COUNTY OF ALBEMARLE PLANNING
STAFF REPORT SUMMARY

Proposal: SP202200011 and SE202200030 Verizon – Scruby Property Tier III PWSF	**Staff:** William D. Fritz, AICP
Planning Commission Public Hearing: August 9, 2022	**Board of Supervisors Hearing:** October 5, 2022
Owner: Brian Gray Scruby	**Applicant:** Verizon Wireless
Acreage: 44.73	**Special Use Permit/Special Exception for:** Tier III Personal Wireless Service facilities in the Rural Areas (RA) district in accord with County Code § 18-10.2.2(48). A special exception request in accord with County Code § 18-5.1.
TMP: 05500-00-00-01400 **Location:** The proposed facility is located adjacent to I-64 approximately 750 feet east of where Route 690 (Greenwood Station Road) crosses I-64.	**Zoning/by-right use:** Rural Areas (RA) - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
Magisterial District: White Hall	**Conditions:** No **EC:** Yes
School Districts: Brownsville Elementary, Henley Middle, Western Albemarle High	
Proposal: The applicant proposes to construct a 142-foot-tall monopole tower to be used as a Personal Wireless Facility. The facility would include a lease area with ground equipment. The applicant has also requested a special exception to allow the antenna to be mounted 18 inches from the face of the tower instead of 12 inches.	**Requested # of Dwelling Units:** -0-
DA: **RA: X**	**Comp. Plan Designation:** Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic, and scenic resources/residential density 0.5 unit/acre in development lots. Rural Areas 3 Comp Plan Area.
Character of Property: The property is bisected roughly equally by I-64. The proposed facility is located south of I-64. The property is primarily open with only scattered trees. The proposed facility is located at the edge of the field adjacent to trees located on the adjacent property and right-of-way for I-64.	**Use of Surrounding Properties:** The surrounding area (within ¼ mile) is rural with approximately 1 du/28 acres. Two large farms with historic resources, Mirador and Seven Oaks (Septenary Winery), are located nearby. The area south of I-64 is predominately farmland while the area north of I-64 is a mixture of farm and woodlands.
Factors Favorable: 1. A facility in this location would likely improve wireless service in the area. 2. Existing vegetation would substantially screen the facility from individually listed historic resources.	**Factors Unfavorable:** 1. The facility would be visible from the I-64 Entrance Corridor. 2. The facility would be visible from multiple locations within the Greenwood-Afton Rural Historic District.

	3. The vegetation that provides screening from individually listed historic resources is not controlled by the applicant. If this vegetation were removed, the site would be visible from these individually listed historic resources. 4. The request is not consistent with the Comprehensive Plan.
RECOMMENDATIONS: **Special Use Permit/Special Exception: Staff recommends denial of the special use permit. If the special use permit is approved, staff recommends approval of the special exception.**	

STAFF CONTACT: William D. Fritz, AICP
PLANNING COMMISSION: August 9, 2022
BOARD OF SUPERVISORS: October 5, 2022

PETITION

PROJECT: SP202200011 and SE202200030 VERIZON - SCRUBY PROPERTY TIER III PWSF
MAGISTERIAL DISTRICT: White Hall
TAX MAP/PARCEL(S): 05500-00-00-01400
LOCATION: The proposed facility is located adjacent to I-64 approximately 750 feet east of where Route 690 (Greenwood Station Road) crosses I-64.
PROPOSAL: The applicant proposes to construct a 142-foot-tall monopole tower to be used as a Personal Wireless Facility. The facility would include a lease area with ground equipment. The applicant has also requested a special exception to allow the antenna to be mounted 18 inches from the face of the tower instead of 12 inches.
PETITION: Tier III Personal Wireless Service facilities are permitted by special use permit in the Rural Areas (RA) district in accord with County Code § 18-10.2.2(48). A special exception request may be made in accord with County Code § 18-5.1.
ZONING: Rural Areas (RA) - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
OVERLAY DISTRICT(S): Entrance Corridor (EC) – Overlay to protect properties of historic, architectural, or cultural significance from visual impacts of development along routes of tourist access
PROFFERS: No
COMPREHENSIVE PLAN: Rural Area - preserve and protect agricultural, forestal, open space, and natural, historic, and scenic resources/residential density 0.5 unit/acre in development lots. Rural Areas 3 Comp Plan Area.

CHARACTER OF SURROUNDING AREA

The property is bisected roughly equally by I-64. The proposed facility is located south of I-64. The property is primarily open with only scattered trees. The proposed facility is located at the edge of the field. The adjacent trees are located on the adjacent property and right-of-way for I-64. The surrounding area (within ¼ mile) is rural with approximately 1 du/28 acres. Two large farms with historic resources, Mirador and Seven Oaks (Septenary Winery), are located nearby. The area south of I-64 is predominately farmland while the area north of I-64 is a mixture of farm and woodlands. (Attachment 1 is an aerial photograph of the area.)

PLANNING AND ZONING HISTORY

The property has two dwellings located north of I-64. Two home occupation clearances were issued to the property in 2015 and 2017. Staff notes that a previous application for a special use permit was submitted for a wireless facility on adjacent property located approximately 500 feet west of the current application. That application never went to public hearing and has been withdrawn.

DETAILS OF THE PROPOSAL

The applicant has submitted a detailed application. (Attachment 2)

COMMUNITY MEETING

The community meeting was held on Zoom on June 30, 2022. A recording of this meeting is available HERE. Attendees asked questions about the coverage provide by the proposed facility. The applicant did not provide coverage information. Staff pointed out that state law (Virginia Code Title 15.2, Chapter 22, Article 7.2) does not allow the County to require coverage information or base County actions on the business decisions or needs of the applicant. Comments were also made regarding how historic resources may be impacted. Staff stated that staff's review of impacts on historic resources had not been completed at the time of the community meeting.

ANALYSIS OF THE SPECIAL USE PERMIT REQUEST

This special use permit, and all special use permits, are evaluated for compliance with the provisions of County Code § 18-33.8(A). Each provision of that section is addressed below. The provisions of the ordinance are in bold font and underlined.

The comments below are based on staff's analysis of the application, including information submitted by the applicant. Because the applicant's submission contains detailed information, staff will not restate all the submitted information in this staff report, but refers the reader to attachments for detailed information.

No substantial detriment. **Whether the proposed special use will be a substantial detriment to adjacent parcels.**

The primary impact of this facility would be visibility. The facility would not prevent the use of any adjacent parcels. Staff opinion is that visual impact may be considered a detriment.

The adjacent property to the south, Seven Oaks Farm (Septenary Vineyards), is within the Yellow Mountain Agricultural Forestal District. The Agricultural Forestal District Advisory Committee held a meeting to discuss the potential impacts of this project on July 6, 2022. A recording of this meeting may be found HERE. The committee found, by a vote of 6:0 (Bruce Vlk, Leigh Kirchner absent), that the proposed facility would not conflict with the purposes of the Agricultural-Forestal District.

While visual impact may be considered a detriment, the impact is not a substantial detriment that would prevent or reduce the use of the adjacent parcels.

Character of the nearby area is unchanged**. Whether the character of the adjacent parcels and the nearby area will be changed by the proposed special use.**

The applicant has submitted photo simulations of the proposed facility. (Attachment 3) The

proposed facility would be clearly visible from I-64. Visibility from other adjoining properties would be mitigated by a combination of factors, including maintenance of vegetation and distance.

Visibility from Seven Oaks Farm (Septenary Vineyards) is limited due to the presence of a wooded buffer on the Seven Oaks Farm (Septenary Vineyards) property. If these trees were removed, it is the opinion of staff that the wireless facility would be visible from winery portion of the property and the historic house.

The Mirador house is screened from the proposed facility by trees located on the Mirador property. If these trees were removed, it is the opinion of staff that the wireless facility would be visible from the historic house.

The tower would be visible from I-64, as shown in the photographs of the balloon test and photo simulations. The Architectural Review Board reviewed this request on July 18, 2022. The video of the ARB meeting may be found HERE. The ARB voted 3:0 (Matsuno – recused, Stoner – Absent) to recommend that the proposed location would not sufficiently minimize the visibility of the monopole from the I-64 Entrance Corridor. The ARB found that the increased standoff for the antennas would not create significant additional negative visual impact as viewed from the I-64 Entrance Corridor. (Attachment 4)

Staff has reviewed the County's history of wireless approvals along I-64 between Nelson County and the Ivy interchange. The County has approved 15 facilities on 7 separate properties. These facilities all qualify as treetop facilities. This facility would be out of character with the other facilities along I-64.

It is staff's opinion that the character of the district will be changed by the introduction of a highly visible wireless facility. This impact occurs on the Entrance Corridor Overlay District (I-64) and surrounding properties.

***Harmony*. Whether the proposed special use will be in harmony with the purpose and intent of this chapter,**

Staff has reviewed this request as it relates to the "purpose and intent" that is set forth in Section 1.4.3 of the Zoning Ordinance, and as it relates to the intent of the Rural Areas district (Section 10.1). This request is not consistent with either section. Section 1.4.3 states that the zoning ordinance is designed "to facilitate the creation of a convenient, attractive and harmonious community". The siting of this proposed facility does not create an attractive community. Section 10.1 states that the Rural Areas district is established with the intent of: "conservation of natural, scenic, and historic resources". The siting of this proposed facility does not conserve or preserve the natural/scenic views and vistas of the area and impacts historic resources.

The property under review and all adjacent properties are located in the Greenwood-Afton Rural Historic District. Attachment 5 is a map showing the location of the district and specifically identified historic resources and the historic district. The proposed facility would be substantially screened from Seven Oaks Farm (Septenary Vineyards) and Mirador, two nearby individually listed historic resources. However, the vegetation providing the screening is not controlled by the applicant and if removed these resources would be impacted by the proposed facility. Additionally, the facility would be visible to the traveling public within the historic district, particularly those travelling I-64.

Conservation of historic resources includes not only the protection of the physical resource but also the protection of the related surroundings. This maintains the historic resource and its "sense of place" and allows the resource to be appreciated and understood in context.

Staff notes that the visibility of the facility from Mirador is somewhat mitigated by distance. The proposed tower is approximately 3,000 feet from the historic resources on Mirador. The proposed tower is located approximately 1,200 feet from the Seven Oaks Farm historic resources.

It is the opinion of staff that the proposed use is not in harmony with the purpose and intent of this chapter.

…with the uses permitted by right in the district

The proposed facility will not restrict by-right uses within the RA, Rural Areas.

…with the applicable provisions of section 5,

Personal Wireless Facilities are evaluated using the provisions of County Code § 18-5.1.40 (Attachment 6)

Below, staff comments on provisions of § 18-5.1.40 that, in the opinion of staff, require Board of Supervisors consideration.

> 5.1.40(b)(6) -*Screening and siting to minimize visibility.* 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.

To determine visibility, the applicant flew a balloon at the height of the proposed facility and staff prepared a viewshed analysis map. (Attachment 7) The viewshed analysis map calculates the area of theoretical visibility of the facility based on the height of the facility and the topography and vegetation in the area. Staff has used both resources to determine potential impacts.

As stated previously the proposed facility will be clearly visible from I-64 which is an entrance corridor district.

The facility may be visible from Seven Oaks which is listed in the Virginia Landmarks Register and National Register of Historic Places. (Staff did not visit the entire property during the balloon test.) This property is under a Virginia Outdoors Foundation Conservation Easement. The buildings are not protected by the conservation easement and are not specifically identified for protection in the deed of easement. Screening of the adjacent property to the south (Seven Oaks) is provided by trees on the Seven Oaks parcel. These trees are not protected and, if removed, the facility will be visible from historic resources.

The facility will be visible from various locations at Mirador which is listed in the Virginia Landmarks Register and National Register of Historic Places and is under a Virginia Outdoors Foundation Conservation Easement. The buildings are specifically identified for protection in the deed of easement and are protected by the conservation easement. Trees on the Mirador property appear to substantially screen portions of the facility from the historic structures. Tree removal is not listed as a restriction in the conservation easement. If these trees are removed the proposed facility will be visible from Mirador.

Staff opinion is that this request is not consistent with the provisions of County Code § 18-5.1.40(b)(6).

> 5.1.40(b)(7) *Open space plan resources.* 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
>
> *Staff comment: This section references the Open Space Plan, which has been replaced with text in the Rural Area Chapter and Natural Resources Chapter of the Comprehensive Plan and the Parks and Green Systems Plans in the Master Plans for the Development Areas.*

The Natural Resources Chapter contains the following statement:

> Albemarle County's natural resources are essential parts of its rural heritage and scenic beauty. These finite features help to support the County's tourist economy and are enjoyed by residents and visitors alike. Preservation of these features is the highest priority for residents. Creating high quality development and building, and maintaining infrastructure in the Development Areas can help attract new residents to the Development Areas instead of to the Rural Area. Preserving the Rural Area from residential development, in turn, preserves natural resources

The visual impact of the facility is not consistent with the rural heritage of the area and does not preserve scenic beauty. Staff opinion is that this request is not consistent with the provisions of County Code § 18-5.1.40(b)(7).

> 5.1.40(b)(2)(c) *Projection*. No antenna shall project from the facility, structure or building beyond the minimum required by the mounting equipment, and in no case shall the closest point of the back of the antenna be more than 12 inches from the facility, structure, or building, and in no case shall the farthest point of the back of the antenna be more than 18 inches from the facility, structure, or building; and

The applicant has requested a special exception from the antenna standoff requirements. The applicant is requesting that the standoff be increased from 12 inches to 18 inches. The impact of this request is that the antennas will not be downward tilted and will be mounted parallel to the face of the tower.

The Board of Supervisors may approve a special exception as provided for in County Code § 18-33. The criteria for reviewing this special exception are contained in County Code § 18-5.1 and § 18-33.9. The Planning Commission may provide comments to the Board of Supervisors.

> **Sec. 5.1 - Supplementary regulations.** The following supplementary regulations apply to referenced uses in all districts whether or not such uses are permitted by right

or by special use permit. These supplementary regulations are in addition to all other requirements of this chapter, the Code, and all other applicable laws. Unless a waiver or modification is expressly prohibited, any requirement of section 5 may be modified or waived in an individual case, as provided herein:

a. The Board of Supervisors may modify or waive any such requirement upon a finding that such requirement would not forward the purposes of this chapter or otherwise serve the public health, safety, or welfare or that a modified regulation would satisfy the purposes of this chapter to at least an equivalent degree as the specified requirement; and upon making any finding expressly required for the modification or waiver of a specific requirement; except that, in no case, shall such action constitute a modification or waiver of any applicable general regulation set forth in section 4 or any district regulation. In granting a modification or waiver, the commission may impose conditions as it deems necessary to protect the public health, safety, or welfare.

Sec. 33.9 - Special Exceptions; Relevant Factors to be Considered; Conditions; Revocation.

Special exceptions are subject to the following provisions:

A. *Factors to be considered when acting*. In acting upon a special exception, the Board of Supervisors will consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter The Board is not required to make specific findings in support of its decision.

B. *Conditions*. In approving a special exception, the Board of Supervisors may impose reasonable conditions to address any possible impacts of the special exception. Except as the Board may specify in a particular case, any condition imposed on a special exception will be deemed essential and non-severable from the special exception itself, and the invalidation of any condition will invalidate the entire special exception.

C. The Board of Supervisors may revoke a special exception if the Board determines, after a public hearing, that the permittee or any successor has not complied with any conditions of the special exception. Notice of the public hearing will be provided pursuant to section 33.10.

The proposed increase in the standoff results in a larger cross section. An increase in cross section is most noticeable on shorter towers or where development is in close proximity to the facility. The nearest structure to the proposed facility is approximately 700 feet to the northwest. This is a dwelling on the same parcel as the proposed facility. The closest structure not on the applicant's property is the Septenary Winery which is approximately 1000 feet to the southeast. At this distance an increase in the standoff does not significantly increase the visual impact of the facility. The greatest impact will be the visibility from I-64 which at its closes point is approximately 98 feet from the eastbound travelway. The ARB found that the increased standoff will not create significant additional negative visual impacts as viewed from the I-64 Entrance Corridor.

Staff opinion is that the distance to nearby development will mitigate the impacts of increased antenna standoff. The ARB found that the increased standoff would not create significant

additional negative visual impacts as viewed from the Entrance Corridor. Based on these findings staff supports the applicant's request for increased standoff.

…and with the public health, safety and general welfare (including equity).

The public health, safety, and general welfare of the community is protected through the special use permit process, which assures that uses approved by special use permit are appropriate in the location requested.

The applicant has submitted a narrative that discusses the service objectives of this facility.

Virginia Code § 15.2-2316.4:2(A)(1)(a) provides that a locality shall not disapprove an application on the basis of the applicant's business decision with respect to its designed service, customer demand for service, or quality of its service to or from a particular site. Due to this language, the County has not considered the applicant's service objectives from the proposed facility. However, staff notes that service may be achieved by different means that have not been applied for by the applicant. The County's wireless policy is essentially one of limiting visibility. Service may be accomplished and has been accomplished for significant portions of the County, using the policy of limited visibility. Staff has identified 14 applications for wireless facilities that have been approved in proximity to I-64 between the western County boundary and the Ivy interchange. (Attachment 8) These facilities are designed and located such that they have minimal visibility. The applicants proposed facility will be significantly taller and more visible than these facilities.

The County has received comments from the public about the need for broadband service in the area. Staff notes that broadband services in this area are not universally available. However, the County's participation in the VATI2022 program with the Thomas Jefferson Planning District Commission will bring universal broadband (fiber) to this area within 5 years.

Staff notes that the provision of improved wireless service may be consistent with the public health safety and general welfare. However, alternatives, such as treetop towers may provide the same level of service without the adverse impacts of the proposed facility. Therefore, staff recommends that the proposed facility is not in harmony with the public health safety and general welfare (including equity).

Consistency with the Comprehensive Plan. **The use will be consistent with the Comprehensive Plan.**

The applicant states in its narrative that this proposal is consistent with the Comprehensive Plan, Community Facilities Chapter (Chapter 12), Objective 10 and strategy 10e.

Objective 10 states:

> Support provision of private electric, telephone, natural gas, wireless, and fiber optic service when its provision is in keeping with other aspects of the Comprehensive Plan

Strategy 10e states:

> Continue to ensure that personal wireless facilities are provided in accordance with the County's personal wireless service policy

It is important to note that strategy 10e also contains the following:

> The primary concern for the location of wireless facilities is visual impact. The Policy was put in place to ensure that the construction of new and modified facilities have limited visual impact on the community. To this end, personal wireless facilities are expected to:
>
> • Be designed to minimize visibility;
>
> • Utilize existing structures where possible;
>
> • Utilize ground based equipment for new facilities;
>
> • Mount antennas close to the supporting structure;
>
> • Be limited in size and be designed in keeping with the character of the area;
>
> • Not be located on ridgetops or along the ridgeline;
>
> • Be provided with an adequate backdrop so that they are not skylined;
>
> • Not adversely impact slopes in excess of 25%, wooded areas, streams and stream buffers, and wetlands in the Rural Area;
>
> • Not adversely impact historic and scenic resources; and
>
> • Not adversely impact and shown as Parks and Green Systems in the Master Plans for the Development Areas.

Staff opinion is that this proposal does not:

- Minimize visibility
- Mount antennas close to the supporting structure
- Limit size and design in keeping with the character of the area
- Provide an adequate backdrop so that it is not skylined
- Limit adverse impacts on historic and scenic resources

The Comprehensive Plan designates this area as Rural Area. This designation includes preservation and protection of agricultural, forestal, and open space, and natural, historic and scenic resources. As previously discussed, the siting and design of the proposed facility does not conserve or preserve the natural/scenic views and vistas of the area.

Staff recommends that this proposal is not consistent with the Comprehensive Plan.

Section 704(a)(7)(b)(i) of the Federal Telecommunications Act of 1996 and Title 15.2, Chapter 22, Article 7.2 of the Code of Virginia:

During the review of this application staff has considered the provisions of Section 704(a)(7)(b)(i) of the federal Telecommunications Act of 1996 and Title 15.2, Chapter 22, Article 7.2 of the Code of Virginia. (Attachment 9)

This application is subject to the federal Telecommunications Act of 1996, which provides in part that the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof (I) shall not unreasonably discriminate among providers of functionally equivalent services; and (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services. 47 U.S.C. § 332(c)(7)(B)(i). Virginia Code § 15.2-2316.4:1(F)(1) likewise provides that localities may not "unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services."

In order to operate this facility, the applicant is required to comply with the FCC guidelines for radio frequency emissions that are intended to protect the public health and safety. Neither the Comprehensive Plan nor the Zoning Ordinance prohibits the provision of personal wireless services. However, both do implement specific policies and regulations for the siting and design of wireless facilities.

The applicant has not provided any detailed additional information regarding the availability, or absence of alternative sites that could serve the same areas that would be covered with the proposed facility. The applicant did apply for an alternative site. This application was submitted on the same parcel. This application was partially reviewed by the County and did not have any public hearings. The applicant submitted the proposal currently under review in response to comments received from the public regarding the previous application.

As has been previously noted in this report, the I-64 corridor in the western part of the County has been served by the installation of multiple treetop towers that have limited visual impact.

Staff does not believe that the special use permitting process, nor the denial of this application would have the effect of prohibiting or restricting the provision of personal wireless services.

Virginia Code § 15.2-2316.4:1(E)(2) provides:

> "If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided under subdivision 1."

Staff offers the following as potential modifications that would permit approval of the proposed project.

1. Obtaining easements on Mirador and Seven Oaks (Septenary Winery) to maintain trees that provide screening of historic resources.
2. Reducing height to qualify as a treetop tower.
3. Compliance with all design requirements of County Code § 18-5.1.40.

Other Relevant Information

FCC regulations would apply to a tower constructed as proposed in this application. The regulations would limit the County's ability to review additional uses and modifications to the facility once approved. The County may only deny changes to the facility *if*:

- The tower is increased in height by more than 20 feet; or
- Antenna or other equipment would protrude more than 20 feet from the tower; or

- More than 4 ground-based cabinets are added; or
- Excavation occurs outside the lease area; or
- The change would defeat concealment elements.

Simply stated, if the County approves this monopole at 142 feet, the applicant can administratively apply for a one time increase in height by 20 feet for a total height of 162 feet. It also means that if the county approves the special exception request to increase the standoff distance of the antenna, the applicant may be able to administratively request an increase in standoff distance to a maximum of 20 feet. If the Board approves the special exception for increased antenna standoff the Board will need to determine and state clearly that the approved standoff is a concealment element. If it is not a concealment element the antenna would be permitted to protrude up to 20 feet from the tower.

It is staff's opinion that any increase in height or antenna standoff would increase the negative impacts of the facility.

SUMMARY

Staff finds the following factors favorable to this request:

1. A facility in this location will likely improve wireless service in the area.
2. Existing vegetation substantially screens the facility from individually listed historic resources.

Staff finds the following factors unfavorable to this request:

1. The facility will be visible from the I-64 Entrance Corridor.
2. The facility will be visible from multiple locations within the Greenwood-Afton Rural Historic District.
3. The vegetation that provides screening from individually listed historic resources is not controlled by the applicant. If this vegetation is removed the site will be visible from these individually listed historic resources.
4. The request is not consistent with the Comprehensive Plan.

RECOMMENDED ACTION for SPECIAL USE PERMIT

Staff recommends denial of the special use permit.

If the Planning Commission instead wishes to recommend approval of the special use permit, staff would suggest the following conditions:

1. The maximum height of the tower is 142 feet above ground level.
2. The facility must be located and designed in accord with the plans titled "Scruby Tier III Personal Wireless Facility," prepared by John A. Daughtry III and last revised 7/28/22.

RECOMMENDED ACTION for SPECIAL EXCEPTION REQUEST

Staff recommends approval of the applicant's request for a special exception to Section 5.1.40(b)(2)(c), subject to the following condition:

1. No antenna shall project from the facility, structure or building beyond the minimum required by the mounting equipment, and in no case shall the closest point of the back of the antenna be more than 18 inches from the facility, structure, or building, and in no

case shall the farthest point of the back of the antenna be more than 18 inches from the facility, structure, or building

SUGGESTED MOTIONS:

Special Use Permit

A. If the Planning Commission **chooses to recommend approval** of this special use permit:

I move to recommend approval of SP202200011 VERIZON - SCRUBY PROPERTY TIER III PWSF with the conditions outlined in the staff report.

B. **[STAFF RECOMMENDED:]** If the Planning Commission **chooses to recommend denial** of this special use permit:

I move to recommend denial of SP202200011 VERIZON - SCRUBY PROPERTY TIER III PWSF for the reasons stated in the staff report, and on the basis of Virginia Code § 15.2-2316.4:2(B)(1), not § 15.2-2316.4:2(A). The following modifications would permit approval of the proposed project:

1. **Obtaining easements on Mirador and Seven Oaks (Septenary Winery) to maintain trees that provide screening of historic resources.**
2. **Reducing height to qualify as a treetop tower.**
3. **Compliance with all design requirements of County Code § 18-5.1.40.**

Any motion to recommend denial should state the reason(s) therefor and address the requirement of Virginia Code § 15.2-2316.4:1 E(2) that "If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided under subdivision 1."

Any motion to recommend denial should also clarify that that recommendation is not based on Virginia Code § 15.2-2316.4:2(A), but that it is based on § 15.2-2316.4:2(B)(1). [The language of the Virginia Code is included as Attachment 9.]

Special Exception – The Planning Commission is not required to make a recommendation on the Special Exception. However, if the Planning Commission chooses to make a recommendation the following potential motions are offered for consideration.

A. **[STAFF RECOMMENDED:]** If the Planning Commission **chooses to recommend approval** of this special exception:

I move to recommend approval of SE202200030 VERIZON - SCRUBY PROPERTY TIER III PWSF with the conditions outlined in the staff report.

B. If the Planning Commission **chooses to recommend denial** of this special exception:

I move to recommend denial of SE202200030 VERIZON - SCRUBY PROPERTY TIER III PWSF.

Any motion to recommend denial should state the reason(s) therefor.

ATTACHMENTS

Attachment 1 – Aerial photograph of the area
Attachment 2 – Applicant's information
Attachment 3 – Photo simulations
Attachment 4 – Architectural Review Board Action letter
Attachment 5 – Map of historic resources
Attachment 6 – County Code § 18-5.1.40
Attachment 7 – Viewshed map
Attachment 8 – Map showing location of facilities along I-64
Attachment 9 – Federal Telecommunications Act of 1996 and Virginia Code provisions
Attachment 10 – Public comments