and master plan requirements

## Background

In 1999 Lexington amended the city's zoning ordinance by adding a new overlay zoning district. The Institutional District (I-1) (Article XVI of the ZO (*now Article VII of the ZO*)) was designed to allow larger scale institutional uses such as universities and medical campuses to develop in accord with master plans approved by the City Council. By approval of a master plan, Council pre-authorizes various land uses that are described and located within the area incorporated within the master plan. Land uses not shown and described by the master plan can only be approved through the issuance of a conditional use permit by City Council, after review and recommendation by the Commission.

Development standards (building height, lot area, lot width, setback, parking, etc.) may be proposed as part of a submitted master plan request. If development standards are not proposed as a part of a master plan, the development standards applicable to the underlying zoning districts shall apply. Site plans are required for new development approved within a master plan if the new development is within 200 feet of a public street or within 200 feet of a boundary of the area included within the master plan and City Council must approve the site plan (Section 420-149) of the ZO (*now Section 420-7.8*).

## Current Planning Commission Request

Washington and Lee University is located in an Institutional overlay district, and in anticipation of a new Campus Master Plan from W&L, the Planning Commission requested a work session type discussion to review the Institutional District intent and requirements. The following documents are attached in order to support the P.C. discussion regarding the Institutional District and previous W&L Campus Master Plans:

1. Article VII. Institutional District,
2. Zoning Map of Lexington,
3. Article III. Use Matrix,
4. W&L Campus Master Plan history 11.19.20,
5. WL 2007 Campus Master Plan Compressed,
6. Washington & Lee Masterplan 2014, and
7. WLU-SMcAlister to Council-Taxes+Grants 10-21-14.

The history attachment dated 11.19.20 is a quick summary of the W&L Campus Master Plan approvals and amendments from 1990 onward. The 2007 Campus Master Plan appears to be the last master plan for the entire W&L campus while the addendum in 2014 approved 13 specific projects. Not all of the projects approved in the 2014 addendum are located in the City of Lexington and the list of projects approved in 2014 can be found in the aforementioned, staff compiled Campus Master Plan history dated 11.19.20. Also attached is a letter from Steve McAllister, Vice President for Finance and Treasurer for W&L, dated Oct. 21, 2014 that outlines the taxes and grants paid by W&L in 2014. During every conversation regarding City revenues and tax exempt properties, questions arise about the real estate taxes and payments made by W&L to the City of Lexington, and the letter from Mr. McAllister may be helpful in understanding the structure of payments made by W&L.

The current Lexington Zoning Ordinance can be found at <http://lexingtonva.gov/civicax/filebank/blobdload.aspx?t=58842.36&BlobID=28193>, while the current Lexington Comprehensive Plan 2040 can be found at <http://lexingtonva.gov/civicax/filebank/blobdload.aspx?t=38764.44&BlobID=28631>.

## **W&L campus master planning history (11.19.2020)**

**1990 Conceptual Campus Master Plan** (GWSM, Marcellus Wright Cox & Smith, Whitescarver-Rodes & Associates)

**1998 Campus Master Plan** (The Hillier Group)

**2007 Campus Master Plan** (Ayers/Saint/Gross Architects + Planners)

**2012, May** - Request to amend master plan to allow property to be used as group residence with academic theme and to include a commercial kitchen for 106 Lee Avenue (associated RZ for I-1)

**2012, August** - Request to amend master plan to allow the Lee-Jackson house at 204 W. Washington Street to be used for university related office or residential uses (not simultaneously)

**2012, December** - Request to amend master plan to allow the 116 Liberty Hall Road to be used as a university-oriented bed and breakfast inn, 112 Liberty Hall Road and 106 Liberty Hall Road to be used as university-oriented SFD, 2 Dold Place to be used as a school/preschool, and the property at the corner of Nelson Street and Liberty Hall Road to be used as university-oriented parking

**2013, November** - Reconfigure and expand DuPont Hall

**2014, October** - Renovations and improvements to Washington and Lee campus.

Includes the following specific projects.

1. Graham-Lees Resident Hall renovation.
2. The Center for Global Learning construction.
3. Park Space and Building Re-Use. Demolish Gilliam Hall, create pocket park, and re-purpose Baker and Davis Halls for administrative and support space.
4. Natatorium This project is in Rockbridge County and is not subject to this master plan review.
5. Doremus-Warner Athletics. Renovation.
6. Tucker Hall Renovation
7. New Student Housing This project is in Rockbridge County and is not subject to this master plan review. However, the expanded parking area (7A) is within the city.
8. New Softball Field
9. Field Improvements Practice fields located at the intersection of West Denny Circle and Route 60 are proposed to be upgraded with artificial turf and field lighting.
10. House Renovation/Reuse. These houses are proposed for renovation, preserving important historical features.
11. New Pedestrian Bridge. A new bridge spanning Woods Creek connecting the main campus to the law school.

12. Solar Power Array. This project is in Rockbridge County and is not subject to this master plan review.
13. **Service Compound/Field Events.** This project is in Rockbridge County and is not subject to this master plan review