

<b>ACTIONS</b> <b>Board of Supervisors Meeting of September 4, 2024</b>		
<b>September 5, 2024</b>		
<b>AGENDA ITEM/ACTION</b>	<b>ASSIGNMENT</b>	<b>VIDEO</b>
1. Call to Order. <ul style="list-style-type: none"> <li>The Meeting was called to order at 1:00 p.m. by the Chair, Mr. Andrews. All BOS members were present except for Mr. Gallaway. Also present were Jeff Richardson, Andy Herrick, and Travis Morris.</li> </ul>		
4. Adoption of Final Agenda. <ul style="list-style-type: none"> <li>By a vote of 5:0 (Gallaway, absent), <b>ADOPTED</b> the final agenda.</li> </ul>		
5. Brief Announcements by Board Members. <u>Ann Mallek:</u> <ul style="list-style-type: none"> <li>Announced that the following fall festivals would be held at Claudius Crozet Park: <ul style="list-style-type: none"> <li>Dog Festival - September 7</li> <li>Crozet Fall Arts and Crafts Festival - October 12-13</li> <li>Crozet Trails Crew 5K Run - October 26</li> <li>Winter Brews Festival - December 7</li> </ul> </li> <li>Announced that the annual <i>Seas the Day</i>, an outdoor event for veterans and their families, would be held on September 22 from 12:00 p.m.–3:00 p.m. at Walnut Creek Park.</li> <li>Announced that the <i>Walk Out on Veteran &amp; First Responder Suicide</i> would be held on September 26 from 5:30 p.m. to 7:30 p.m.</li> </ul> <u>Diantha McKeel:</u> <ul style="list-style-type: none"> <li>Announced that JABA (Jefferson Area Board for Aging) would be offering their free <i>Wills for Seniors</i> program on October 9, from 9:00 a.m. to 3:00 p.m. She mentioned that community members could contact JABA to sign up for an appointment or visit their website.</li> </ul> <u>Mike Pruitt:</u> <ul style="list-style-type: none"> <li>Announced that the Loop de'Ville, which celebrates the Rivanna Trail network, would be held in September, and would start at the Rivanna River Company and travel through the urban ring.</li> <li>Announced that the Sabroso Festival, which celebrates Latino culture in the community, would be held on September 21 at the Ting Pavilion from 1:00 p.m. to 10 p.m.</li> <li>Announced that the Charlottesville Pride festival would be held September 7 starting at 12:00 p.m.</li> <li>Commented on the redevelopment in Cavalier Crossing, a naturally occurring affordable housing (NOAA), and the broader trends that it portended.</li> </ul> <u>Jim Andrews:</u> <ul style="list-style-type: none"> <li>Reminded community member of the following hazardous household waste collection days and commented that advanced registration could be done at <a href="http://www.rivanna.org">www.rivanna.org</a>: <ul style="list-style-type: none"> <li>Household hazardous waste days - September 20 and 21</li> </ul> </li> </ul>		<a href="#">Link to Video</a>

	<ul style="list-style-type: none"> <li>• Furniture and mattresses - September 28 and October 5</li> <li>• Appliances - October 12</li> </ul>		
6.	<p>Proclamations and Recognitions.</p> <p>a. Proclamation Recognizing September as National Suicide Prevention Awareness Month.</p> <ul style="list-style-type: none"> <li>• By a vote of 5:0, <b>ADOPTED</b> proclamation and presented it to Cathy Pales.</li> </ul>	(Attachment 1)	
7.	<p>From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> <li>• <u>Neil Williamson</u>, President of the Free Enterprise Forum, commented on affordable housing and the rezoning of commercial space for residential uses.</li> </ul>		
8.1	<p>Fiscal Year 2024 Appropriations.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> resolution approving appropriations #2024048 for County government projects and programs.</li> </ul>	<u>Clerk</u> : Forward copy of signed resolution to Finance and Budget, and County Attorney's office. (Attachment 2)	
8.2	<p>Schedule Public Hearing for a Proposed US Army Easement under Boulders Road.</p> <ul style="list-style-type: none"> <li>• <b>SCHEDULED</b> future public hearing to consider this request from the U.S. Army for a cable easement under Boulders Road adjacent to Rivanna Station.</li> </ul>	<u>Clerk</u> : Schedule on future agenda, advertise in Daily Progress and notify appropriate individuals.	
8.3	<p>Ragged Mountain Farm RPD.</p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b> the construction and installation of the shared driveway across lot A19 and B20 as proposed, and the construction and installation of a spur driveway to serve Lot A19's building site as proposed.</li> </ul>	<u>Community Development</u> : Proceed as approved.	
8.4	<p>Broadway Blueprint Phase 2 Implementation Plan.</p> <ul style="list-style-type: none"> <li>• <b>ACCEPTED</b> and <b>ENDORSED</b> the Broadway Blueprint Phase 2 Implementation Study, dated September 4, 2024, and referred the Study to the Economic Development Office and Community Development Department for implementation.</li> </ul>	<u>Community Development and Economic Development</u> : Proceed as approved.	
8.5	<p>Proclamation Recognizing September 15, 2024, as International Day of Democracy.</p> <ul style="list-style-type: none"> <li>• <b>ADOPTED</b> proclamation.</li> </ul>	(Attachment 3)	
9.	<p>SE202400014 6316 Estes Lane Homestay. (White Hall Magisterial District)</p> <ul style="list-style-type: none"> <li>• By a vote of 5:0, <b>ADOPTED</b> resolution to approve the special exception to authorize use of an accessory structure built after August 7, 2019, for a homestay use at 6316 Estes Lane.</li> </ul>	<u>Clerk</u> : Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 4)	
10.	<p><b>Presentation</b>: Board-to-Board, A Quarterly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED</b>.</li> </ul>		
11.	<p><b>Presentation</b>: United Way.</p> <ul style="list-style-type: none"> <li>• <b>RECEIVED</b>.</li> </ul>		
12.	<p>Closed Meeting.</p> <ul style="list-style-type: none"> <li>• At 2:57 p.m., the Board went into Closed Meeting pursuant to section 2.2-3711(A) of the Code of Virginia:</li> <li>• under subsection (1), to discuss and consider appointments to various boards and</li> </ul>		

<p>commissions including, without limitation: the 5th &amp; Avon Community Advisory Committee, the Agricultural and Forestal District Advisory Committee, the Historic Preservation Committee, the JAUNT Board, the Monticello Area Community Action Agency (MACAA), the Natural Heritage Committee, the Places 29 (Hydraulic) Community Advisory Committee, the Places 29 (Rio) Community Advisory Committee, the Crozet Community Advisory Committee, and the Social Services Advisory Board;</p> <ul style="list-style-type: none"> <li>under subsection (7), to consult with legal counsel and receive briefings by staff members pertaining to actual or probable litigation concerning alleged overpricing of insulin medication, where consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the County and the Board; and</li> <li>under subsection (8), to consult with legal counsel regarding specific legal matters requiring legal advice relating to the possible employment of an attorney to advise the Board of Equalization.</li> </ul>		
<p>13. Certify Closed Meeting.</p> <ul style="list-style-type: none"> <li>At 6:00 p.m., the Board reconvened into an open meeting and certified the closed meeting.</li> </ul>		
<p>Remote Participation Request.</p> <ul style="list-style-type: none"> <li>By a vote of 5:0, <b>APPROVED</b> the request to allow Mr. Gallaway to participate remotely in accordance with applicable Board Rules of Procedure enacted pursuant to the Freedom of Information Act, stating that he was unable to attend the meeting in person due to a personal matter.</li> </ul>		
<p>14. Boards and Commissions:</p> <ol style="list-style-type: none"> <li>Vacancies and Appointments.</li> </ol> <ul style="list-style-type: none"> <li><b>REAPPOINTED</b>, Mr. Nathan Holland and Mr. Thomas Thorpe to the 5<sup>th</sup> &amp; Avon Community Advisory Committee with said terms to expire on September 30, 2026.</li> <li><b>APPOINTED</b>, Mr. Peter Greenberg to the Agricultural and Forestal District Advisory Committee with said term to expire on April 17, 2028.</li> <li><b>APPOINTED</b>, Mr. Shawn Brydge to the Crozet Community Advisory Committee with said term to expire on March 31, 2025.</li> <li><b>APPOINTED</b>, Ms. Marcia Joseph to the Historic Preservation Committee with said term to expire on June 4, 2027.</li> <li><b>APPOINTED</b>, Mr. Joseph Rhames and Ms. Megan Sebasky to the Natural Heritage Committee with said terms to expire on September 30, 2025.</li> <li><b>REAPPOINTED</b>, Ms. Kendra Walston to the Places 29 (Hydraulic) Community Advisory Committee with said term to expire on August 5, 2026.</li> </ul>	<p>Clerk: Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>	

<ul style="list-style-type: none"> <li>• <b>REAPPOINTED</b>, Ms. Audrey Kocher, Mr. Brian MacMillan, and Ms. Judy Schlussel to the Places 29 (Rio) Community Advisory Committee with said terms to expire on September 30, 2026.</li> <li>• <b>APPOINTED</b>, Ms. Elizabeth Emrey to the Social Services Advisory Board as the Scottsville District representative, with said term to expire on December 31, 2027.</li> </ul>		
<p><b>Non-Agenda:</b> A Resolution of The Albemarle County Board of Supervisors Authorizing the Employment of an Attorney to Advise the Board of Equalization</p> <ul style="list-style-type: none"> <li>• By a vote of 5:0:1 (Gallaway, abstain), <b>ADOPTED</b> resolution.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to County Assessor and County Attorney's office. (Attachment 5)</p>	
<p><b>Non-Agenda:</b> A Resolution of the Albemarle County Board of Supervisors Authorizing the County's Participation in Insulin Overpricing Lawsuit(s)</p> <ul style="list-style-type: none"> <li>• By a vote of 5:0:1 (Gallaway, abstain), <b>ADOPTED</b> resolution.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to County Attorney's office. (Attachment 6)</p>	
<p>15. From the County Executive: Report on Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> <li>• There were none.</li> </ul>		
<p>16. From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> <li>• <b><u>The following individuals addressed the Board concerning Ranked Choice Voting:</u></b> <ul style="list-style-type: none"> <li>• Doug Earle</li> <li>• Kent Schlussel</li> </ul> </li> <li>• <u>Judy Schlussel</u>, Rio District resident and member of the Rio 29 CAC, asked the Board to enforce the no-through truck restrictions for drivers of construction vehicles traveling through Dunlora on route to the Belvedere construction site.</li> </ul>		
<p>17. <b>Action:</b> ZTA202300002 Personal Wireless Service Facilities.</p> <ul style="list-style-type: none"> <li>• By a vote of 6:0, <b>ADOPTED</b> ordinance attached to the staff report as Attachment B, as amended to provide that an "avoidance area" include "(i) any area within 1,500 feet of a parcel listed on the National Register of Historic Places <u>as of September 4, 2024</u> except for those parcels listed only by virtue of a historic district;" and as amended by <b>FOREST ALTERNATIVE B</b>, with a score of 4.1 or greater, on Attachment C."</li> <li>• The following opposition was registered by Board members: <u>Ned Gallaway:</u> <ul style="list-style-type: none"> <li>• Disagreed with the point regarding national landmarks versus historic places; however, it would not prevent him from voting for the ordinance because of the improvement it would be from their current situation.</li> </ul> </li> </ul>	<p><u>Clerk:</u> Forward copy of signed ordinance to Community Development and County Attorney's office. (Attachment 7)</p>	

<p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> <li>Noted that she preferred the first option but that she was willing to support this motion in the name of compromise.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>Noted that she would prefer Map 9 and adoption of the mountain protection area description, she was willing to vote for this version.</li> </ul>		
<p>18. <b>Pb. Hrg.: ZMA202300015 1928 Scottsville Road.</b></p> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> ordinance.</li> </ul>	<p>Clerk: Forward copy of signed ordinance to Community Development and County Attorney's office. (Attachment 8)</p>	
<p>19. <b>Pb. Hrg.: SP202400016 Community Christian Academy Modulars.</b></p> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> resolution to approve SP202400016 Community Christian Academy Modulars with conditions.</li> </ul>	<p>Clerk: Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 10)</p>	
<p>20. <b>Pb. Hrg.: ACSA202400001 Roach Jurisdictional Area Amendment.</b></p> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> resolution to amend the Albemarle County Service Authority Jurisdictional Area to designate 4874 Three Notched Road (Parcel 05600-00-00-07000) for "Water and Sewer" service.</li> </ul>	<p>Clerk: Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 11)</p>	
<p>21. From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <p><u>Mike Pruitt:</u></p> <ul style="list-style-type: none"> <li>Remarked that the report received by Dr. Stacy Pethia on housing initiatives generated considerable excitement among the Pantops Community Advisory Committee members and that the sentiment of wanting to do more was a recurring theme in their discussions on housing.</li> <li>Commented that emergency housing relief program needed more funding since the security deposit portion was already fully utilized.</li> </ul> <p><u>Ned Gallaway:</u></p> <ul style="list-style-type: none"> <li>Commented that he and Ms. Mallek had gathered some preliminary cost estimates for Smart Scale applications and that it was discouraging to see the inflated costs due to construction and easement acquisition.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>Requested information on whether the County's non-displacement policy, which was adopted last year, was at the maximum of their authority.</li> </ul>	<p>County Executive: Follow up as requested.</p>	
<p>24. Adjourn to September 17, 2024, 6:00 p.m. Room 241.</p> <ul style="list-style-type: none"> <li>The meeting was adjourned at 9:08 p.m.</li> </ul>		

ckb/tom

Attachment 1 – Proclamation Recognizing September as National Suicide Prevention Awareness Month

Attachment 2 – Resolution to Approve Additional FY 2024 Appropriations

Attachment 3 – Proclamation Recognizing September 15, 2024 as International Day of Democracy

Attachment 4 – Resolution to Approve SE2024-00014 6316 Estes Lane Homestay

Attachment 5 – Resolution Authorizing the Employment of an Attorney to Advise the Board of Equalization

Attachment 6 – Resolution Authorizing the County’s Participation in Insulin Overpricing Lawsuit(s)

Attachment 7 – Ordinance No. 24-18(3)

Attachment 8 – Ordinance No. 24-A(14) ZMA 2023-00015

Attachment 9 – ZMA 2023-00015 Proffers dated August 23, 2024

Attachment 10 – Resolution to Approve SP202400016 Community Christian Academy Modulars

Attachment 11 – Resolution to Approve ACSA202400001 4874 Three Notched Road

**Proclamation Recognizing September as  
National Suicide Prevention Awareness Month**

**WHEREAS**, in 2022, more than 49,400 Americans died by suicide, with an estimated 1.6 million suicide attempts according to the latest Centers for Disease Control and Prevention (CDC) Data & Statistics Fatal Injury Report, and during the last two decades youth suicide has reached its highest rate in more than 20 years. From 2007 through 2021, suicide rates for Americans ages 10 to 24 rose 62%; and

**WHEREAS** Albemarle County joins in observing National Suicide Prevention Awareness Month by raising awareness to foster a culture of understanding and empathy and encourages community members to become better educated on suicide risk factors, elevate local suicide prevention resources, and promote the de-stigmatization of conversations around mental health.

**WHEREAS**, the 988 Suicide and Crisis Lifeline plays a helpful role in suicide prevention and mental health support by offering immediate confidential assistance 24/7 to people in suicidal crisis or emotional distress with a simple, three-digit number for people to call, text, or chat online; and

**WHEREAS**, Albemarle County has played an important role in suicide prevention with the School Board adopting a resolution to promote secure firearm storage, first responders launching the Human Services Alternative Response Team and the University of Virginia convening the Community Safety Working Group; and

**WHEREAS**, there are many local organizations, including Moms Demand Action for Gun Sense in America, Students Demand Action, the American Foundation for Suicide Prevention, Region Ten and the National Alliance on Mental Illness, dedicated to saving lives and bringing hope through research, education, policies, advocacy, and resources for those who have been affected by suicide.

**NOW, THEREFORE, BE IT PROCLAIMED**, that we, the Albemarle County Board of Supervisors, do hereby recognize September 2024 as National Suicide Prevention Awareness Month.

Signed this 4<sup>th</sup> day of September 2024

**RESOLUTION TO APPROVE  
ADDITIONAL FY 2024 APPROPRIATIONS**

**BE IT RESOLVED** by the Albemarle County Board of Supervisors:

- 1) That Appropriation #2024048 is approved;
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2024.

**Proclamation Recognizing September 15, 2024  
as International Day of Democracy**

**WHEREAS**, the United Nations observes the 15<sup>th</sup> of September as the International Day of Democracy with the purpose of promoting the principles of democracy and to commemorate the day in a manner that contributes to raising public awareness of Universal Human Rights; and

**WHEREAS**, the Universal Declaration of Human Rights emphasizes that the will of the people is the basis for the authority of government; and

**WHEREAS**, political and public participation rights are crucial to the advancement of all human rights and are essential for: democratic governance, the rule of law, social inclusion, and economic empowerment of individuals and groups to eliminate discrimination and marginalization, supporting peaceful assembly and association, enjoying freedom of opinion and expression, and having access to information and education; and

**WHEREAS**, the International Day of Democracy provides an opportunity to review the state of our democracy, promote its principles for the protection and effective realization of human rights, and create an environment for greater citizen participation, equality, security, and development.

**NOW, THEREFORE, BE IT PROCLAIMED**, that we, the Albemarle County Board of Supervisors, do hereby recognize and celebrate the 15<sup>th</sup> day of September, 2024 as International Day of Democracy to remind us of, and exhort our continuing protection of, the governing principles by which the freely expressed will of the people is exercised and respected in this great country.

Signed this 4<sup>th</sup> day of September 2024

**RESOLUTION TO APPROVE SE2024-00014  
6316 ESTES LANE HOMESTAY**

**WHEREAS**, upon consideration of the Memorandum prepared in conjunction with the SE2024-00014 6316 Estes Lane Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the relevant factors in Albemarle County Code §§ 18-5.1.48 and 18-33.9, the Albemarle County Board of Supervisors hereby finds that a modified regulation would satisfy the purposes of the Zoning Ordinance to at least an equivalent degree as the specified requirement, and that the requested special exception:

- (i) would not cause adverse impacts to the surrounding neighborhood;
- (ii) would not cause adverse impacts to the public health, safety, or welfare;
- (iii) would be consistent with the Comprehensive Plan and any applicable master or small-area plan(s); and
- (iv) would be consistent in size and scale with the surrounding neighborhood.

**NOW, THEREFORE, BE IT RESOLVED**, that in association with the 6316 Estes Lane Homestay, the Albemarle County Board of Supervisors hereby approves a special exception to authorize the use of an accessory structure built after August 7, 2019 for a homestay use on Parcel 01900-00-00-001C0.

**RESOLUTION**

**A RESOLUTION OF THE ALBEMARLE COUNTY BOARD OF SUPERVISORS AUTHORIZING THE  
EMPLOYMENT OF AN ATTORNEY TO ADVISE THE BOARD OF EQUALIZATION**

**WHEREAS**, the Albemarle County Board of Equalization hears and considers complaints and objections to real estate assessments from taxpayers (or their agents), equalizes such assessments, and is charged with the special duty of increasing as well as decreasing assessments;

**WHEREAS**, in fulfilling its functions, the Board of Equalization desires legal advice and has requested such advice from the County Attorney; and

**WHEREAS**, the County Attorney has a conflict that prevents him from representing the Board of Equalization.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors, this 4<sup>th</sup> day of September, 2024, hereby authorizes the County Executive, in consultation with the County Attorney, to employ an attorney to advise the Albemarle County Board of Equalization.

**RESOLUTION**

**A RESOLUTION OF THE ALBEMARLE COUNTY BOARD OF SUPERVISORS AUTHORIZING THE COUNTY'S PARTICIPATION IN INSULIN OVERPRICING LAWSUIT(S)**

**WHEREAS**, over the past twenty years, insulin prices in the United States have increased dramatically and artificially beyond their reasonable market value;

**WHEREAS**, as a payor for and purchaser of insulin medication through its employee health plan, the County of Albemarle has been substantially overcharged; and

**WHEREAS**, other similarly-situated local governments, through counsel, have prepared causes of action against parties involved in the overpricing of insulin medication.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors, this 4<sup>th</sup> day of September, 2024, hereby authorizes the County Attorney, in conjunction with outside counsel and associated counsel:

- a. to file and/or join with other local governments in cause(s) of action against parties involved in the overpricing of insulin medication; and
- b. to engage such counsel on a contingency fee basis.

## ORDINANCE NO. 24-18(3)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS AND CHAPTER 18, ZONING, 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 Chapter 18, Zoning, Article II Basic Regulations are hereby reordained and amended as follows:

**By Amending or Adding:**

Sec. 3.1	Definitions (amending)
Sec 4.21	Small Cell Facilities (adding)
Sec 5.1.40	Personal wireless service facilities; collocation, replacement, and removal of transmission equipment. (adding)

**Chapter 18. Zoning**

**Article I. General Provisions**  
**Sec. 3.1      Definitions**

**Avoidance area.** "Avoidance area" means an area having significant resources where the initial siting of personal wireless service facilities could result in adverse impacts as follows: (i) any area within 1,500 feet of a parcel listed on the National Register of Historic Places as of September 4, 2024, except for those parcels listed only by virtue of a historic district; or (ii) any area within a large forest block with a score of 4.1 or greater as shown on "Map 2: Ranking the Conservation Value of Large Forest Blocks" in the Biodiversity Action Plan

**Base station.** "Base station" means 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. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section does not support or house equipment described in paragraphs (1) or (2) immediately below. (Code of Federal Regulations Title 47, Chapter 1, Subchapter A, Part 1, Subpart U, §1.6100(b)(1)) The term also does not encompass a tower (as defined in this section) or any equipment associated with a tower. Examples of base stations include (but are not limited to): transmission equipment mounted on a rooftop, water tank, silo, or other above-ground structure other than a tower.

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.
4. 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 on an eligible support structure.* "Collocation on an eligible support structure" means 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.

*Collocation on a new base station.* "Collocation on a new base station" means the mounting or installing of transmission equipment on a pre-existing structure; and/or modifying a pre-existing structure for the purpose of mounting or installing an antenna on that structure.

*Concealed.* "Concealed" means a tower, base station, or utility pole that (i) is not readily identifiable as a wireless communication facility; (ii) has all personal wireless facility antennas internal to the tower, base station, or utility pole; and (iii) is designed to be aesthetically compatible with existing and proposed buildings(s) and uses on a site or area. Concealment examples include (but are not limited to) faux dormers, chimneys, façades, parapets, steeples, and unipoles.

*Concealment elements of the eligible support structure.* "Concealment elements of the eligible support structure" means 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, 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 facility request.* "Eligible facility request" means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving either:

1. Collocation of new transmission equipment; or
2. Removal of transmission equipment; or
3. Replacement of transmission equipment.

*Radio Frequency.* "Radio Frequency" means a range of frequencies suitable for use in telecommunications that are allocated to be transmitted or received through the air without wires, with the use of transmitters or receivers and associated antennas.

*Skylighted.* "Skylighted" means locating a personal wireless service facility in such a way that the sky is the predominant backdrop of the facility when viewed from abutting parcels or public streets. Skylighted has the same meaning as "skylighting," as that term is used in the County's "Personal Wireless Service Facility Policy."

*Small cell facility.* "Small cell facility" is as defined in Virginia Code § 15.2-2316.3, or its equivalent successor(s).

*Substantial change.* "Substantial change" means a modification to an eligible support structure that meets one or more of the criteria of Code of Federal Regulations Title 47, Chapter 1, Subchapter A, Part 1, Subpart U, §1.6100(b)(7), or its equivalent successor(s)

*Tier I personal wireless service facility or Tier I facility.* "Tier I personal wireless service facility" or "tier 1 facility" means a personal wireless service facility that is either:

1. Located entirely within an existing building but which may include a self-contained ground equipment shelter not exceeding 300 square feet that is not within the building or a whip antenna that satisfies the requirements of section 5.1.40(c).
2. Consists of one or more antennas, other than a microwave dish, attached to an existing structure, together with associated personal wireless service equipment; or
3. The replacement of a wooden monopole with a metal monopole that does not exceed the maximum dimensions permitted under section 5.1.40(b)(9). (See Exempt Collocation for an eligible facility request that does not exceed the definition of substantial change)

*Tier II personal wireless service facility or Tier II facility.* "Tier II personal wireless service facility" or "tier II facility" means a personal wireless service facility that is (i) a treetop facility not located within an avoidance area; or (ii) a non-concealed collocation on a base station that consists of one or more antennas, other than

a microwave dish, attached to an existing structure, together with associated personal wireless service equipment.

**Tower.** "Tower" means, 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. A tower may be either concealed, such as unipoles and flag poles, or non-concealed, such as:

1. Guy - A type of tower consisting of metal cross strips or bars, which is steadied by wire guys in a radial pattern around the tower.
2. Lattice - A vertical, multi-legged self-supporting tapered style of tower that consists of vertical and horizontal supports with cross bracing intended to support associated telecommunications equipment. This type of tower is designed to support itself without the use of guy wires or other stabilization devices.
3. Monopole - A style of freestanding tower consisting of a single shaft usually composed of two or more stacked hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself and associated telecommunications equipment without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building roof.

[§ 3.1: 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 01-18(9), 10-17-01; Ord. 02-18(2), 2-6-02; Ord. 02-18(5), 7-3-02; Ord. 02-18(7), 10-9-02; Ord. 03-18(1), 2-5-03; Ord. 03-18(2), 3-19-03; Ord. 04-18(2), 10-13-04; 05-18(2), 2-2-05; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 07-18(1), 7-11-07; Ord. 07-18(2), 10-3-07; Ord. 08-18(3), 6-11-08; Ord. 08-18(4), 6-11-08; Ord. 08-18(6), 11-12-08; Ord. 08-18(7), 11-12-08; Ord. 09-18(3), 7-1-09; Ord. 09-18(5), 7-1-09; 09-18(8), 8-5-09; Ord. 09-18(9), 10-14-09; Ord. 09-18(10), 12-2-09; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 11-18(5), 6-1-11; Ord. 11-18(6), 6-1-11; Ord. 12-18(3), 6-6-12; Ord. 12-18(4), 7-11-12; Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 13-18(1), 4-3-13; Ord. 13-18(2), 4-3-13; Ord. 13-18(3), 5-8-13; Ord. 13-18(5), 9-11-13; Ord. 13-18(6), 11-13-13, effective 1-1-14; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 14-18(2), 3-5-14; Ord. 14-18(4), 11-12-14; Ord. 15-18(1), 2-11-15; Ord. 15-18(2), 4-8-15; Ord. 15-18(4), 6-3-15; Ord. 15-18(5), 7-8-15; Ord. 15-18(10), 12-9-15; Ord. 16-18(1), 3-2-16; Ord. 16-18(7), 12-14-16; Ord. 17-18(1), 1-18-17; Ord. 17-18(2), 6-14-17; Ord. 17-18(4), 8-9-17; Ord. 17-18(5), 10-11-17; Ord. 18-18(1), 1-10-18; Ord. 18-18(4), 10-3-18; Ord. 19-18(3), 6-5-19) (§ 4.15.03: 12-10-80; 7-8-92, § 4.15.03, Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(1), 1-13-10; Ord. 10-18(3), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(2), 3-14-12; Ord. 14-18(3), 6-4-14; Ord. 15-18(3), 5-6-15; § 4.15.3; Ord. 15-18(11), 12-9-15; Ord. 17-18(4), 8-9-17) (§ 4.17.3: Ord. 98-18(1), 8-12-98; Ord. 01-18(8), 10-17-01; Ord. 17-18(5), 10-11-17) (§ 4.18.2: Ord. 00-18(3), 6-14-00; Ord. 13-18(4), 9-4-13) (§ 10.3.3.1: § 20-10.3.3.1, 11-8-89; § 18-10.3.3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01) (§ 30.2.4: § 30.2.4, 12-10-80) (§ 30.3.5: § 30.3.02.1 (part), 12-10-80; 6-10-87; Ord. 05-18(1), 1-5-05, effective 2-5-05; § 30.3.5; Ord. 14-18(1), 3-5-14; Ord. 17-18(4), 8-9-17); § 3.1, Ord. 19-18(3), 6-5-19; Ord. 19-18(6), 8-7-19; Ord. 20-18(2), 9-2-20; Ord. 20-18(3), 9-16-20; Ord. 21-18(3), 6-2-21; Ord. 22-18(2), 4-6-22; Ord. 22-18(1), 8-3-22; Ord. 24-18(3), 9-4-24)]

**State Law reference—** Va. Code § 15.2-2286(A)(4).

## Chapter 18. Zoning

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### Article I. General Provisions Sec. 4.21      Small Cell Facilities

**Sec. 4.21 Small Cell Facilities.**

Small cell facilities are permitted by right in all zoning districts, provided that their installation and operation is consistent with Virginia Code § 15.2-2316.3. The wireless services provider or wireless infrastructure provider must provide notice of any small cell installation to the Zoning Administrator, as provided in Virginia Code § 15.2-2316.4.

**Chapter 18. Zoning****Article I. General Provisions****Sec 5.1.40****Personal wireless service facilities; collocation, replacement, and removal of transmission equipment.****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 is subject to the following, as applicable:

- a. *Application for approval:* An application providing the following information is required for each personal wireless service facility (hereinafter, "facility") and collocation 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. Any owner's agent signing the application must also submit written evidence of the existence and scope of the agency. Any contract purchaser signing the application must 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 must 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 must coincide with the State Plane VA South US Survey Feet based	X	X	X	X

on the North American Datum of 1983 (NAD 83), with benchmarks acceptable to the county engineer.				
(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 must be provided for each color upon request by the agent.	X	X	X	X
(e) <i>Topography</i> . Except where the facility would be attached to an eligible support structure or an existing building, any collocation on a new base station, the topography within 2,000 feet of the proposed facility, in contour intervals not to exceed ten 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	
(f) <i>Trees</i> . Except (i) where the facility would be attached to an eligible support structure, or (ii) for any collocation on a new base station, or (iii) if the agent waives production of the following information after determining that it would provide no benefit in reviewing an application the caliper and species of all trees where the dripline is located within 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 must be noted, regardless of their distances to the facility.	X	X	X	
(g) <i>Setbacks, parking, fencing, and landscaping</i> . All existing and proposed setbacks, parking, fencing, and landscaping.	X	X	X	X
(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	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	X	
(j) <i>Proximity to airports</i> . If the proposed monopole or tower will be taller than 150 feet, the proximity of the facility to commercial and private airports.		X	X	
5. <i>Photographs</i> . Photographs of the location of the proposed monopole or tower including, for applications for Tier II facilities, the reference tree, and for applications for Tier III facilities, the area within 50 feet of the proposed monopole or tower. These photographs must include reference points to enable identification of the lease area, the vehicular access, the trees that will remain, and the trees that will be removed. In addition, photographs, where possible, or perspective drawings of the facility site and all existing facilities within 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 must be conducted, if requested by the agent, as follows:				
(a) <i>Scheduling</i> . The applicant must contact the agent within ten days after the date the application was submitted to schedule a date and time when the balloon test will be conducted. The test must be conducted within 40 days after the date the application was submitted, and the applicant must provide the agent with at least seven days prior notice; provided that the agent may extend this deadline due to inclement weather or with the agreement of the applicant.		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 25 feet of the proposed monopole must be surveyed and staked or flagged in the field.		X	X	
(c) <i>Balloon height</i> . The test must 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 must be of a color or material that provides maximum visibility.		X	X	
(e) <i>Photographing balloon test</i> . The photographs of the balloon test must be taken from the nearest residence and from appropriate locations on abutting		X	X	

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 must identify the camera type, film size, and focal length of the lens for each photograph.				
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, identified by owner, type, and size. The method(s) by which the antennas will be attached to the mounting structure must 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	
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 must provide evidence that the facility was constructed lawfully.				X
12. Radio Frequency Compliance. (a) For new towers and new collocations: A signed statement from an RF engineer competent to opine as to radio frequency (RF) emissions compliance stating that the radio frequency emissions comply with FCC standards for such emissions as set forth in 47 CFR 1.1307, 1.310, 2.091, or 2.093, as applicable; Report and Order, ET Docket 93-62 (Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation), 11 FCC Rcd 15123 (1996); Second Memorandum Opinion and Order and Notice of Proposed Rule Making, ET Docket 93-62 (WT Docket 97-192), 12 FCC Rcd 13494 (1997).	X	X	X	X
12. Radio Frequency Compliance. (b) For Eligible Facility Requests: A signed statement from an RF engineer competent to opine as to the RF emissions, confirming that following installation, the modified facility will remain in compliance with FCC standards as stated in OET-65 and with all standards listed in subsection (a)(12)(a).	X			
13. <i>Special exception.</i> If the proposed facility does not comply with any provision of section 5.1.40, a special exception application as part of the underlying facility application. The application must identify each regulation from which a special exception is sought and provide 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 must be designed, installed, and maintained as follows:				
(a) <i>Guy towers.</i> Guy towers are prohibited.	X	X	X	
(b) <i>Outdoor lighting.</i> Outdoor lighting for the facility is permitted only during maintenance periods; regardless of the lumens emitted, each outdoor luminaire	X	X	X	

must be fully shielded as required by section 4.17; provided that these restrictions do not apply to any outdoor lighting required by federal law.				
(c) <i>Ground equipment.</i> Any ground equipment shelter not located within an eligible support structure or an existing building must 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 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 may not exceed two feet and whose width may not exceed one 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 are subject to the following:	X	X	X	
(a) <i>Projection.</i> No antenna may project from a facility, structure, or building beyond the minimum required by the antenna's mounting equipment. No part of any antenna may be more than either six feet from a tower facility or 20 feet from a base station.	X	X	X	
(b) <i>Color.</i> Each antenna and associated equipment must be a color that matches the facility, structure, or building.	X	X	X	
3. <i>Tree conservation plan; content.</i> Before the building official issues a building permit for the facility, the applicant must submit a tree conservation plan prepared by a certified arborist. The plan must be submitted to the agent for review and approval to ensure that all applicable requirements have been satisfied. The plan must 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 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 may be created that are steeper than 2:1 without retaining walls, revetments, or other stabilization measures acceptable to the county engineer.	X	X	X	
5. <i>Ground equipment shelter; fencing.</i> The agent may approve a ground equipment shelter not located within an existing building only upon finding that the subject fence:	X	X	X	
(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.				
6. <i>Screening and siting to minimize visibility.</i> The site must provide adequate opportunities for screening and the facility must be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility. The facility also must 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, the facility must 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 must 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>Height of monopole.</i> The top of the monopole, measured in elevation above mean sea level, may not be more than ten feet taller than the tallest tree within 25 feet of the monopole, including any base, foundation, or grading that raises the monopole above the pre-existing natural ground elevation.		X		

<p>9. <i>Color of monopole, antennas, and equipment.</i> Each monopole must be a color, approved by the agent, that blends into the surrounding trees. The antennas, supporting brackets, and all other equipment attached to the monopole must be a color that closely matches that of the monopole. The ground equipment, the ground equipment shelter, and the concrete pad must 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:</p> <ul style="list-style-type: none"> <li>(i) is a color that closely matches that of the monopole;</li> <li>(ii) is consistent with the character of the area; and</li> <li>(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.</li> </ul>		X	X	
<p>10. <i>Placement of cables, wiring, and similar attachments.</i> Each wood or concrete monopole must 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 must be constructed so that vertical cables, wiring, and similar attachments are contained within the monopole's structure.</p>		X		
<p>11. <i>Special use permit conditions.</i> All conditions of approval of a special use permit must be complied with at all times.</p>			X	
<p>12. <i>No substantial change.</i> The collocation or replacement may not result in a substantial change to the physical dimensions of an eligible support structure.</p>				X
<p>13. <i>Replacement of wooden monopole with metal monopole.</i> The replacement of a wooden monopole with a metal monopole:</p>				
<p>(a) The monopole is set back farther in distance than its height to any lot line, or is located closer in distance than its height to any lot line and the document authorized by section 5.1.40(c)(3) exists.</p>	X			
<p>(b) The monopole is located closer in distance than its height to any lot line and the document authorized by section 5.1.40(c)(3) does not exist.</p>	S			

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.

S: Refers to a special exception.

c. *Applicability of other regulations in this chapter.* Except as otherwise provided in this subsection, each facility or transmission equipment is 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 is subject to the requirements of section 4.2 and is not 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, acceptable to the county attorney, showing agreement 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 must be included in the staff review, in lieu of recording an easement or other document.	X	X	X	X
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 does 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 is not required for a facility, but the facility is subject to the requirements of section 32, and the applicant must 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

The following abbreviations are used in this table:

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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.

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 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 must 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 will 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 must be conducted in accordance with the tree conservation plan. The applicant may not remove existing trees within the lease area or within 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 must 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 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 30 days after completion of the installation of the facility, the applicant must 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 feet above the top of the tower or monopole and its width does not exceed a diameter of one inch.	X	X	X	
4. <i>Discontinuance of use; notice thereof; removal; surety.</i> Within 30 days after a tower or monopole's use for personal wireless service or any service facilitated by transmission equipment is discontinued, the owner of the facility must notify the zoning administrator in writing that the facility's use has discontinued. The facility and any transmission equipment must be disassembled and removed from the facility site within 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	X	X	X	

<p>of credit, in an amount sufficient for, and conditioned upon, the removal of the facility. The type and form of the surety guarantee must be to the satisfaction of the agent and the county attorney. In determining whether surety should be required, the agent will consider whether:</p> <ul style="list-style-type: none"> <li>(i) a change in technology makes it likely that the monopole or tower will be unnecessary in the near future;</li> <li>(ii) the permittee has failed to comply with applicable regulations or conditions; and</li> <li>(iii) the permittee has failed to timely remove another monopole or tower within the county.</li> </ul>				
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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.

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

Application Review and Action	Type of Application			
	I	II	III	C/R
1. <i>Nature of review and action.</i> The nature of the review and action on submitted applications are as follows:				
(a) Ministerial review and approval by the department of community development to determine compliance with applicable requirements of this section.	X	X		X <sup>1</sup>
(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 prevails.			X	
<sup>1</sup> Notwithstanding any other provision of this chapter, an application for an exempt collocation is not subject to review by the architectural review board and a certificate of appropriateness is not required therefor.				
2. <i>Time for action.</i> The application will be acted upon within:				
(a) 60 days.	X	X		X
(b) 90 days.	S <sup>2</sup>			
(c) 150 days.		S <sup>2</sup>	X	
<sup>2</sup> If the application requires a special exception, the time for acting on the special exception applies to the entire application.				
3. <i>Calculating the time for action.</i> The time for action on an application will be calculated as follows:				
(a) <i>Commencement.</i> The time for action on an application will begin on:				
(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	
(b) <i>Determination of completeness.</i> Within 30 days after the application is received, the agent will determine whether the application includes all applicable information required by this section. If any required information is not provided, the agent will inform the applicant within the 30-day period of the information to be submitted for the application to be complete.	X	X	X	X
(c) <i>Resubmittal.</i> Within ten days after a resubmittal is received, the agent will determine whether the application includes all applicable information required by the initial notice of incompleteness. If any required information was not provided, the agent will inform the applicant within the ten-day period of the information to be submitted for the application 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 is tolled between when the agent informs the applicant that its application is incomplete and when agent receives all 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.	X	X	X	X
4. <i>Notice</i> . Notice to third parties will be provided as follows:				
(a) The agent will send notice of a complete application for a Tier I facility with a special exception or for a Tier II facility to the owner of each parcel abutting the parcel on which the proposed facility will be located. The notice will 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 will be mailed by first class mail or hand delivered at least ten days before the agent acts on the application. Mailed notice will be mailed to the last known address of the owner. Mailing the notice to the address shown on the current real estate tax assessment records of the county complies with this requirement. The failure of an owner to receive the notice as provided herein does not affect the validity of an approved facility and may not be the basis for an appeal.	S	X		
(b) Notice of public hearings will be provided as required by section 33.4(N).			X	
5. <i>Action</i> . An application will be acted on as follows:				
(a) The application will be approved if it satisfies all applicable requirements of this section.	X	X		X
(b) The application will 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, the agent will identify which requirements were not satisfied and inform the applicant what needs to be done to satisfy each requirement. The applicant may appeal the disapproval of an application to the board of supervisors. An appeal must be in writing and be received in the office of the clerk of the board of supervisors within ten 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 will be based upon the applicable requirements of this section.	X	X		X
(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, to any court of competent jurisdiction.	X		X	X
(c) The applicant may appeal the decision of the board of supervisors as provided in Virginia Code § 15.2-2285 and section 33.4.			X	
7. <i>Effect of failure to act within time for action</i> . The failure to act on an application within the time for action:				
(a) Is 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.				X
(b) Creates a rebuttable presumption that the failure to timely act was not reasonable under 47 U.S.C. § 332(c)(7)(B)(ii).	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.

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 is subject to the procedures and standards for a Tier I facility. A special exception is 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 does 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 must 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 may 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 applies. 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 apply.
- j. *Mobile personal wireless service facilities.* Mobile personal wireless service facilities ("MPWSF") are not 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 must 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 consecutive days, and may 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 must obtain a zoning clearance under section 31.5 within 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.

(§ 5.1.40, Ord. 01-18(9) , 10-17-01; Ord. 04-18(2) , 10-13-04; Ord. 13-18(3) , 5-8-13; Ord. 15-18(1) , 2-11-15; Ord. 15-18(2) , 4-8-15; Ord. 15-18(6) , 7-8-15; Ord. 15-18(7) , 7-8-15; Ord. 24-18(3), 9-4-24)

**ORDINANCE NO. 24-A(14)**  
**ZMA 2023-00015**

**AN ORDINANCE TO AMEND THE ZONING MAP FOR**  
**PARCEL 09000-00-00-02400**

**WHEREAS**, application ZMA 2023-00015 was submitted to rezone Parcel 09000-00-00-02400 from R-1 Residential to R-10 Residential; and

**WHEREAS**, on June 11, 2024, after a duly noticed public hearing, the Planning Commission recommended approval of ZMA 2023-00015;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2023-00015 and their attachments, the Application Plan last revised March 12, 2024, the Proffers signed August 23, 2024, the information presented at the public hearings, any written comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code § 18-17.1 and § 18-33.6, and for the purposes of public necessity, convenience, general welfare, and good zoning practices, the Board hereby approves ZMA 2023-00015, subject to the Proffers signed August 23, 2024.

Original Proffers  X  
Amendment

## PROFFER STATEMENT

ZMA No. 2023-00015

Tax Map and Parcel Number(s): 09000-00-00-02400

Owner(s) of Record: Paul D. McArtor

08/23/24

Date of Proffer Signature: \_\_\_\_\_

1.322 acres to be rezoned from R1 to R10

**Paul D. McArtor**, is the owner (the “Owner”) of Tax Map and Parcel Number 09000-00-00-02400 (the “Property”) which is the subject of rezoning application ZMA No. 2023-00015, a project known as “1928 Scottsville Road” (the “Project”).

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. These conditions are proffered as a part of the requested rezoning and the Owner acknowledges that the conditions are reasonable.

The property shall be developed in general accord with the Zoning Map Amendment prepared by Roudabush, Gale & Associates, dated November 2, 2023 revised March 12, 2024 and shall reflect the following major elements as shown and noted on the plans:

1. The internal street network grid and inter-parcel connections between the subject parcel and TMPs 09000-00-00-02500 and 09000-00-00-02300;
2. Pedestrian pathway and associated roadway improvements along Scottsville Road as outlined in the section titled “Plan for Future Transportation Network” in the Southern and Western Urban Neighborhood Master Plan;
3. 10' shared use path and associated roadway improvements along Avon Street Extended as it is shown in the Avon Street Extended (RE)Vision Corridor Plan dated March, 2020;
4. Emergency access route from internal street network to Avon Street Extended;
5. A maximum of eight (8) total dwelling units shall be developed on the property.

OWNER

 PAUL MCARTOR

Paul D. McArtor

**RESOLUTION TO APPROVE SP202400016  
COMMUNITY CHRISTIAN ACADEMY MODULARS**

**WHEREAS**, upon consideration of the staff reports prepared for SP 202400016 Community Christian Academy Modulars and all of their attachments, including staff's supporting analysis, the information presented at the public hearings, any comments received, and all of the relevant factors in Albemarle County Code §§ 18-14.2.2 and 18-33.8(A), the Albemarle County Board of Supervisors hereby finds that the proposed special use would:

1. not be a substantial detriment to adjacent parcels;
2. not change the character of the adjacent parcels and the nearby area;
3. be in harmony with the purpose and intent of the Zoning Ordinance, with the uses permitted by right in the R-2 Residential zoning district, and with the public health, safety, and general welfare (including equity); and
4. be consistent with the Comprehensive Plan.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves SP 202400016 Community Christian Academy Modulars, subject to the conditions attached hereto.

\* \* \* \*

**SP202300002 Community Christian Academy Special Use Permit Conditions**

1. Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the Concept Plan titled "Community Christian Academy" prepared by Shimp Engineering, P.C., last revised June 6, 2024. To be in general accord with the Concept Plan, development must reflect the following major elements within the development essential to the design of the development.
  - a. Location of buildings, parking areas, playground areas, and buffer areas.
  - b. Site access including pick-up and drop-off locations and circulation as shown on the Concept Plan. Signage and pavement markings may be required at the time of Zoning Clearance to ensure safe vehicular circulation.Minor modifications to the Plan that do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance or improve safety.
2. The maximum enrollment may not exceed one-hundred fifty (150) students.
3. All students must be over the age of two and one-half (2 ½) years old.
4. Classroom instruction for the school is limited to between 7:30 a.m.-6:00 p.m. Monday through Friday, provided that occasional school-related events/activities may occur after 6:00 p.m.

**RESOLUTION TO APPROVE ACSA202400001  
4874 THREE NOTCHED ROAD**

**WHEREAS**, in application ACSA202400001 (“ACSA 2024-01”), the owner of Parcel 05600-00-00-07000 (“Parcel 56-70”) has applied for an amendment to the Albemarle County Service Authority (ACSA) Jurisdictional Area to include Parcel 56-70 in the area for water and sewer service; and

**WHEREAS**, on September 4, 2024, the Albemarle County Board of Supervisors held a duly-noticed public hearing on ACSA 2024-01;

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the staff report prepared for ACSA 2024-01 and all of its attachments, the information presented at the public hearing, and the relevant factors in *Virginia Code § 15.2-5111*, in Chapter 12.1, Community Facilities, Strategy 9a, of the Albemarle County Comprehensive Plan, and in the Comprehensive Plan’s Growth Management Policy and Land Use Plan, the Albemarle County Board of Supervisors hereby approves ACSA 2024-01.