



## PLANNING DIVISION MEMORANDUM

**To:** Beaufort County Planning Commission  
**From:** Anthony Criscitiello, Planning Director  
**Subject:** Proposed Amendment to the ZDSO, Dale CP, Mixed Use District (DMD), to allow Commercial Communication Towers as a permitted use.  
**Date:** October 20, 2010

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### STAFF REPORT:

#### A. BACKGROUND:

**Case No.** ZTA-2010-12

**Applicant:** Jonathan L. Yates

**Proposed Text Change:**

Change Appendix J. Section 2.4 (Permitted activities) of Division 2 – Dale Mixed Used District (DMD) to allow Commercial Communication Towers to be added as a Special (S) Use in Table 1. Land Uses. Commercial Communication Towers would be permitted in the Dale Mixed Use District pursuant and subject to the requirements of ZDSO Section 106-1357 Commercial Communication Towers.

**Affected Zoning and Development Standards Ordinance (ZDSO) sections:**

- Appendix J. Division 2. Dale Mixed Use District (DMD). Sec. 2.4. Permitted activities, Table 1 LAND USES.
- Appendix J. Division 2. Dale Mixed Use District (DMD). Sec. 2.5. Limited and special use standards. NONRESIDENTIAL USES.

#### B. SUMMARY OF REQUEST:

Mr. Yates wishes to allow for the placement of appropriate commercial communication towers pursuant to the requirements of Sec. 106-1357 – Commercial Communication Towers within the Dale CP Mixed Use District (DMD). He believes the current ban presents a scenario whereby the citizens of Dale are underserved by wireless coverage when compared to nearby communities.

#### C. ANALYSIS:

Section 106-493 of the ZDSO conveys 7 standards (below), any of which is cause for a Zoning Text Amendment. Analysis will address all those that are applicable to this text change request.

**Sec. 106-493. Standards for zoning text amendment.**

A zoning ordinance text amendment may be approved if:

1. It would implement a new portion of the comprehensive plan or amendment.

(Not Applicable)

2. It would implement and better achieve the comprehensive plan's goals and objectives that have proved difficult to achieve under the ordinance's existing provisions.

In the Economic Development Section of the 2007 Beaufort County Comprehensive Plan Recommendation 9-2: *Developing Business Climate Target Industries* states, "Beaufort County should take the following steps to recognize and encourage growth in the County's existing and emerging industries, as well as attract the type of business that can sustain the economy well into the future:

- o Ensure that all business locations have the ability to offer broadband and wireless Internet capabilities."

In the Community Facilities Element of the 2007 Beaufort County Comprehensive Plan the following statement is made in regard to the future needs of the Emergency Medical Services Department, "more wireless transmission locations ("hot spots") are needed throughout the County so that the EMT's can provide patient care reports and billing information to the headquarters when out in the field."

With the advent of Smartphones and "notebook" computers, the above statements support a county-wide effort to increase the necessary infrastructure to utilize these devices.

3. The ordinance's provisions were inconsistent or unreasonable in light of standards for similar uses.

(Not Applicable)

4. It is necessary to respond to state and/or federal legislation.

(Not Applicable)

5. It provides additional flexibility in meeting the ordinance's objectives without lowering the ordinance's general standards.

The proposed text amendment would provide additional flexibility in meeting the ordinance's objectives without lowering the ordinance's general standards. Commercial Communication Towers are a Special (S) or Limited (L) use in every other zoning district with the exception of the Resource Conservation (RC) district and certain Community Preservation districts. Were this change to occur, the uses permitted in the DMD would remain consistent with those permitted throughout the majority of Beaufort County.

6. It addresses a new use, changing conditions, and/or clarifies existing language.

(Not Applicable)

7. It clarifies the ordinance or makes adjustments to account for interpretation.

(Not Applicable)

**D. STAFF RECOMMENDATION:**

Staff agrees with the applicant’s request and recommends approval for the following reasons:

- a. On September 20, 2010, the staff, the applicant, the Dale CP Committee, and at least 25 members of the Dale Community met at the Dale Community Center to discuss and vote on the amendment. After a detailed discussion of nearly one hour, the Committee unanimously voted to approve the text amendment as proposed. During the discussion the community asked the applicant if he would consider siting the tower on a parcel that is owned by a member of the community who resides on the land. The applicant committed to doing this, “so long as the technical aspects of the site are manageable.”
- b. This measure would implement and better achieve the comprehensive plan’s goals and objectives.
- c. This amendment provides additional flexibility in meeting the ordinance’s objectives without lowering the ordinance’s general standards.

The proposed amendment (see page 4 of this staff report) is shown as **bold and underlined** for additions and ~~strike through~~ for deletions.

**E. NORTHERN BEAUFORT COUNTY SUBCOMMITTEE RECOMMENDATION:**

The Northern Beaufort County Subcommittee of Beaufort County Planning Commission met on October 19, 2010, at 6:30 p.m. at the Davis Early Childhood Learning Center (formerly known as Davis Elementary School) cafeteria.

Present at the meeting:

Subcommittee: Mr. Robert Semmler, Acting Chair; Ms. Mary LeGree; and Mr. Ed Riley

Staff: Mr. Brian Herrmann, County Community Planner

Others: Mr. Jonathan Yates, applicant; County Councilman Paul Sommerville; and Mr. ??, Dale Community Preservation (CP) Committee Chair

Mr. Yates gave a presentation to the Subcommittee. Mr. Herrmann noted that Mr. Yates’ presentation basically covered the staff report. Councilman Sommerville asked if the Dale CP Committee had reviewed the request. Mr. ?? affirmed the CP Committee has recommended approval. After a brief discussion, Mr. Riley made a motion, and Ms. LeGree seconded the motion, to forward to the Planning Commission a recommendation of approval of the text amendments. The motion was carried unanimously (FOR: LeGree, Riley and Semmler).

**F. ATTACHMENTS:**

- Copy of application for ZDSO Text Amendment
- Map of Dale Mixed Use District (DMD) (for reference only)

**DIVISION 2. DALE MIXED USE DISTRICT (DMD)**

**Sec. 2.4. Permitted activities.**

The permitted uses are restricted to residential uses and consumer-oriented businesses catering primarily to the needs of the local population. For the purpose of this section, the allowable uses in the DMD zoning district and are controlled by the land use development standards of this section, the Beaufort County Comprehensive plan, the ZDSO, and the chart of permitted uses (Table 1). The following are descriptions of permitted uses, permitted accessory uses and structures for DMD districts:

TABLE 1. LAND USES

| <i>Land Use</i>                               | <i>Use Definition</i>                                                                                                                                                                                                                                                                                                                                                                         | Use Permission  |
|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Accessory dwelling unit                       | A second dwelling unit, clearly subordinate to the principal unit, either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility. Maximum building size shall not exceed 50% of the principal unit's floor area.                                           | L               |
| <b><u>Industrial Uses</u></b>                 |                                                                                                                                                                                                                                                                                                                                                                                               |                 |
| <b><u>Commercial communication towers</u></b> | <b><u>A tower, pole or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, freestanding or guved, or atop a structure. This does not include television antennas or satellite dishes. Towers for radio or television station use are regulated as regional utilities. Speculation towers are prohibited.</u></b> | <b><u>S</u></b> |

**Sec. 2.5. Limited and special use standards.**

**RESIDENTIAL USES**

The affordable housing density bonuses allowed in section eight of the Beaufort County Zoning and Development Standards Ordinance shall not apply to the permitted densities within the Dale CP Districts.

*Accessory Dwelling*

- This use is limited to 50 percent of the floor area (heated) of the primary structure.

**INDUSTRIAL USES**

**Commercial Communication Towers**

- **This use must comply with the standards set forth in Section 106-1357.**

*(Pages 5 thru 6 are attached for reference only)*

DIVISION 2. LIMITED AND SPECIAL USE STANDARDS

*Subdivision VIII. Industrial\**

Sec. 106-1357. Commercial communication towers.

The purpose of this section is to provide service to the public while minimizing the number of towers, and the individual impact of towers, in Beaufort County.

- (a) *Collocation.* Procedures for collocation of commercial communication towers are as follows:
- (1) All new applications for this use shall provide a collocation study to demonstrate that there is not a suitable collocation site that can serve needs of the user. Placement on water towers or other tall structures shall be fully considered prior to making an application. Existing uses shall be required to demonstrate cooperation in that there is not an undue proliferation of towers.
  - (2) All new towers shall provide for collocation. This means the tower shall have additional location points and the design of the ground structures shall be such that modular expansion is feasible. The following collocation standards shall also apply:
    - a. All structures less than 125 feet in height shall make provision for at least two locations.
    - b. Towers between 125 feet and 200 feet in height shall have at least four locations.
    - c. When a tower is proposed within two miles of an existing tower, the applicant will be expected to prove that there is no technologically and structurally suitable space available within the search ring. The applicant shall submit satisfactory written evidence such as correspondence, agreements, contracts etc., that alternative towers are not available for use within the search ring. The proposed tower, if approved, must be either camouflaged or stealth in design.
- (b) *Maximum height.* Maximum height shall be as follows:
- (1) For towers with provisions for one to three locations, 125 feet.
  - (2) For towers with provisions for four to five locations, 200 feet.
  - (3) In the rural district, where the tower is located on a property with a conservation easement in place, such locations shall only be approved where the location of the structure will be completely screened at least one mile in sight distance, from roads or riverways having visual access of the subject property. In the rural district, the required resource protection plan shall show how harvesting of the buffer will be done so as to retain the screening of the tower.
- (c) *Lighting.* Lighting shall be in accordance with Federal Aviation Administration (FAA) Advisory Circular AC 70/7460-1K (and all future updates) and FAA Advisory Circular AC 150/5345-43E (and all future updates) and shall be red strobe lights (L-864) at night and medium intensity flashing white lights (L-865) during daylight and twilight use unless otherwise required by the FAA. No general illumination shall be permitted. All towers 150 feet or taller shall be lighted. All commercial

communication towers approved by Beaufort County and by the South Carolina State Historic Preservation Office prior to the adoption of this amendment [Ord. No. 2007/1] and operating in conformance with those approvals shall be deemed to be lawful nonconforming uses and structures and are not subject to these lighting requirements. Status as a lawful nonconforming use or structure under this section shall terminate upon the expiration or revocation of a commercial communication tower's permit or upon any modification to the height of the tower.

(d) *Additional standards for all towers.* Additional standards for all towers are as follows:

- (1) No structure shall adversely affect any historic structure or site.
- (2) A 50-foot forested buffer shall be provided around all sites. For camouflage and stealth towers, the DRT may approve a buffer modulation based on site design. If a forested buffer does not exist, a new buffer shall be planted in accordance with section 106-1680.
- (3) A collapse zone shall be designed so that tower collapse will occur only within the property owned or controlled by an easement.
- (4) A sign of no more than two square feet shall be mounted in an easily noticeable location, no more than four feet above the ground, providing tower identification and an emergency notification number.
- (5) If disputed evidence occurs before the DRT or ZBOA, the county may hire, at the developer's expense, a communications expert or engineer of its own choosing to assist in determining the facts.
- (6) When any tower is abandoned for 60 days, it shall be removed by the landowner and the site restored within six months.
- (7) Speculation towers are prohibited.
- (8) New uses are strictly prohibited in corridor overlay, historic overlay and community preservation areas and shall not adversely affect any property, road or waterway which has been officially recognized or designated as scenic within the county. The expansion or replacement of existing towers in a community preservation area shall require a special use permit and are limited to 150 feet in height.
- (9) The base of any new tower shall be set back no closer to a residential structure than a distance equal to one foot for each one foot in height of the proposed tower, plus an additional 50 feet.
- (10) No tower shall be located within 500 feet, plus one foot for each foot of height of the proposed tower, of the OCRM critical line. All towers shall comply with the airport overlay district standards.

(e) *Reports/studies required.* All applications for this use shall include a community impact statement including a visual impact analysis.

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(Ord. No. 99-12, § 1 (03.244), 4-26-1999; Ord. No. 2000-6, 2-14-2000; Ord. No. 2004/32, 10-4-2004; Ord. No. 2007/1, 1-8-2007)

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