

**LAND DEVELOPMENT ORDINANCE TEXT AMENDMENTS**  
**Round 26, Item D (Setbacks from Telecommunication Towers)**  
**Town Council Meeting**  
**November 21, 2013**

**EXECUTIVE SUMMARY**

The Round 26 amendments to the Land Development Ordinance included Item D, Setbacks from Telecommunication Towers. A summary of the review and approval process to date is summarized below. At its meeting on August 19, 2013, the Planning and Zoning Board requested additional information on this item, which was provided at its meeting on October 21, 2013. The board recommended approval of the proposed amendment by a vote of 8-0.

**OVERVIEW**

**TENTATIVE SCHEDULE:**

Planning and Development Committee	May 16, 2013
Advertisements in <i>The Cary News</i>	June 12 and 19, 2013
Public Hearing	June 27, 2013
Planning and Zoning Board Work Session	July 22, 2013
Planning and Zoning Board Meeting	August 19, 2013
Planning and Zoning Board Meeting	October 21, 2013
Final Action by Town Council	November 21, 2013

**SUMMARY OF PROPOSED AMENDMENT: Setbacks from Telecommunication Facilities**

The proposed amendment clarifies applicable setbacks for lots where new development encroaches, or seeks to encroach, into the required setbacks for telecommunication towers/facilities.

**FISCAL IMPACT:**

Implementation of most of the proposed changes will be absorbed by existing staff during the review and approval process for various development applications and/or construction plan submittals.

**STAFF RECOMMENDATION:**

Staff recommends approval of the proposed amendment

**SUMMARY OF PROCESS AND ACTIONS TO DATE**

**Town Council Public Hearing (*June 27, 2013*)**

The Town Council conducted a public hearing on the proposed Round 26 LDO Amendments on June 27, 2013. There were no comments on this amendment item.

**Planning and Zoning Board Work Session (*July 22, 2013*)**

There were no comments on this item at the worksession.

**Planning and Zoning Board Meeting (*August 19, 2013*)**

The Board tabled this item and asked staff to conduct additional research on the safety of reduced setbacks adjacent to telecommunication facilities.

**Planning and Zoning Board Meeting (*October 21, 2013*)**

Staff summarized comments provided by a telecommunication tower engineering expert regarding tower design. The board recommended approval of the proposed amendment by a vote of 8-0.

## DETAILS REGARDING PROPOSED LDO AMENDMENTS

### ITEM D - Setbacks from Existing Telecommunication Facilities

#### BACKGROUND

In situations where a telecommunications facility is proposed, the LDO clearly establishes the minimum distance that such facilities must be setback from an adjacent existing lot based on (1) the zoning of the surrounding property, and (2) whether or not the tower is stealth or non-stealth.

When subdividing a lot (or lots) from a larger lot that contains an existing telecommunications facility, the LDO is unclear with regard to the minimum distance the new lot(s) must be located from the existing facility. The setbacks currently listed in the LDO with regard to telecommunications facilities are intended to help reduce the impacts of new towers on existing development. The LDO does not clearly address the opposite scenario of locating new development in relation to an existing facility. Past practice has been to allow the boundary of a new lot(s) to be located within a distance of the height of the existing tower/facility, regardless of whether the tower is stealth or non-stealth.

Staff proposes amending the LDO to clarify the distinction between locating a new telecommunications facility and locating other types of development in proximity to an existing facility. The minimum required distance between a tower facility and the surrounding properties would be based on which use was first established. Staff proposes an amendment to clarify that a residential lot created in proximity to an existing telecommunications facility/tower (stealth or non-stealth) may be located no closer to the facility than a minimum of one times (1x) the tower height. Provisions are also being added to clarify that existing telecommunications facilities would not be considered nonconforming (with regard to required setbacks) if surrounding lots are subsequently created in accordance with the requirements of the LDO.

#### PROPOSED TEXT

##### 6.2.2 LOT MEASUREMENT AND REQUIREMENTS: General Lot Requirements

(A) Minimum Lot Dimensions....

(B) Number of Principal Buildings or Uses Per Lot....

**(C) Distance From Existing Telecommunications Facilities Towers**

When creating residentially-zoned lots from an existing lot or parcel that contains a telecommunications facility tower (stealth or non-stealth), the new lot(s) shall be located no closer to the existing tower than the height of the tower.

##### 5.2.4 USE-SPECIFIC STANDARDS: industrial Uses

**(D) Telecommunications Facilities**

**(12) Nonconforming Setbacks for Existing Towers**

Telecommunications facilities towers that do not meet the minimum required setbacks from lots that were created after the construction of the tower shall be deemed conforming with regard to setbacks for the purposes of Section 5.2.4(D).

Note: Refer to Section 6.2.2(C) for requirements associated with creating residentially-zoned lots from an existing lot or parcel that contains a telecommunications facility tower (stealth or non-stealth).