



COUNTY OF PRINCE WILLIAM

5 County Complex Court, Suite 210, Prince William, Virginia 22192-9201
(703) 792-7615 FAX (703) 792-4401 www.pwcgov.org

PLANNING
OFFICE

Rebecca Horner, AICP, CZA
Director of Planning

March 9, 2018

TO: Planning Commission

FROM: Benjamin J. Ziskal, AICP, CEcD
Planning Office

RE: Zoning Text Amendment #DPA2017-00006, Public Hearing Notice Requirement
(Countywide)

I. Background – is as follows:

- A. Purpose of the Zoning Ordinance – Section 15.2-2283 of the Code of Virginia states that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public.
- B. Current State Statute – Virginia Code 15.2-2204 requires written notification to all owners of abutting property, and property immediately across a street or road, of a property that is the subject of a rezoning or special use permit.
- C. Current Zoning Ordinance Language – Sec.32-700.20 of the Zoning Ordinance requires landowner initiated rezonings to provide the name and address of adjacent property owners within 200 feet of the perimeter of the proposed rezoning. Section 32-700.60 of the Zoning Ordinance requires written notice to be sent to every owner, agent or occupant of each parcel within 200 feet in all directions of property that is to be rezoned or that is the subject of a Special Use Permit.
- D. Current Language Impacts – Although 200 feet exceeds the existing State Code requirements, the County has had interest from the community to increase the written notification area in order to provide additional transparency and to promote additional public input.
- E. Proposed Remedy – The proposed text would increase the public notification requirement from 200 feet to 500 feet for all rezonings and special use permits. Further, the proposed text would require public notification for all public facility determinations, and would expand the public notification requirement to 1,320 feet (1/4 mile) for any rezoning, special use permit, or public facility determination proposal seeking to exceed the maximum height of the zoning district of the subject property.

II. Current Situation – is as follows:

- A. Zoning Text Amendment Initiated – On September 6, 2016, the Board of County Supervisors (BOCS) initiated a zoning text amendment to change the public hearing notification requirement from 200 feet to 500 feet for rezonings and Special Use Permits. (See Attachment B for BOCS Initiating Resolution)
- B. Development Ordinance Review Advisory Committee (DORAC) – The committee reviewed the proposed Zoning Text Amendment on January 19, 2018. A discussion took place and staff revised the text based on input received.
- C. Public Information Meeting – The Planning Office held a public information meeting on January 24, 2018. The meeting had eight attendees, in addition to two County staff representatives. Further revisions were made to the text, based on input received at this meeting.
- D. Planning Commission Work Session – The proposed Zoning Text Amendment was presented to the Planning Commission for discussion during a Work Session on February 7, 2018.
- E. Planning Office Recommendation – The Planning Office recommends approval of Zoning Text Amendment #DPA2017-00006, Public Hearing Notice Requirement in attachment A, for the following reasons:
 - 1. An increased public notification radius will enhance transparency and promote additional public involvement.
 - 2. The impacts of certain development projects can extend beyond 200 feet, and an increased radius to 500 would ensure that those impacted by the development are included in the public comment and hearing process.
 - 3. Developments exceeding the maximum height of a zoning district will have a visual impact beyond the 500-foot radius and are likely to be visible up to ¼ mile away. An increased radius for these projects would provide additional input in the process to those affected.
- F. Planning Commission Public Hearing – A public hearing before the Planning Commission has been properly advertised for March 21, 2018.

III. Issues in the order of importance are:

- A. Policy – Does the amendment further the purposes of the Zoning Ordinance?
- B. Fiscal – Are there budget or financial impacts?
- C. Community Input – Have members of the community raised any concerns?

- D. Legal – Are there any legal implications associated with this zoning text amendment?
- E. Timing – What are the timing considerations of the zoning text amendment?

IV. Alternatives – beginning with the staff recommendation are as follows:

- A. Recommend Adoption of Zoning Text Amendment #DPA2017-00006, Public Hearing Notice Requirement to the Prince William County Zoning Ordinance.
 - 1. Policy – Increasing the public hearing notification radius from 200 feet to 500 feet for all rezoning and Special Use Permit applications will increase public hearing notification throughout the community, providing greater outreach, enhancing transparency, and promoting additional public input. Requiring all public facility determinations to comply with the public hearing notification requirements, and expanding the public hearing notification requirements to 1,320 feet (1/4 mile) for any proposal exceeding the maximum height in a zoning district will enhance public notification.
 - 2. Fiscal – The County is responsible for completing the public notification mailing, utilizing staff time to review or compile mailing lists, and a portion of an applicant’s submission fee to pay for necessary materials and postage for the mailings. An increased radius would result in additional staff time for review, and additional material costs. Based on an analysis of recent applications for SUPs and rezonings, the increase from 200 feet to 500 feet would result in an average cost increase of \$84.17. In addition, in reviewing recent telecommunication tower applications, which could exceed the maximum height of a zoning district, the increase from 200 feet to 1,320 feet, would result in an average cost increase of \$140.84.
 - 3. Community Input – The Planning Office held a public information meeting on January 24, 2018. The meeting had eight attendees, in addition to two County staff representatives. Revisions have been made to the text, based on input received at this meeting. The Planning Office has received no additional comments from the community.
 - 4. Legal – Legal issues, if any, are addressed by the County Attorney’s Office.
 - 5. Timing – The Planning Commission has until June 19, 2018, 90 days from the first public hearing, to take action on this proposal. A recommendation to adopt the zoning text amendment would meet the 90-day requirement.

B. Do Not Recommend Adoption of Zoning Text Amendment #DPA2017-00006, Public Hearing Notice Requirement to the Prince William County Zoning Ordinance.

1. Policy – There would be no change to the existing Zoning Ordinance
2. Fiscal – There would be no fiscal impact to the Planning Office or the County as a whole.
3. Community Input – The Planning Office held a public information meeting on January 24, 2018. The meeting had eight attendees, in addition to two County staff representatives. Revisions have been made to the text, based on input received at this meeting. The Planning Office has received no additional comments from the community.
4. Legal – Legal issues, if any, are addressed by the County Attorney’s Office.
5. Timing – The Planning Commission has until June 19, 2018, 90 days from the first public hearing, to take action on this proposal. A recommendation to adopt the zoning text amendment would meet the 90-day requirement.

V. Recommendation is that the Planning Commission concurs with Alternative A and recommends adoption of Zoning Text Amendment # DPA2017-00006, Public Hearing Notice Requirement.

Staff: Benjamin J. Ziskal, AICP, CEcD x7615

Attachments:

- A. Proposed Text Amendment
- B. BOCS Initiating Resolution

Attachment A – Proposed Text Amendment

Sec. 32-201.14 – Procedure for consideration of applications for public facility determinations.

- (a) Application procedures. Submission of a site or subdivision plan shall constitute sufficient application for a determination as to plan conformity review under the provisions of this section unless the Planning Director requests more information under this section, or separate application may be made where no site or subdivision plan is submitted. The Planning Director may require any applicant to provide such additional information as needed to identify the nature, general or approximate location, character, and extent of the public use, structure, or facility proposed, in accordance with procedures adopted by the Planning Office.

The Planning Director shall examine the application to determine whether it is in proper form, and shall advise the applicant of the date on which his application was accepted for review, or what further information is required to constitute a satisfactory application.

- (b) When the Planning Director determines that the application is complete, the applicant and the planning commission shall be advised. Prior to a public hearing, all public facility determinations shall be advertised in accordance with Section 32-700.60. The Planning Commission shall hear and decide the application within 60 days, unless such time is extended by the Board of County Supervisors prior to the expiration of the said 60 days. Notwithstanding the above, the Planning Commission shall hear and decide all applications for telecommunication facilities within 90 days, unless such time is extended by the Board of County Supervisors by no more than 60 additional days, or the applicant has agreed to a voluntary extension of time. Failure of the Commission to make a final decision as required hereby shall be deemed approval of the submission under consideration.
- (c) The planning commission shall communicate in writing its determinations to the Board of County Supervisors. The Planning Director shall communicate the Commission's determination with respect to any application presented to it hereunder to the Board of County Supervisors and the County Attorney. The Planning Director may incorporate an applicant's request for an extension of the 60-day time frame for the Planning Commission to hear and act upon those determinations scheduled for public hearing.

(Ord. No. 94-76, 11-1-94; Ord. No. 04-78, 12-21-04)

Sec. 32-700.20. - Landowner initiated rezonings; mandatory submission requirements.

An application by an individual property owner shall be made to the Planning Office and shall include the items listed in this section. Except for the filing fee, and unless otherwise determined at a preapplication conference, 25 collated sets of the following information, shall be submitted:

1. A fully completed application form (which shall be supplied by the Planning Director) signed by the property owner (or duly authorized agent). The application form shall include the name and current mailing address of the applicant and all record owners of the property with a ten percent or greater interest, the zoning classification sought, and

Attachment A – Proposed Text Amendment

any other information as may be reasonably required by the Planning Director on the application.

2. The latest deed for the property and an accurate plat of the property of a scale of one inch equals 100 feet or less prepared by a certified land surveyor, which shall show:
 - (a) Bearings and distances of a scale of one inch represents 100 feet or less for all property lines and existing and proposed zoning district lines;
 - (b) Area of land proposed for consideration, in square feet or acres;
 - (c) Scale and north point;
 - (d) Names of boundary roads or streets and widths of existing rights-of-way;
 - (e) Each area of requested map amendment outlined in red.
3. A written boundary description of the land which is the subject of the application, which must conform to the plat information.
4. A general development plan, as set forth by section 32-700.21.
5. The names and mailing addresses, as listed in the current real estate tax assessment books or current real estate tax assessment records, of all property owners, in all directions, within 500 feet of the perimeter of the property to be rezoned. Even if less than the entire record parcel is to be rezoned, then the names and addresses of all property owners within 500 feet of the parcel boundaries shall be provided. When a proposed rezoning includes a proposal to exceed the maximum height permitted within the subject zoning district, the names and mailing addresses required herein shall be provided for all property owners within 1,320 feet in all directions of the land involved.
6. Additional information as required by sections 32-700.23 through 32-700.25.
7. A filing fee, in the amount established by the Board of County Supervisors pursuant to resolution.
8. An inventory of the historical records research completed including the maps and documents available through the Historical Commission for prehistoric and historic resources. The sources consulted for determining that the site has or does not have special significance shall be referenced, and shall include, but not be limited to the following:
 - County Comprehensive Plan, Cultural Resources Element.
 - The Virginia Department of Historic Resources; Archaeological and Architectural Site Survey Files.
 - The Prince William County Cemetery Inventory.
9. A phase I cultural resources survey, performed in accordance with the guidelines of the Virginia Department of Historic Resources, with the scope of work approved by the County, for property that is on the County Register of Historic Sites as shown in the Comprehensive Plan, and for property within highly sensitive areas for cultural resources on the high sensitivity areas and County Registered Historic Sites Map of the Comprehensive Plan, or as indicated as having a medium to high potential on the application's cultural resources assessment and records check.

Attachment A – Proposed Text Amendment

10. Traffic impact analysis when required under the criteria established in the Design and Construction Standards Manual.
11. A narrative description analyzing the consistency of the application responding to the intent, goals, policies and action strategies for each element of the Comprehensive Plan.
12. If proposed, provisions for affordable housing units for any development on which a residential component is to be constructed.

(Ord. No. 92-59, 6-16-92; Ord. No. 02-05, 1-22-02; Ord. No. 04-78, 12-21-04; Ord. No. 09-30, 5-19-09)

Sec. 32-700.60. - Notice requirements for map amendments and Special Use Permits and Public Facility Determinations.

Prior to a public hearing on a map amendment, public facility determination, or Special Use Permit before the Planning Commission or Board of County Supervisors, notice as required by this section shall be given. The Planning Commission shall not recommend nor the Board of County Supervisors approve any amendment or Special Use Permit until such notice is given. Notice of amendments, Special Use Permits, or public facility determinations need not be advertised in full, but may be advertised by reference, provided that the place where copies of such amendments or Special Use Permits may be viewed shall be included in the notice. In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range of such proposed amendment and the general usage and density range of the applicable part of the Comprehensive Plan.

1. Notice of a zoning map amendment or Special Use Permit shall be published once a week for two successive weeks (with not less than six days elapsing between the first and second publication) in a newspaper having general circulation in the County. Notice for both the planning commission and Board of County Supervisors may be published concurrently. Notice shall specify the time and place of the public hearing, which shall be held not less than five days nor more than 21 days after the second advertisement shall have appeared.
2. When a proposed map amendment involves a change in the zoning map classification of 25 or fewer parcels of land, written notice shall be sent by first class mail by the Planning Director, or his designee, to the owner, agent, or occupant of each parcel within 500 feet in all directions of the property to be rezoned, as well as to the owner, agent, or occupant of the property to be rezoned in the case of a rezoning initiated by the Board of County Supervisors. If any portion of a planned development district is within 500 feet of the property to be rezoned, then notice shall be given to the home owner association within the planned development district that has members owning property located within 2,000 feet of the property to be rezoned. Notice shall be sent at least five days before the public hearing to the last known address as shown on the current real estate tax assessment books or current real estate tax assessment records, and the person sending such notice shall make affidavit, and file it with the papers in the case, that such notice was mailed. Written notice for Special Use Permits shall be sent by first class mail by the Planning Director or his designee for such permit to the owner, agent or occupant of each property, in all directions, within 500 feet of the site of the proposed special use, as well as to the owner,

Attachment A – Proposed Text Amendment

agent, or occupant of the property that is the subject of the Special Use Permit in the case of a Special Use Permit initiated by the Board of County Supervisors. Such notice shall be in a form approved by the Planning Director, and shall be mailed at least five days before the date of the public hearing to the last known address as shown on the current real estate tax assessment books. If the hearing is continued, notice shall be remailed. The applicant shall make affidavit that such notice was mailed in accordance with these provisions, and shall file the affidavit with the Planning Director at least five days before the date of the public hearing.

3. When a proposed map amendment involves a change in the zoning map classification of more than 25 parcels of land, written notice shall be sent by first class mail by the Planning Director, or his designee, to the owner, owners or their agents of each parcel of land involved. Notice shall be sent at least five days before the public hearing. one notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that the Planning Director, or his designee, shall make affidavit that such mailings have been made, and shall file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequent adopted amendment or ordinance because of the inadvertent failure by the Planning Director, or his designee, to give written notice to the owner, owners or their agents of any parcel involved.
4. Notice of a map amendment or Special Use Permit shall be given by the posting of at least one sign on the property involved at least 15 days prior to the date of the public hearing. Additional signs shall be required for properties with more than one road frontage, or properties with more than 200 feet of frontage along one road. Such signs shall be supplied by the Planning Director, and shall be posted by the applicant, who shall make affidavit that posting in accordance with these provisions was done, and shall file such affidavit with the Planning Director within three days after posting of the property. Such signs shall be posted between three and six feet in height in the following manner:
 - (a) All signs shall be posted so as to assure the greatest public visibility practical.
 - (1) Signs shall be posted adjacent to the street right-of-way abutting the site, no more than ten feet from the edge of said right-of-way. If more than one street abuts the site, at least one sign shall be posted along each abutting street. If no street abuts the site, at least one sign shall be posted along the closest public street, with a note added to locate the property in direction and distance from the sign. If more than one sign is posted along the same road frontage, such signs shall be posted at least 200 feet apart.
 - (2) Posting of land proposed to be included in a Highway Corridor Overlay District shall occur at street intersections within the proposed corridor.
 - (3) No posting shall be required for other overlay district applications except where 25 or fewer parcels are proposed to be affected; in such event, posting shall be made as for other map amendment.
 - (b) The applicant shall be responsible for maintaining the signs in good condition until the public hearing, and shall replace damaged or removed signs as soon as practical.

Attachment A – Proposed Text Amendment

It shall be a violation of this chapter to damage or remove a public notice sign erected under these provisions, and each sign shall carry a warning to this effect.

- (c) All signs shall be removed by the applicant within ten days of the final action of the planning commission and/or Board of County Supervisors.
- 5. In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessee's association, respectively, in lieu of each owner.
- 6. A party's actual notice of, or active participation in, the proceedings for which written notice is required, shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.
- 7. When (i) a Comprehensive Plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public use airport, then written notice shall be given consistent with Code of Virginia, § 15.2-2204(D).
- 8. When a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice shall be given consistent with Code of Virginia, § 15.2-2204(B).
- 9. When a proposed amendment to the zoning ordinance or application for public facility determination or Special Use Permit includes a proposal to exceed the maximum height permitted within the subject zoning district, written notice as required in Subsections (2) and (3) above shall be provided to the owner, agent, or occupant of each parcel within 1,320 feet in all directions of the land involved.

(Ord. No. 92-37, 3-17-92; Ord. No. 94-1, 1-11-94; Ord. No. 95-47, 6-27-95; Ord. No. 96-77, 8-6-96; Ord. No. 04-78, 12-21-04; Ord. No. 14-17, Attch., 4-15-14)

Attachment B – BOCS Initiating Resolution

MOTION: ANDERSON

September 6, 2016

SECOND: PRINCIPI

Regular Meeting

Res. No. 16-699

RE: INITIATE A ZONING TEXT AMENDMENT TO CHANGE THE PUBLIC HEARING NOTIFICATION REQUIREMENT FROM 200 FEET TO 500 FEET FOR REZONINGS AND SPECIAL USE PERMITS – COUNTYWIDE

ACTION: APPROVED

WHEREAS, in accordance with Section 15.2-2285 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, health, safety, convenience, general welfare and good zoning practice necessitate such change; and

WHEREAS, Section 15.2-2204 of the Code of Virginia requires written notification to all owners of abutting property, and property immediately across a street or road, of a property that is the subject of a rezoning or special use permit; and

WHEREAS, Section 32-700.20 of the Zoning Ordinance requires landowner initiated rezonings to provide the name and address of adjacent property owners within 200 feet of the perimeter of the proposed rezoning; and

WHEREAS, Section 32-700.60 of the Zoning Ordinance requires written notice to be sent to every owner, agent or occupant of each parcel within 200 feet in all directions of a property that is to be rezoned or that is the subject of a special use permit; and

WHEREAS, the Board of County Supervisors has requested to initiate a zoning text amendment to change the land use public hearing notification requirement from 200 feet to 500 feet; and

WHEREAS, although 200 feet already exceeds the existing State Code requirements, the County has had interest from the community to increase the written notification area; and

WHEREAS, the Prince William Board of County Supervisors believes that public general welfare, as well as good zoning practices are served by the initiation of this Zoning Text Amendment;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors does hereby initiate a Zoning Text Amendment to the Prince William County Zoning Ordinance to change the public hearing notification requirement from 200 feet to 500 feet for rezonings and special use permits.

Attachment B – BOCS Initiating Resolution

September 6, 2016
Regular Meeting
Res. No. 16-699
Page Two

Votes:

Ayes: Anderson, Caddigan, Candland, Jenkins, Lawson, Nohe, Principi, Stewart

Nays: None

Absent from Vote: None

Absent from Meeting: None

For Information:

Planning Director

County Attorney

ATTEST: _____


Clerk to the Board