

ACTIONS		
Board of Supervisors Meeting of April 8, 2015		
		April 9, 2015
<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>PODCAST</u>
1. Call to Order. <ul style="list-style-type: none"> Meeting was called to order at 6:01 p.m., by the Chair, Ms. Dittmar. 		Listen
4. Adoption of Final Agenda. <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED final agenda. 		
5. Brief Announcements by Board Members. <u>Ann Mallek:</u> <ul style="list-style-type: none"> Announced that David Blount, the County's Legislative Liaison, has received the Gordon Dixon Award. Announced that the Shenandoah National Park has a new program called "Find Your Park". Announced that VDoT has found a way to fix the bridge on Dickerson Road to get it back to its full weight. 		
6. Recognitions: <ol style="list-style-type: none"> Resolution Proclaiming April, 2015 as Child Abuse and Neglect Prevention Month in Albemarle County. <ul style="list-style-type: none"> Ms. Palmer read and presented proclamation to Brad Wentz, Child Protective Services Supervisor. By a vote of 6:0, ADOPTED proclamation. Proclamation Proclaiming May 2 as the 50th Anniversary of the Friends of the Jefferson Madison Regional Library. <ul style="list-style-type: none"> Ms. Dittmar read proclamation. By a vote of 6:0, ADOPTED proclamation. 	(Attachment 1) (Attachment 2)	Listen
7. From the Public: Matters Not Listed for Public Hearing on the Agenda. <ul style="list-style-type: none"> <u>Bob Lorish</u>, resident of Belvedere, spoke on the Code of Development for Belvedere and strongly encouraged the Board to support staff's recommendation. <u>Pamela Dodd</u>, resident of Belvedere, spoke on the Belvedere community and resident involvement. <u>Kirk Bowers</u>, spoke on the Atlantic Coast pipeline and its path through neighboring counties. <u>Jeffrey Monaco</u>, spoke on zoning requirements in the Rio District regarding the Lochlyn Hills Subdivision. <u>Karen Reifenberger</u>, resident of the White Hall District spoke on Fair Housing Month. <u>Steve Janes</u>, resident of Albemarle County complimented VDoT and Joel DeNunzio's team handling of an issue in Forest Lakes. 		Listen
8.2 South Pantops - State Farm Boulevard Sidewalk. <ul style="list-style-type: none"> By a vote of 4:2(Sheffield/McKeel) ADOPTED Resolution authorizing the Parcel 78-62 acquisition for the agreed just compensation amount and the Parcel 78-63 and Parcel 78-72 acquisitions for an amount not to exceed just 	<u>Clerk:</u> Forward copy of signed resolution to OFD and County Attorney's office. (Attachment 3)	Listen

	compensation, and AUTHORIZED the County Executive to sign, in a form approved by the County Attorney, all documents necessary to complete the acquisitions.		
8.3	Resolution to accept road(s) in The Farms at Turkey Run Phase II into the State Secondary System of Highways (Scottsville Magisterial District). • ADOPTED resolution.	<u>Clerk:</u> Forward adopted resolution and signed Form AM-4.3 to Glenn Brooks and copy to County Attorney's office. (Attachment 4)	Listen
9.	Pb. Hrg: To receive comments on Proposed Calendar Year 2015 Tax Rates for Real Property. • HELD.		Listen
10.	Pb. Hrg: ZTA-2015-00001. Wireless Communications – FCC Mandated Changes. • By a vote of 6:0, ADOPTED ordinance.	<u>Clerk:</u> Forward copy of signed ordinance to Community Development and County Attorney's office. (Attachment 5)	Listen
11.	Belvedere Station Land Trust – Interpretation of Proffers 3.2 and 3.3. • By a vote of 6:0, ADOPTED resolution denying the Belvedere Land Trust's appeal and affirming the Zoning Administrator's February 17, 2015 determination.	<u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 6)	Listen
12.	From the Board: Committee Reports and Matters Not Listed on the Agenda. • Discussed earlier comments made by Jeffery Monaco. <u>Jane Dittmar:</u> • Discussed a potential meeting in early summer of the Board of Supervisors and City Council.		Listen
13.	From the County Executive: Report on Matters Not Listed on the Agenda. • There were none.		
14.	Adjourn to April 14, 2015, 3:00 p.m., Lane Auditorium. • At 9:39 p.m., the meeting was adjourned.		

ewj/tom

Attachment 1 – Resolution Proclaiming April, 2015 as Child Abuse and Neglect Prevention Month in Albemarle County

Attachment 2 – Proclamation Proclaiming May 2 as the 50th Anniversary of the Friends of the Jefferson Madison Regional Library

Attachment 3 – Resolution - South Pantops - State Farm Boulevard Sidewalk

Attachment 4 – Resolution to accept road(s) in The Farms at Turkey Run Phase II into the State Secondary System of Highways

Attachment 5 – Ordinance No. 15-18 (2)

Attachment 6 – Resolution Denying Belvedere Station Land Trust's Appeal and Affirming the Zoning Administrator's February 17, 2015 Determination

Proclamation

**A RESOLUTION PROCLAIMING APRIL, 2015 AS
CHILD ABUSE AND NEGLECT PREVENTION MONTH
IN ALBEMARLE COUNTY**

WHEREAS, in Federal fiscal year 2014, Albemarle County Department of Social Services received 1444 calls of concern about the care of children, assessing the safety of children in 644 of those calls as valid cases of child abuse or neglect; and

WHEREAS, child abuse and neglect is a serious problem affecting every segment of our community, and finding solutions requires input and action from everyone in our community; and

WHEREAS, child abuse has been proven to have long-term psychological, emotional, and physical effects with lifelong consequences for victims of abuse and effective child abuse prevention activities, such as the County sponsored Family Support and Bright Stars programs, succeed because of the meaningful connections and partnerships created between child welfare, education, health, community- and faith-based organizations, businesses and law enforcement agencies; and

WHEREAS, communities must make every effort to promote programs and activities that benefit children and their families; and

WHEREAS, prevention remains the best defense for our children and families.

NOW, THEREFORE, BE IT RESOLVED by the Albemarle County Board of Supervisors that **April, 2015** is hereby proclaimed as **CHILD ABUSE AND NEGLECT PREVENTION MONTH** in Albemarle County. In so doing, the Board urges all citizens to recognize this month by being dedicated to the task of improving the quality of life for all children and families.

Signed and sealed this 8th day of April, 2015.

Proclamation

Whereas, the Friends of the Jefferson Madison Regional Public Library understand the importance of the public library as a cornerstone of our community: and

Whereas, the Friends encourages literacy by funding adult and children's programs, summer reading programs, staff development and special events throughout the year, furnishings and audio visual improvements in library facilities. Many improvements and enhancements in our library have only been possible because of the support provided by our Friends; and

Whereas, the Friends is a highly successful all-volunteer non-profit organization, which has, through extensive volunteer time and effort, provided nearly \$100,000 each year to the public library to provide free reading materials, access to technology, assistance in research, access to print and electronic materials; and

Whereas, the work of the Friends of the Library highlights the fact that volunteerism can lead to positive civic engagement and the betterment of our community. Over the fifty years, there have been thousands of Friends, with an average of three hundred per year.

Now, Therefore, Be It Resolved, that the Albemarle County Board of Supervisors does hereby proclaim **May 2, 2015 as the 50th Anniversary of the Friends of the Jefferson Madison Regional Library** and invites the entire community to enjoy activities organized in the Central Library on E. Market Street and outside in Lee Park.

Signed and sealed this 8th day of April, 2015.

RESOLUTION TO AUTHORIZE ACQUISITION OF RIGHT-OF-WAY AND EASEMENTS ON THREE PROPERTIES LOCATED ON STATE FARM BOULEVARD (Parcels 78-72, 78-62, and 78-63)

WHEREAS, the County's Office of Facilities Development is completing the right-of-way and easement acquisition phase for the South Pantops-State Farm Boulevard Sidewalk Project; and

WHEREAS, a right-of-way and temporary construction easement on Parcel 78-72 and temporary construction easements on Parcels 78-62 and 78-63 are necessary to construct the Project; and

WHEREAS, the Owners of Parcels 78-72, 78-62 and 78-63 have agreed to sell said right-of-way and easements for just compensation.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the acquisition of a right-of-way and temporary construction easement on Parcel 78-72 and temporary construction easements on Parcels 78-63 and 78-72 that are necessary for the South Pantops-State Farm Boulevard Sidewalk Project for an amount not to exceed just compensation, and further authorizes the County Executive to execute all documents in a form approved by the County Attorney that are necessary to complete the acquisitions.

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 8th day of April 2015, adopted the following resolution:

RESOLUTION

WHEREAS, the street(s) in **The Farms at Turkey Run Subdivision**, as described on the attached Additions Form AM-4.3 dated **April 8, 2015**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **The Farms at Turkey Run**, as described on the attached Additions Form AM-4.3 dated **April 8, 2015**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

* * * * *

The road(s) described on Additions Form AM-4.3 is:

- 1) **Courtenay Glen Way (State Route 1348)** from existing end of state maintenance to extend Route 1348 to cul-de-sac, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3463, pages 447-457, for a length of 1.30 miles.

Total Mileage – 1.30

ORDINANCE NO. 15-18(2)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, AND ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, and Article II, Basic Regulations, are hereby amended and reordained as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 5.1.40 Personal wireless service facilities

Chapter 18. Zoning

Article I. General Provisions

Sec. 3.1 Definitions

...

Avoidance area: An area having significant resources where the initial siting of personal wireless service facilities could result in adverse impacts as follows: (i) any ridge area where a personal wireless service facility would be skylighted; (ii) a parcel within an agricultural and forestal district; (iii) a parcel within a historic district; (iv) any location in which the proposed personal wireless service facility and three (3) or more existing or approved personal wireless service facilities would be within an area comprised of a circle centered anywhere on the ground having a radius of two hundred (200) feet; or (v) any location within two hundred (200) feet of any state scenic highway or by-way. (Added 10-13-04)

...

Base station. A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network.

1. *Services to which the term applies.* The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. *Equipment to which the term applies and does not apply.* The term includes, but is not limited to, radio transceivers, antennas, coaxial, or fiber optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration, including distributed antenna systems and small-cell networks. The term does not include any equipment associated with a tower.
3. *Structures to which the term applies and does not apply.* The term includes any structure, other than a tower, that, at the time the relevant application is filed with the county, supports or houses equipment described in paragraphs (1) and (2) of this definition that has been reviewed and approved under section 5.1.40 or the applicable zoning process in effect prior to October 13, 2004. The term does not include: (i) a tower as defined in this section; and (ii) any structure that, at the time the relevant application is filed with the county under section 5.1,40, does not support or house equipment described in paragraphs (1) and (2) of this definition.

...

Collocation. The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. (Added 5-8-13; Amended 4-8-15)

...

Collocation, exempt. A collocation that would not result in a substantial change in the physical dimensions of an eligible support structure.

...

Concealment elements of the eligible support structure. Any condition of approval, including any applicable requirement of section 5.1.40 in effect at the time of approval, established and imposed on the personal wireless service facility as a concealment technique and which includes conditions or regulations pertaining to antenna size, color of the structure and all equipment, antenna mounting techniques, including the requirement that antennas be flush mounted, maximum tower diameters at the base and top, limitations on tower height relative to a reference tree, screening by trees including the restrictions on removing trees that are screening the tower, siting towers so that they are not skylighted, requirements as to how cables should be located on a tower, and the size, location, design, and screening for ground based equipment.

...

Eligible support structure. Any tower or base station, provided that it is existing at the time the relevant application is filed with the County.

...

Existing structure: As used in section 5.1.40, a structure, other than a flagpole or an existing tower, that was lawfully constructed or established and complies with the minimum applicable bulk, height, setback, floor area or other structure requirements of the district in which the structure is located. (Added 5-8-13)

Existing tower or existing base station. As referred to in the definition of “eligible support structure,” a constructed tower or base station that has been reviewed and approved under the applicable zoning process, provided that a tower that has not been reviewed and approved because it was not required to be reviewed when it was built, but was lawfully constructed, is existing for purposes of this definition.

...

Replacement: As used in section 5.1.40 and any definitions pertaining to personal wireless service facilities, the replacement of transmission equipment of the same or lesser size in the same location as the equipment being replaced on an eligible support structure. (Added 5-8-13)

Replacement, exempt. A replacement that would not result in a substantial change in the physical dimensions of the eligible support structure.

...

Substantial change: A modification to an eligible support structure that meets one or more of the following criteria:

1. *Increase in height.* For towers other than towers in the public rights-of-way, the modification increases the height of the tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, the modification increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater. Changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings’ rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.
2. *Increase in width.* For towers other than towers in the public rights-of-way, the modification involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, the modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet.
3. *Excessive equipment cabinets.* For any eligible support structure, the modification involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations, the modification involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure.

4. *Expands tower site.* The modification entails any excavation or deployment outside the current site.
5. *Defeats concealment elements.* The modification would defeat the concealment elements of the eligible support structure.
6. *Does not comply with conditions of approval.* The modification does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in paragraphs (1) through (4) of this definition.

...

Tier I personal wireless service facility or Tier I facility: A personal wireless service facility that: (i) is located entirely within an existing building but which may include a self-contained ground equipment shelter not exceeding one hundred fifty (150) square feet that is not within the building or a whip antenna that satisfies the requirements of subsection 5.1.40(b)(1)(d); (ii) consists of one or more antennas, other than a microwave dish, attached to an existing structure, together with associated personal wireless service equipment; (iii) is located within or camouflaged by an addition to an existing structure determined by the agent to be in character with the structure and the surrounding district; or (iv) is the replacement of a wooden monopole with a metal monopole that does not exceed the maximum dimensions permitted under subsection 5.1.40(b)(9). (Added 10-13-04; Amended 5-8-13)

...

Tower: As referred to in the definition of “eligible support structure” and “existing tower or base station,” any structure built for the sole or primary purpose of supporting any Federal Communications Commission licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated tower site.

Tower site: As referred to in the definitions of “substantial change” and “tower” and as used in section 5.1.40, for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

...

Transmission equipment. As used in section 5.1.40, equipment that facilitates transmission for any Federal Communications Commission licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Article II. Basic Regulations

Sec. 5.1.40 Personal wireless service facilities; collocation, replacement, and removal of transmission equipment

The purpose of section 5.1.40 is to implement the personal wireless service facilities policy, adopted as part of the comprehensive plan, in a manner that complies with Section 704 of the Telecommunications Act of 1996 (47 U.S.C. § 332(c)(7)) for new personal wireless service facilities and collocations and replacements that result in a substantial change in the physical dimensions of an eligible support structure; and to implement Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. § 1455) and 47 CFR § 1.40001 for collocations and replacements that do not result in a substantial change in the physical dimensions of an eligible support structure. Each personal wireless service facility and the transmission equipment of any other wireless service shall be subject to the following, as applicable:

- a. *Application for approval:* An application providing the following information shall be required for each personal wireless service facility (hereinafter, “facility”) and transmission equipment that will be collocated or replace

existing equipment on an eligible support structure:

Application Requirements	Type of Application			
	I	II	III	C/R
1. <i>Application form and signatures.</i> A completed application form, signed by the parcel owner, the parcel owner's agent or the contract purchaser, and the proposed facility's owner. If the owner's agent signs the application, he shall also submit written evidence of the existence and scope of the agency. If the contract purchaser signs the application, he shall also submit the owner's written consent to the application.	X	X	X	X
2. <i>Plat or survey of the parcel.</i> A recorded plat or recorded boundary survey of the parcel on which the facility will be located; provided, if neither a recorded plat nor boundary survey exists, a copy of the legal description of the parcel and the Albemarle County Circuit Court deed book and page number.	X	X	X	X
3. <i>Ownership.</i> The identity of the owner of the parcel and, if the owner is other than a real person, the complete legal name of the entity, a description of the type of entity, and written documentation that the person signing on behalf of the entity is authorized to do so.	X	X	X	X
4. <i>Plans and supporting drawings, calculations, and documentation.</i> Except where the facility will be located entirely within an eligible support structure or an existing building, a scaled plan and a scaled elevation view and other supporting drawings, calculations, and other documentation required by the agent, signed and sealed by an appropriate licensed professional. The plans and supporting drawings, calculations, and documentation shall show:	X	X	X	X
(a) <i>Existing and proposed improvements.</i> The location and dimensions of all existing and proposed improvements on the parcel including access roads and structures, the location and dimensions of significant natural features, and the maximum height above ground of the facility (also identified in height above sea level).	X	X	X	X
(b) <i>Elevation and coordinates.</i> The benchmarks and datum used for elevations shall coincide with the State Plane VA South US Survey Feet based on the North American Datum of 1983 (NAD 83), and the benchmarks shall be acceptable to the county engineer.	X	X	X	X
(c) <i>Design.</i> The design of the facility, including the specific type of support structure and the design, type, location, size, height, and configuration of all existing and proposed antennas and other equipment.	X	X	X	X
(d) <i>Color.</i> Identification of each paint color on the facility, by manufacturer color name and color number. A paint chip or sample shall be provided for each color.		X	X	
(e) <i>Topography.</i> Except where the facility would be attached to an eligible support structure or an existing building, the topography within two thousand (2,000) feet of the proposed facility, in contour intervals not to exceed ten (10) feet for all lands within Albemarle County and, in contour intervals shown on United States Geological Survey topographic survey maps or the best topographic data available, for lands not within Albemarle County.	X	X	X	
(f) <i>Trees.</i> The caliper and species of all trees where the dripline is located within fifty (50) feet of the facility. The height, caliper, and species of any tree that the applicant is relying on to provide screening of the monopole or tower. The height, caliper and species of the reference tree. The caliper and species of all trees that will be adversely impacted or removed during installation or maintenance of the facility shall be noted, regardless of their distances to the facility.	X	X	X	X
(g) <i>Setbacks, parking, fencing, and landscaping.</i> All existing and proposed setbacks, parking, fencing, and landscaping.	X	X	X	X

Application Requirements	Type of Application			
	I	II	III	C/R
(h) <i>Location of accessways.</i> The location of all existing vehicular accessways and the location and design of all proposed vehicular accessways.	X	X	X	
(i) <i>Location of certain structures and district boundaries.</i> Except where the facility would be attached to an eligible support structure or an existing building, residential and commercial structures, and residential and rural areas district boundaries.		X	X	
(j) <i>Proximity to airports.</i> If the proposed monopole or tower will be taller than one hundred fifty (150) feet, the proximity of the facility to commercial and private airports.				
5. <i>Photographs.</i> Photographs of the location of the proposed monopole or tower shall be provided that include, for applications for Tier II facilities, the reference tree, and for applications for Tier III facilities, the area within fifty (50) feet of the proposed monopole or tower. These photographs shall include reference points to enable the lease area, the vehicular access, the trees that will remain, and the trees that will be removed, to be identified. In addition, photographs, where possible, or perspective drawings of the facility site and all existing facilities within two hundred (200) feet of the site, if any, and the area surrounding the site.		X	X	
6. <i>Balloon tests.</i> For any proposed monopole or tower, photographs taken of a balloon test, which shall be conducted, if requested by the agent, as follows:				
(a) <i>Scheduling.</i> The applicant shall contact the agent within ten (10) days after the date the application was submitted to schedule a date and time when the balloon test will be conducted. The test shall be conducted within forty (40) days after the date the application was submitted, and the applicant shall provide the agent with at least seven (7) days prior notice; provided that this deadline may be extended due to inclement weather or by the agreement of the applicant and the agent.		X	X	
(b) <i>Marking key boundaries and locations.</i> Prior to the balloon test, the locations of the access road, the lease area, the tower site, the reference tree, and the tallest tree within twenty five (25) feet of the proposed monopole shall be surveyed and staked or flagged in the field.		X	X	
(c) <i>Balloon height.</i> The test shall consist of raising one or more balloons from the facility site to a height equal to the proposed facility.		X	X	
(d) <i>Balloon color or material.</i> The balloons shall be of a color or material that provides maximum visibility.		X	X	
(e) <i>Photographing balloon test.</i> The photographs of the balloon test shall be taken from the nearest residence and from appropriate locations on abutting properties, along each publicly used road from which the balloon is visible, and other properties and locations as deemed appropriate by the agent. The applicant shall identify the camera type, film size, and focal length of the lens for each photograph.		X	X	
7. <i>Additions of antennas.</i> If antennas are proposed to be added to an eligible support structure or an existing building, all existing antennas and other equipment on the structure, building, or facility, as well as all ground equipment, shall be identified by owner, type, and size. The method(s) by which the antennas will be attached to the mounting structure shall be depicted.	X	X	X	X
8. <i>Site under conservation or open space easement.</i> If the proposed facility would be located on lands subject to a conservation easement or an open space easement, a copy of the recorded deed of easement and the express written consent of all easement holders to the proposed facility.		X	X	

Application Requirements	Type of Application			
	I	II	III	C/R
9. <i>Photographic simulations.</i> At the request of the agent, photographic simulations of the proposed facility.		X	X	
10. <i>Statement of justification for exempt collocation.</i> If the application is for an exempt collocation, a statement of the justification for the application qualifying as an exempt collocation.				X
11. <i>Evidence of prior approval.</i> Approval letters or actions from the County authorizing the initial construction of the facility and any approval letters or actions for modifications of the facility after initial construction. If no approvals were granted by the County for the facility the applicant shall provide evidence that the facility was constructed lawfully.				X
12. <i>Special exception.</i> If the proposed facility does not comply with any provision of section 5.1.40, the applicant shall request a special exception in writing as part of the application. The request shall identify which regulation in section 5.1.40 for the special exception is requested and a justification for the special exception.	X	X	X	

The following abbreviations are used in this table:

I, II, and III: Refer to Tier I, Tier II, and Tier III facilities, respectively.

C/R: Refers to exempt collocations and exempt replacements of transmission equipment.

X: Refers to a requirement that applies to the corresponding facility or transmission equipment.

- b. *Development requirements.* Each facility or transmission equipment may be established upon approval as provided in subsection (c) provided that the application satisfies the applicable requirements of subsection (a) and demonstrates that the facility or transmission equipment will be installed and operated in compliance with all applicable provisions of this chapter, and the following:

Development Requirements	Type of Application			
	I	II	III	C/R
1. <i>General design.</i> The facility shall be designed, installed, and maintained as follows:				
(a) <i>Guy wires.</i> Guy wires are prohibited.	X	X	X	
(b) <i>Outdoor lighting.</i> Outdoor lighting for the facility shall be permitted only during maintenance periods; regardless of the lumens emitted, each outdoor luminaire shall be fully shielded as required by section 4.17; provided that these restrictions shall not apply to any outdoor lighting required by federal law.	X	X	X	
(c) <i>Ground equipment.</i> Any ground equipment shelter not located within an eligible support structure or an existing building shall be screened from all lot lines either by terrain, existing structures, existing vegetation, or by added vegetation approved by the agent.	X	X	X	
(d) <i>Whip antenna.</i> A whip antenna less than six (6) inches in diameter may exceed the height of the facility, the eligible support structure, or the existing building.	X	X	X	
(e) <i>Grounding rod.</i> A grounding rod, whose height shall not exceed two (2) feet and whose width shall not exceed one (1) inch in diameter at the base and tapering to a point, may be installed at the top of the facility, the eligible support structure, or the existing building.	X	X	X	
2. <i>Antennas and associated equipment.</i> Antennas and associated equipment that are not entirely within a proposed facility, an eligible support structure, or an existing building shall be subject to the following:	X	X	X	
	X	X	X	

Development Requirements	Type of Application			
	I	II	III	C/R
(a) <i>Number of arrays.</i> The total number of arrays of antennas shall not exceed three (3). All types of antennas and dishes, regardless of their use, shall be counted toward the limit of three arrays.	X	X	X	
(b) <i>Size.</i> Each antenna proposed under the pending application shall not exceed the size shown on the application, which size shall not exceed one thousand one hundred fifty two (1152) square inches.	X	X	X	
(c) <i>Projection.</i> No antenna shall project from the facility, structure or building beyond the minimum required by the mounting equipment, and in no case shall any point on the face of an antenna project more than twelve (12) inches from the facility, structure or building; and	X	X	X	
(d) <i>Color.</i> Each antenna and associated equipment shall be a color that matches the facility, structure or building.				
3. <i>Tree conservation plan; content.</i> Before the building official issues a building permit for the facility, the applicant shall submit a tree conservation plan prepared by a certified arborist. The plan shall be submitted to the agent for review and approval to ensure that all applicable requirements have been satisfied. The plan shall specify tree protection methods and procedures, identify all existing trees to be removed on the parcel for the installation, operation and maintenance of the facility, and identify all dead and dying trees that are recommended to be removed. In approving the plan, the agent may identify additional trees or lands up to two hundred (200) feet from the lease area to be included in the plan.	X	X	X	
4. <i>Creation of slopes steeper than 2:1.</i> No slopes associated with the installation of the facility and its accessory uses shall be created that are steeper than 2:1 unless retaining walls, revetments, or other stabilization measures acceptable to the county engineer are employed.	X	X	X	
5. <i>Ground equipment shelter; fencing.</i> Any ground equipment shelter not located within an existing building shall be fenced only with the approval of the agent upon finding that the fence: (i) would protect the facility from trespass in areas of high volumes of vehicular or pedestrian traffic or, in the rural areas, to protect the facility from livestock or wildlife; (ii) would not be detrimental to the character of the area; and (iii) would not be detrimental to the public health, safety or general welfare.	X	X	X	
6. <i>Screening and siting to minimize visibility.</i> The site shall provide adequate opportunities for screening and the facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility. The facility also shall be sited to minimize its visibility from any entrance corridor overlay district, state scenic river, national park or national forest, regardless of whether the site is adjacent to the district, river, park or forest. If the facility would be located on lands subject to a conservation easement or an open space easement, or adjacent to a conservation easement or open space easement, the facility shall be sited so that it is not visible from any resources specifically identified for protection in the deed of easement.		X	X	
7. <i>Open space plan resources.</i> The facility shall not adversely impact resources identified in the natural resources chapter of the county's comprehensive plan and the parks and green systems chapters in any county master plan.		X	X	
8. <i>Horizontal separation of multiple facilities.</i> The facility shall not be located so that it and three (3) or more existing or approved personal wireless service facilities would be within an area comprised of a circle centered anywhere on the ground having a radius of two hundred (200) feet.		X		
9. <i>Diameter of monopole.</i> The maximum base diameter of the monopole shall be thirty (30)		X		

Development Requirements	Type of Application			
	I	II	III	C/R
inches and the maximum diameter at the top of the monopole shall be eighteen (18) inches.				
10. <i>Height of monopole.</i> The top of the monopole, measured in elevation above mean sea level, shall not be more than ten (10) feet taller than the tallest tree within twenty-five (25) feet of the monopole, and shall include any base, foundation or grading that raises the monopole above the pre-existing natural ground elevation.		X		
11. <i>Color of monopole, antennas, and equipment.</i> Each monopole shall be a dark brown natural or painted wood color that blends into the surrounding trees. The antennas, supporting brackets, and all other equipment attached to the monopole shall be a color that closely matches that of the monopole. The ground equipment, the ground equipment shelter, and the concrete pad shall also be a color that closely matches that of the monopole, provided that the ground equipment and the concrete pad need not closely match the color of the monopole if they are enclosed within a ground equipment shelter or within or behind an approved structure, façade or fencing that: (i) is a color that closely matches that of the monopole; (ii) is consistent with the character of the area; and (iii) makes the ground equipment, ground equipment shelter, and the concrete pad invisible at any time of year from any other parcel or a public or private street.		X	X	
12. <i>Placement of cables, wiring, and similar attachments.</i> Each wood or concrete monopole shall be constructed so that all cables, wiring, and similar attachments that run vertically from the ground equipment to the antennas are placed on the monopole to face the interior of the site and away from public view, as determined by the agent. Metal monopoles shall be constructed so that vertical cables, wiring and similar attachments are contained within the monopole's structure.		X		
13. <i>Special use permit conditions.</i> All conditions of approval of a special use permit.			X	
14. <i>No substantial change.</i> The collocation or replacement shall not result in a substantial change to the physical dimensions of an eligible support structure.				X

The following abbreviations are used in this table:

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X: Refers to a requirement that applies to the corresponding facility or transmission equipment.

- c. *Applicability of other regulations in this chapter.* Except as otherwise provided in this subsection, each facility or transmission equipment shall be subject to all applicable regulations in this chapter:

Applicability of other Development Requirements in this Chapter	Type of Application			
	I	II	III	C/R
1. <i>Building site.</i> Notwithstanding section 4.2.3(a), a facility is not required to be located within a building site.	X	X	X	X
2. <i>Vehicular access.</i> Vehicular access to the facility site or tower site shall be subject to the requirements of section 4.2 and shall not be exempt under section 4.2.6(c).	X	X	X	X
3. <i>Setbacks.</i> Notwithstanding section 4.10.3.1(b), the agent may authorize a facility to be located closer in distance than the height of the tower or other mounting structure to any lot line if the applicant obtains an easement or other recordable document showing agreement between the lot owners, acceptable to the county attorney as to addressing development on the part of the abutting parcel sharing the common lot line that is within the monopole or tower's fall zone. If the right-of-way for a public street is within the fall zone, the Virginia Department of Transportation shall be included in the staff review, in lieu of recording an	X	X	X	X

Applicability of other Development Requirements in this Chapter	Type of Application			
	I	II	III	C/R
easement or other document.				
4. <i>Area, bulk, and minimum yards.</i> Notwithstanding the requirements of the district in which the facility will be located, the area and bulk regulations, and the minimum yard requirements of the district shall not apply.	X	X	X	X
5. <i>Required yards.</i> Notwithstanding section 4.11, a facility may be located in a required yard.	X	X	X	X
6. <i>Site plan.</i> Notwithstanding section 32.2, a site plan shall not be required for a facility, but the facility shall be subject to the requirements of section 32, and the applicant shall submit all schematics, plans, calculations, drawings and other information required by the agent to determine whether the facility complies with section 32. In making this determination, the agent may impose reasonable conditions authorized by section 32 in order to ensure compliance.	X	X	X	X

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- d. *Performance standards and requirements for approved applications.* In addition to the applicable development requirements in subsections (b) and (c), the following performance standards and requirements shall apply to facilities, as applicable:

Performance Standards and Requirements	Type of Application			
	I	II	III	C/R
1. <i>Building permit application; submitting certification of monopole height and revised plans.</i> The following shall be submitted with the building permit application: (i) certification by a registered surveyor stating the height of the reference tree that is used to determine the permissible height of the monopole; and (ii) a final revised set of plans for the construction of the facility. The agent shall review the surveyor's certificate and the plans to ensure that all applicable requirements have been satisfied.		X		
2. <i>Tree conservation plan; compliance; amendment.</i> The installation, operation, and maintenance of the facility shall be conducted in accordance with the tree conservation plan. The applicant shall not remove existing trees within the lease area or within one hundred (100) feet in all directions surrounding the lease area of any part of the facility except for those trees identified on the plan to be removed for the installation, operation, and maintenance of the facility and dead and dying trees. Before the applicant removes any tree not designated for removal on the approved plan, the applicant shall submit and obtain approval of an amended plan. The agent may approve the amended plan if the proposed tree removal will not adversely affect the visibility of the facility from any location off of the parcel. The agent may impose reasonable conditions to ensure that the purposes of this paragraph are achieved.	X	X	X	
3. <i>Completion of installation; submitting certifications of compliance.</i> Within thirty (30) days after completion of the installation of the facility, the applicant shall provide to the agent prior to issuance of a certificate of occupancy: (i) certification by a registered surveyor stating the height of the tower or monopole, measured both in feet above ground level and in elevation above mean sea level, using the benchmarks or reference datum identified in the application; and (ii) certification stating that the lightning rod's height does not exceed two (2) feet above the top of the tower or monopole and its width does not exceed a diameter of one (1) inch.	X	X	X	
4. <i>Discontinuance of use; notice thereof; removal; surety.</i> Within thirty (30) days after a tower or	X	X	X	

Performance Standards and Requirements	Type of Application			
	I	II	III	C/R
monopole's use for personal wireless service or any service facilitated by transmission equipment is discontinued, the owner of the facility shall notify the zoning administrator in writing that the facility's use has discontinued. The facility and any transmission equipment shall be disassembled and removed from the facility site within ninety (90) days after the date its use for personal wireless service or any service facilitated by transmission equipment is discontinued. If the agent determines at any time that surety is required to guarantee that the facility will be removed as required, the agent may require that the parcel owner or the owner of the facility submit a certified check, a bond with surety, or a letter of credit, in an amount sufficient for, and conditioned upon, the removal of the facility. The type and form of the surety guarantee shall be to the satisfaction of the agent and the county attorney. In determining whether surety should be required, the agent shall consider the following: (i) whether there is a change in technology that makes it likely that the monopole or tower will be unnecessary in the near future; (ii) the permittee fails to comply with applicable regulations or conditions; (iii) the permittee fails to timely remove another monopole or tower within the county; and (iv) whenever otherwise deemed necessary by the agent.				

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e. *Application review and action.* Each application shall be reviewed and acted on as follows:

Application Review and Action	Type of Application			
	I	II	III	C/R
<p>1. <i>Nature of review and action.</i> The nature of the review and action on submitted applications are as follows:</p> <p>(a) Ministerial review and approval by the department of community development to determine compliance with applicable requirements of this section.</p> <p>(b) Legislative review and approval of a special use permit by the board of supervisors, subject to the applicable requirements of this section and of sections 33.4 and 33.8; to the extent there is any conflict between the time for action in this subsection and in section 33.4, this section shall prevail.</p> <p>¹Notwithstanding any other provision of this chapter, an application for an exempt collocation shall not be subject to review by the architectural review board and a certificate of appropriateness shall not be required therefor.</p>	X	X	X	X ¹
<p>2. <i>Time for action.</i> The application shall be acted upon within:</p> <p>(a) 60 days.</p> <p>(b) 90 days.</p> <p>(c) 150 days.</p> <p>²If the application requires a special exception, the time for acting on the special exception applies to the entire application.</p>	X S ²	X S ²	X	X
<p>3. <i>Calculating the time for action.</i> The time for action on an application shall be calculated as follows:</p>				

Application Review and Action	Type of Application			
	I	II	III	C/R
(a) <i>Commencement.</i> The time for action on an application shall begin on:	X			X
(i) The date the application is received in the department of community development.		X	X	
(ii) The submittal date established for this type of application by the director of planning.	X	X	X	X
(b) <i>Determination of completeness.</i> Within thirty (30) days after the application is received, the department of community development shall determine whether the application includes all of the applicable information required by this section. If any required information is not provided, the department shall inform the applicant within the thirty (30) day period of the information must be submitted in order for the application to be determined to be complete.	X	X	X	X
(c) <i>Resubmittal.</i> Within ten (10) days after a resubmittal is received, the department of community development shall determine whether the application includes all of the applicable information required by the initial notice of incompleteness. If any required information was not provided, the department shall inform the applicant within the ten (10) day period of the information must be submitted in order for the application to be determined to be complete. Second or subsequent notices that information is missing may not include information that was not identified in the original notice of incompleteness.	X	X	X	X
(d) <i>Tolling.</i> The running of the time for action shall be tolled between the date the department informs the applicant that its application is incomplete and the date on which the department receives all of the required information from the applicant.	X	X	X	X
(e) <i>Extending time for action.</i> The time by which action must be taken may be extended upon request by, or with the consent of, the applicant.				
4. <i>Notice.</i> Notice to third parties shall be provided as follows:				
(a) Notice of the agent's consideration of an application for a Tier I facility with a special exception or a Tier II facility shall be sent by the agent to the owner of each parcel abutting the parcel on which the proposed facility will be located. The notice shall describe the nature of the facility, its proposed location on the lot, its proposed height, and the appropriate county office where the complete application may be viewed. The notice shall be mailed by first class mail or hand delivered at least ten (10) days before the agent acts on the application. Mailed notice shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed compliance with this requirement. The failure of an owner to receive the notice as provided herein shall not affect the validity of an approved facility and shall not be the basis for an appeal.	S	X		
(b) Notice of public hearings shall be provided as required by section 33.4(m).			X	
5. <i>Action.</i> An application shall be acted on as follows:				
(a) The application shall be approved if it satisfies all of the applicable requirements of this section.	X	X		X
(b) The application shall be acted on as provided in sections 33.4 and 33.8.			X	
6. <i>Disapproval of application; appeal.</i> If an application is disapproved:				
(a) If the agent disapproves an application, he shall identify which requirements were not satisfied and inform the applicant what needs to be done to satisfy each requirement.	X	X		X

Application Review and Action	Type of Application			
	I	II	III	C/R
<p>The applicant may appeal the disapproval of an application to the board of supervisors. An appeal shall be in writing and be received in the office of the clerk of the board of supervisors within ten (10) calendar days after the date of the disapproval by the agent. In considering an appeal, the board may affirm, reverse, or modify in whole or in part, the decision of the agent, and its decision shall be based upon the applicable requirements of this section.</p> <p>(b) In lieu of the appeal provided in subsection (a), the applicant at its sole option may appeal the disapproval of the application related to an alleged violation of 47 USC § 332(c)(7) or 47 CFR § 1.40001, as applicable, in any court of competent jurisdiction.</p> <p>(c) The applicant may appeal the decision of the board of supervisors as provided in Virginia Code § 15.2-2285 and section 33.4.</p>	X		X	X
<p>7. <i>Effect of failure to act within time for action.</i> The failure to act on an application within the time for action shall:</p> <p>(a) Be deemed to be approval of the application; provided that the deemed grant does not become effective until the applicant notifies the department of community development in writing after the review period has expired that the application has been deemed approved.</p> <p>(b) Create a rebuttable presumption that the failure to timely act was not reasonable under 47 U.S.C. § 332(c)(7)(B)(ii).</p>	X	X	X	X

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S: Refers to an alternative review period that applies when an application for a special exception accompanies the application.

- f. *Collocation or replacement that would result in a substantial change to an eligible support structure.* Any collocation or replacement of transmission equipment that would result in a substantial change in the physical dimensions of an eligible support structure shall be subject to the procedures and standards for a Tier I facility. A special exception shall be required for any substantial change that does not satisfy the standards for a Tier I facility. Any collocation or replacement approved for an eligible support structure by special use permit prior to October 13, 2004 shall not reclassify the eligible support structure as a Tier I, II, or III facility.
- g. *Removal of transmission equipment on any eligible support structure.* Any transmission equipment on any eligible support structure may be removed as a matter of right and regardless of any special use permit condition providing otherwise.
- h. *Agent approval of increase in height of monopole based on increase in height of reference tree.* Upon the written request of the applicant, the agent may authorize the height of an existing Tier II facility's monopole to be increased above its originally approved height upon finding that the reference tree has grown to a height that is relative to the requested increase in height of the monopole. The application shall include a certified survey of the reference tree's new height, as well as the heights of other trees to be considered by the agent. The agent shall not grant such a request if the increase in height would cause the facility to be skylighted or would increase the extent to which it is skylighted.
- i. *Administration of special use permits for facilities approved prior to October 13, 2004; conditions.* If any condition of a special use permit for an eligible support structure approved prior to October 13, 2004 is more restrictive than a corresponding standard in this section, the corresponding standard in this section shall apply. If any condition of the special use permit is less restrictive than a corresponding standard in this

section and the applicant establishes that vested rights have attached to the approved facility, the special use permit conditions shall apply.

- j. *Mobile personal wireless service facilities.* Mobile personal wireless service facilities (“MPWSF”) shall not be subject to any requirements of section 5.1.40, and are otherwise permitted by right in any zoning district, subject to the following:
1. *Zoning clearance required; temporary non-emergency event.* The owner shall obtain a zoning clearance under section 31.5 prior to placing a MPWSF on any site for a temporary non-emergency event. The MPWSF may be placed on the site for a maximum of seven (7) consecutive days, and shall not be placed on any site for any temporary non-emergency event more than twice in a calendar year.
 2. *Zoning clearance required; declared state of emergency.* If a state of emergency is declared by the President of the United States, the Governor of the Commonwealth of Virginia, or the board of supervisors, the owner shall obtain a zoning clearance under section 31.5 within forty-five (45) days after placing a MPWSF on any site. The MPWSF may be placed on the site for the duration of the state of emergency.

The County of Albemarle, Virginia and the Albemarle County Board of Supervisors reserve any and all rights that it has under the United States Constitution including, but not limited to, the Commerce Clause and the Tenth Amendment.

**RESOLUTION DENYING BELVEDERE STATION LAND TRUST'S APPEAL
AND AFFIRMING THE ZONING ADMINISTRATOR'S
FEBRUARY 17, 2015 DETERMINATION**

WHEREAS, on October 12, 2005, the Albemarle County Board of Supervisors approved ZMA 2004-007 Belvedere with proffers; and

WHEREAS, Proffer 3.2 requires the dedication and conveyance of a greenway easement, as well as a \$10,000 payment toward the cost of constructing the greenway, and Proffer 3.3 requires a \$10,000 payment toward the cost of constructing a pedestrian bridge linking the Rivanna River Greenway in Dunlora to RiverRun; and

WHEREAS, Proffers 3.2 and 3.3 require the payments to be made within thirty days following a request by the County, and that if the request is not made within seven years from the date of submission of the first final site plan for Phase I, the cash proffers will become null and void; and

WHEREAS, the first final site plan for Belvedere (SDP 2008-22) was submitted to the County on February 7, 2008, and the County issued its request for the cash proffers to BSLT on January 28, 2015, less than seven years after the submission of the first final site plan for Belvedere; and

WHEREAS, on February 17, 2015, the Zoning Administrator issued a determination to the trustees of the Belvedere Station Land Trust ("BSLT") in which she concluded that the term "site plan," as used in Proffers 3.2 and 3.3 means a "site plan" as defined in the Albemarle County Zoning Ordinance; and

WHEREAS, BSLT appealed the Zoning Administrator's February 17, 2015 determination to the Board as provided by Virginia Code § 15.2-2301, asserting that the term "site plan" as used in Proffers 3.2 and 3.3 should be defined differently than as it is defined in the Albemarle County Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the executive summary prepared for the Appeal of the Zoning Administrator's Determination and all of its attachments, and the information presented at the Board of Supervisor's April 8, 2015 meeting, the Albemarle County Board of Supervisors hereby denies BSLT'S appeal and affirms the Zoning Administrator's February 17, 2015 determination that the Albemarle County Zoning Ordinance definition of the term "site plan" applies to Proffers 3.2 and 3.3 accepted in conjunction with ZMA 2004-007 and that the County made a timely request for the cash proffers on January 28, 2015.