COUNTY AGENDA REQUEST

Department:	Planning & Zoning	Presenter(s):	Pete Frisina
Meeting Date:	Thursday, November 14, 2013	Type of Request:	Public Hearing

Wording for the Agenda:

Consideration of Ordinance 2013-20 amending the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, regarding Article III. Definitions, Article V. General Provisions, Sec. 5-45. Standards For Telecommunications Antennas and Towers, and Article VI. District Use Requirements, Sec. 6-22. M-1 Light Industrial District and Sec. 6-23. M-2 Manufacturing and Heavy Industrial District.

Background/History/Details:

On September 26, 2013, the Fayette County Board of Commissioners gave staff direction to move ahead with amendments to Section 5-45. Standards For Telecommunications Antennas and Towers regarding the relocation of a telecommunications tower on the same lot, and Article VI. District Use Requirements, Sec. 6-22. M-1 Light Industrial District and Sec. 6-23. M-2 Manufacturing and Heavy Industrial District regarding changing the Building Height from 35 feet to 50 feet.

What action are you seeking from the Board of Commissioners?

Approval of Ordinance 2013-20 amending the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, regarding Article III. Definitions, Article V. General Provisions, Sec. 5-45. Standards For Telecommunications Antennas and Towers, and Article VI. District Use Requirements, Sec. 6-22. M-1 Light Industrial District and Sec. 6-23. M-2 Manufacturing and Heavy Industrial District.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	Yes	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval	Yes		

Staff Notes:

STATE OF GEORGIA
COUNTY OF FAYETTE

ORDINANCE NO. 2013 - 20

AN ORDINANCE TO AMEND THE FAYETTE COUNTY CODE OF ORDINANCES, CHAPTER 20. ZONING ORDINANCE (2010), AS AMENDED, SPECIFICALLY ARTICLE VI (DISTRICT USE REQUIREMENTS); TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the duly elected governing authority of Fayette County is the Board of Commissioners thereof;

WHEREAS, the governing authority desires to amend the provision that provides for the regulation of land development as allowed by the State of Georgia;

WHEREAS, the health, safety, and welfare of the citizens of Fayette County, Georgia shall be improved and protected by adoption and implementation of this Ordinance.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF:

Section 1. The Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance (2010), as amended, is hereby further amended by deleting in Article III, Definitions, the definition of *Tower, Planned* in its entirety and replacing it with the following:

> *Tower, Planned*. Any tower that is in the public hearing procedure, site application review process, site plan revision process, or has been approved, but not yet constructed (see Article V.)

Section 2. . The Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance (2010), as amended, is hereby further amended by inserting the following in Article V, General Provisions, Sec. 5-46. Standards for Telecommunications Antennas and Towers., H. and existing H. thru M. shall now be I. thru N.

H. Revision to a Site Plan for the Relocation of an Existing Tower. The relocation of an existing tower shall require the following:
   1. The relocation site shall be within the same lot as the existing tower.
   2. Submittal of a site plan that meets the specifications of G. Site Plan Requirements above.
   3. Letters from all carriers on the existing tower agreeing to the relocation of the tower.
   4. The existing tower being replaced shall be removed from the site within 120 calendar days from the date of the issuance of the Certificate of Occupancy for the relocated tower.

Section 3. The Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance (2010), as amended, is hereby further amended by deleting in Article VI, Sec 6-22. M-1 Light Industrial District, D. Dimensional Requirements, 7. Height limit: in its entirety and replacing it with the following:

7. *Height limit*: 50 feet

Section 4. The Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance (2010), as amended, is hereby further amended by deleting in Article VI, Sec 6-23. M-2 Manufacturing and Heavy Industrial District, D. Dimensional Requirements, 7. Height limit: in its entirety and replacing it with the following:

7. *Height limit*: 50 feet

Section 5. That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 6. **a**. It is hereby declared to be the intention of the Board of Commissioners that all Sections, paragraphs, sentences, clauses and phrases of this Article are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no Section, paragraph, sentence, clause or phrase of this Article is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Article.

c. In the event that any phrase, clause, sentence, paragraph or section of this Article shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Article and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.

Section 7. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed except those provided for herein.

Section 8. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

So ordained this 14th day of November, 2013, by the

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____
STEVE BROWN, CHAIRMAN

ATTEST:

_____
CLERK/DEPUTY CLERK

3. Consideration of Amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance, Regarding Article III. Definitions, Article V. General Provisions, Sec. 5-45. Standards For Telecommunications Antennas And Towers, and Article VI. District Use Requirements, Sec. 6-22. M-1 Light Industrial District and Sec. 6-23. M-2 Manufacturing and Heavy Industrial District.

Pete Frisina said the amendment to Sec. 5-45 for cell towers involves a procedure for a cell tower to be relocated on the same property through the revision of the site plan and allows two (2) towers to be on the same property for a period of time. He added that the time period to remove the original tower 120 days.

Doug Powell asked why they would do this.

Pete Frisina explained Camp Southern Ground as an example is considering moving an existing cell tower to a different location on the property as the current location is in the middle of the camp and it would be best to have the procedure in place because someone else may want to do the something in the future on another site. He added that our County Attorney advised that this procedure should be addressed in our ordinance as it will allow two (2) towers in close proximity to each other which is not allowed in the ordinance.

Jim Graw asked when the 120 day period starts.

Pete Frisina said when the CO is issued for the replacement tower.

Pete Frisina said the other amendment for this is to the definition of a Planned Tower which now includes a process for a revision to a site plan.

Pete Frisina said the other amendments are to M-1 and M-2 and it is to raise the building height limit from 35 feet to 50 feet.

Al Gilbert asked if there was any one from the public that would like to comment. No one spoke on these subjects.

Tim Thoms asked if Camp Southern Ground would have to come back through the public hearing process to move the tower since they are a PUD.

Pete Frisina said they would not because the tower was in place prior to the rezoning to PUD and the applicants mentioned at the rezoning that they may relocate the tower. He said we only want to go back through the public hearing process for significant changes.

Doug Powell made a motion to approve the amendments. Bill Beckwith seconded the motion. The motion passed unanimously.

Article III Definitions

Tower, Planned. Any tower that is in the public hearing procedure, site application review process, ***site plan revision process,*** or has been approved, but not yet constructed (see Article V.) (Amended 05/24/12)

Article V General Provisions Sec. 5-45

H. Revision to a Site Plan for the Relocation of an Existing Tower. The relocation of an existing tower shall require the following:

1. The relocation site shall be within the same lot as the existing tower.

2. Submittal of a site plan that meets the specifications of G. Site Plan Requirements above.

3. Letters from all carriers on the existing tower agreeing to the relocation of the tower.

4. The existing tower being replaced shall be removed from the site within 120 calendar days from the date of the issuance of the Certificate of Occupancy for the relocated tower.

Sec. 6-22. M-1 Light Industrial District.

D. *Dimensional Requirements*. The minimum dimensional requirements in the M-1 Zoning District shall be as follows:

7. *Height limit*: ~~35~~ ***50*** feet

Sec. 6-23. M-2 Manufacturing and Heavy Industrial District.

D. *Dimensional Requirements*. The minimum dimensional requirements in the M-2 Zoning District shall be as follows:

7. *Height limit*: ~~35~~ ***50*** feet