

Albemarle County Planning Commission
April 21, 2015

The Albemarle County Planning Commission held a public hearing on Tuesday, April 21, 2015, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Cal Morris, Chair; Karen Firehock, Richard Randolph, Thomas Loach, Bruce Dotson and Tim Keller. Absent was Mac Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Other officials present were Scott Clark, Senior Planner; David Benish, Chief of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Morris, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

Consent Agenda:

- a. **ZTA-2015-000XX Wireless Amendment – Antenna size and mounting standards (ROI)**
(Bill Fritz)
- b. **ZTA-2015-000XX Wireless Amendment – Public Notice. (ROI)**
(Bill Fritz)
- c. **Approval of Minutes: March 10, 2015**

Mr. Morris asked if any Commissioner would like to pull an item from the consent agenda for further review. He noted the approval of the minutes had been pulled from the agenda.

Motion: Mr. Randolph moved and Mr. Loach seconded for approval of the consent agenda for items a. and b.

The motion carried by a vote of (6:0). (Lafferty absent)

Mr. Morris noted the consent agenda was approved.

RESOLUTION OF INTENT

WHEREAS, County Code § 18-5.1.40, which is part of the Albemarle County Zoning Ordinance, establishes regulations pertaining to personal wireless service facilities ("Wireless Facilities"); and

WHEREAS, on March 10, 2015, as part of its recommendation for approval of ZTA 2015-00001, Wireless – FCC Mandated Changes, the Commission recommended that the Albemarle County Board of Supervisors also consider amending County Code § 18-5.1.40: (1) to change the requirement that antennas not project more than 12-inches from the pole so that the points of measurement are changed from the pole to the face of the antenna, as currently required, to the pole to back of the antenna; and (2) to increase the maximum size for each antenna from 1152 square inches to 1400 square inches; and

WHEREAS, the Commission's recommended changes to ZTA 2015-00001 could not be acted on by the Board of Supervisors in conjunction with that zoning text amendment because they were beyond the scope of the resolution of intent and the published notice; and

WHEREAS, after the Planning Commission's recommendation on ZTA 2015-00001, Ntelos, a local wireless service provider, filed an application to amend the Zoning Ordinance to make the changes recommended by the Commission hereinabove; and

WHEREAS, the changes may more allow wireless facilities to be more efficiently deployed in Albemarle County without materially adversely affecting the concealment elements that are fundamental to the County's performance standards for wireless facilities, and without creating material additional visual and other impacts on abutting lots, neighborhoods, and districts.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Planning Commission hereby adopts a resolution of intent to consider amending County Code § 18-5.1.40 to achieve the purposes described herein; and

BE IT FURTHER RESOLVED THAT the Planning Commission will hold a public hearing on the zoning text amendment proposed pursuant to this resolution of intent, and make its recommendations to the Board of Supervisors at the earliest possible date.

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RESOLUTION OF INTENT

WHEREAS, County Code § 18-5.1.40, which is part of the Albemarle County Zoning Ordinance, establishes regulations pertaining to personal wireless service facilities ("Wireless Facilities"); and

WHEREAS, although some Wireless Facilities are permitted only by discretionary approval following a public hearing for which published notice and individual written notice is provided to abutting landowners, many Wireless Facilities are authorized by administrative decisions for which notice is not required by State law or current County regulations where the application satisfies the County's reasonable performance standards; and

WHEREAS, County Code § 18-5.1.40's performance standards are intended to, among other things, minimize potential adverse impacts from new or expanded Wireless Facilities on abutting lots, the neighborhood, and within the district; and

WHEREAS, it may be desirable to inform landowners of abutting lots, or those within the neighborhood or the district, of such pending applications by amending County Code § 18-5.1.40 to require that written notice be provided to such interested persons of pending applications for Wireless Facilities where such decisions are ministerial in nature and for which notice is not presently required by State law or by the Albemarle County Code.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Planning

Commission hereby adopts a resolution of intent to consider amending County Code § 18-5.1.40 to achieve the purposes described herein; and

BE IT FURTHER RESOLVED THAT the Planning Commission will hold a public hearing on the zoning text amendment proposed pursuant to this resolution of intent, and make its recommendations to the Board of Supervisors at the earliest possible date.

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(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)

Albemarle County Planning Commission
June 2, 2015

The Albemarle County Planning Commission held a public hearing on Tuesday, June 2, 2015, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Bruce Dotson, Karen Firehock, Tim Keller, Mac Lafferty, Vice Chair; Thomas Loach, Cal Morris, Chair; and Richard Randolph. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Staff present was Bill Fritz, Manager of Special Projects, Sarah Baldwin, Senior Planner, Amelia McCulley, Director of Zoning/Zoning Administrator; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Morris, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

Public Hearing Items

ZTA 2015-00007 Wireless – Public Notice. The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance that would amend Sec. 18-5.1.40, Personal wireless service facilities; collocation, replacement, and removal of transmission equipment, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 18-5.1.40 by requiring written notice to landowners of all parcels within 1/8 mile of a proposed Tier I or Tier II facility, or an Exempt Collocation. Currently, written notice is provided to abutting landowners for Tier I facilities requiring a special exception and Tier II facilities. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Bill Fritz)

Mr. Fritz presented a PowerPoint presentation to summarize the executive summary regarding ZTA-2015-07 Wireless – Public Notice. He noted Ms. Baldwin passed out copies of the emails received today.

The Board of Supervisors expressed interest in amending the ordinance to expand notification. This is a County initiated text amendment. To remind you what these types of projects are: Exempt Collocations are attachments or modifications to structures currently used as wireless facilities and Tier I applications are attachments to existing structures.

Currently notice is provided for Tier I applications if a special exception is proposed. Notice is also provided for Tier II (treetop) and Tier III applications. It should be noted that Exempt Collocations and Tier I applications must be approved if they meet the minimum standards. The standards for the two types of applications are different. Both applications are treated like building permits. Currently no notice is provided for any type of building permit. If this amendment is approved a building permit to demolish an existing building, regrade the site and build a new structure would receive no notice but attachment of an antenna to an existing structure would get a notice.

Staff does not support this proposed amendment. Staff does support offering the public increased opportunities to be aware of proposals they may have interest in. Staff recommends that the County investigate methods of making the public aware of all types of applications made in a comprehensive way. Some localities utilize a robust GIS system integrated with an application tracking system to allow the public to investigate development proposals by type or location. This would allow users to self-define "the neighborhood" and see what is going on around them. They would also be able to pull up information on that particular application that provided information on the proposal and both staff and applicant contact information.

Staff does not support this amendment proposal. It creates an odd situation where one type of building permit you are providing a notice for and another type you are not. Instead, staff recommends that it just

be investigated or looked at in a comprehensive way much broader than this particular application. Therefore, staff is recommending denial of this proposal.

Mr. Morris invited questions for staff.

Mr. Dotson said under the new federal and state requirements they have to approve certain kinds of applications. He asked can conditions be attached to those approvals or are they prohibited from putting conditions on them.

Mr. Fritz replied for exempt collocations they can't attach any conditions. Under our ordinance for Tier I and Tier II applications the only conditions that are attached to those are those which are contained within the ordinance. It is the same with the exempt collocation that it is fairly limited, but it does have to meet some standards. However, the applications cannot be approved with conditions.

Mr. Dotson commented there would be no useful tweaking as a consequence of hearing public input. He asked if there was nothing that could be done with that, no condition or voluntary modifications.

Mr. Fritz replied under the current ordinance no. If the ordinance were to be amended at some point in the future to have some discretionary provision for a Tier I, then perhaps. They don't currently have that. They don't have it for Tier II's. That would be a completely different question. Right now they would be notifying, but if the application meets the minimum standards they have to approve it.

Mr. Dotson noted the consequence of the Board's request would be to have the public be informed to know what is going on, understand it and not be surprised. But, whatever the public comments were there would be no way that those could be used modify the process.

Mr. Fritz pointed out there was no appeal provision and no conditional approval language contained within the ordinance. It is a binary answer and either approved or denied. It meets the minimum standards and gets approved, or it does not and it gets denied.

Mr. Kamptner pointed out an applicant can always voluntarily modify their project. The county would approve it provided that it still complies with the performance standards in the Wireless regulations in response to it. If the application meets the performance standards the county has to approve it.

Mr. Dotson noted the staff report points out an alternative method of providing notice to utilize GIS, County View or some other type of development tracking software. Does staff have any idea at this point if the county were to go that way how someone would know that there was information on the web or how they would know to go to County View?

Mr. Fritz replied staff does not know and that is one of the things they would like to investigate. How do they get that information out to the public so that people could be aware? There are a couple different ways. Do they send notices periodically that people can investigate this site? It is not an opposition to providing notice on an application; but, it is providing notice for one subset of a building permit application where the potential impacts of other types of building permits may be greater and you have this weird situation where you are notifying for some things and not for others. Staff is recommending that public notice, both what items are notified and the second part is who, and do they notify just abutting owners or go just beyond that. That should be a very comprehensive conversation beyond the antenna. Staff's recommendation is that conversation continue, but that it be a much broader conversation.

Mr. Dotson said he had one comment. He thinks there is something unique about cell towers, which is they are taller than anything else. So in that sense an average building permit maybe is a two-story building going in. This is a lot taller and a lot more visible to a lot more people. He shares Mr. Fritz's concern of even handedness amongst all kinds of building permits.

Mr. Fritz noted the distinction staff was making is that these are attachments only to existing structures. So the structure are there. The other types of building permits can involve grading. Mr. Randolph was

talking about a building permit where they were grading wetlands, and that receives no notice. That is why staff is saying let's have a comprehensive conversation about it.

Mr. Randolph said he was struck intermediately when he read this page that there was a focus on potentially the county using the GIS and County View. He thinks both of those are good ideas. However, he did not think it was sufficient or adequate simply because even though they like to believe that our population is extremely internet responsive and aware the percentage of the Albemarle County population that with regularity visits the County View website he would guess it was probably a low percentage of people that visit it. Because they are looking at a very limited subset of situations that are going to arise here potentially he would like to recommend strengthening and that instead of just relying on both of these that they would establish that the notice option would include a public meeting, which would involve the Planning Commissioner and the Supervisor from the appropriate magisterial district. They would call the meeting and along with staff it would be an informational meeting. A lot of people out there don't understand that what is operating here is essentially federal preemption. They have very little latitude to operate at a local level within the confines of federal law. So they are under an assumption that we can in fact have more of an impact than the law permits us to have. He thinks a large part of public reaction is they feel the government is not transparent. If they rely on only the GIS and County View there are going to be people that say I did not know about that why didn't they let us know. The presumption is that somehow government is out there manipulating the flow of information and that they are trying to control it and minimize information to some people. He thinks the way to address that is to have a public meeting called by the Supervisor with a Planning Commissioner present. They are not looking at creating a whole series of additional meetings. They are probably talking about three or five meetings maximum under the circumstances where they have got this wood pole.

Mr. Fritz replied no, what they are talking about now is public notices. The wood pole discussion is going to come up later. This is public notices for exempt collocations and Tier I applications, which are where they have an existing structure. It may be a building, which would be a Tier I, or it could be an existing tower, which could either be a Tier I or an exempt collocation and they want to take that existing structure and add an antenna to it. Since the rule went into effect they have gotten 15 or 16 applications, and so far they have approved one. This review would be for public notice for exempt collocations and for Tier I applications. For the wood to metal, which they would talk about later, the draft amendment staff is providing the Commission would provide for notice. So that would get a notice.

Mr. Randolph noted he would not change his recommendation based on that. He still thinks that there needs to be a way the government is responsive in a group setting so that people have an opportunity to share their concerns and have those issues addressed. That is why they have a democratic system of government and people are elected to do that. He hates to put a burden on Supervisors and Planning Commissioners who are already busy. However, he thinks they are the right people that need to be out there doing this to address this issue. People want to be heard, and he did not think with just relying on the GIS and County View that people are going to feel that they are being heard. It is just a recommendation.

Mr. Lafferty said that Mr. Fritz was not saying GIS is the only way; he was saying study it. He thinks staff can take your recommendation into account, too. He would think it would be worth studying further to see what options they have given Mr. Randolph's concern about the burden on the office and disparity. Therefore, he would recommend denial with the caveat that it be further studied.

Mr. Morris pointed out right now they were just focusing on questions for staff. He asked if there were any further questions for staff.

Ms. Firehock said she had not made a decision yet. She has been to a lot of meetings where the response from government is that we hear your concerns, but they have not power to do anything. That can actually result in making people even angrier than not knowing at all. So she was not a fan of having a meeting where they say here is this and they are explaining why they can't do anything. She thinks at the very least if they do go the road of notice of some form, they would have to come with some kind of fact sheet like we are letting you know, but we can't do much because this is just administrative. They would have to be really clear. They get lots of emails already about things in which they have not

control, and she tries very carefully to explain that. She thinks it will just get worse. She did not think this issue is going away. She is just not a fan of holding a meeting.

Mr. Loach said he thinks they have all been there when a development issue comes up and what they are really deciding is a very limited special use permit with the community. It puts more of a burden on us to deny, but they are only deciding on one small issue and not the overall issue.

Ms. Firehock pointed out in this case they would not be deciding anything. So there would be no decision.

Mr. Loach agreed that they need a broader discussion. As far as the GIS notification one of the things that is changing now is technology and the ability to push notification. So they can get to the point where they can push out information and maybe even get to a point where you as the citizen, unless you opt out, will be getting these notices that you sign up for one way or another. So he thinks the technology will take us a long way. He agreed that he did not want to get into a position where they get here and there is an expectation on the public for us to do something that they have no ability to do.

Mr. Morris opened the public hearing for public comment. He invited public comment to address this particular item.

Jennifer Greeson, resident of the Samuel Miller District, said she lived in the Bellair neighborhood where they have two cell phone towers. So she wanted to speak a minute about the importance of notice even for work that is just adding something to an existing structure. Notice is really a matter of courtesy to the people who live in the neighborhood where the work is being done. This work even just for adding something to an existing structure is very disruptive. It often takes 120 crane boom trucks that are huge. She did not know how big the trucks were until she saw them. It often takes extensive trenching if they are running a new fiber optic cable. Through many people's yards in Bellair they had about 35 yards dug up last fall and there was no notice. They just looked out the window one day and saw a man digging up their yard, but did not know why. Another interesting thing is this work is done largely by subcontractors. The truck does not say AT&T, but it says nothing. It is a rental truck with an out of state license plate with no phone number to call. They had their road blocked off for over a week at one point by one of these crane trucks and there literally was no phone number to call. They could call the police. But, there is no sort of corporate responsibility. If they just got notice in the mail to let us know that work was going to be done in a general timeframe, this company was responsible for it and that there was a phone number to call that would make a huge difference in how this business is done in the county. So she feels like that is important for them to understand from our perspective living with this. She also wants to say with all the changes to the code, which are kind of mind boggling, it is important to have even in these exempt applications. It is important to have an opportunity for the public to give input because a lot of these definitions are influx and these rule changes are trickling down and precedents are being set. It is important for there to be a public voice even when it is an exempt amount of work that is being done. As Mr. Kamptner said, she wanted to point this out too, it is possible for the wireless companies to voluntarily amend their work plans as well so when there is notice there is an opportunity for there to be a conversation between local residents and the wireless company. Again, this is a better more civil more courteous way of doing this business in our county. It is just letters and not a big deal. Notice is easy. Therefore, she strongly supports this amendment and would urge the Commission to as well.

Valerie Long, representing Verizon Wireless, pointed out Jess Wilmer with Ntelos is here. They don't have any real opposition to the concept of this proposal. They are certainly sympatric and tend to very much agree with staff's analysis that it creates an unusual situation. But, they thought it might be helpful to share a little bit of perspective from the industry's experiences and some of the issues that are allowed. Jesse Wilmer is here tonight and she may want to add some of her own comments. She was just reminding me that under the existing ordinance the wireless providers are permitted to conduct maintenance at their facilities at any time. So if an antenna is damaged or needs to be replaced for some reason they have full right and authority to replace an existing antenna with one that is identical to it. They come out frequently at an average of about once a month to do an inspection. Sometimes they climb all the way to the top or they bring in an equipment truck out to evaluate their equipment and make sure it is working properly. She also reminded me that under federal regulation if one of their sites goes

down because they serve an emergency 911 feature they are obligated under federal law to repair the site within a few days or they could be in violation of the terms of their license. So trying to work that in with realities of a public notice requirement and having to send out public notices before any work is allowed to be done they just wanted to put that in perspective. That is all they had. They would be happy to answer questions and Jesse Wilmer may have additional comments.

There being no further public comment, Mr. Morris closed the public hearing to bring the matter before the Planning Commission for discussion and action.

Mr. Loach requested to ask Ms. Long a question. On the notification he hears what Ms. Long is saying, but he also hears the neighbors' interest. If there was a large change that has to be made, whether it be maintenance or new construction, he was talking before about the ability now to push notification from the county would it be too much to ask the industry then where there was a substantial impact by the type of work that is going to be done that they would notify the county and the county could then through its own technology push out notification.

Ms. Long noted they have to do that in the form of applying for a building permit.

Mr. Loach noted she was just saying maintenance. But, that maintenance may be substantial as in the example she gave. He was just saying would it be too onerous on the industry that if there was a threshold of maintenance that they would notify the county and the county would then notify the neighbors that this work was coming up. So as the neighbor pointed out now all of a sudden she had a truck that has not markings on it that identify with the company that they have some notice about what is going to happen.

Ms. Long replied that it would be something that would have to be considered. It would be hard to identify or establish a rule that could be appropriate and applicable for all circumstances. But, just using the examples she mentioned after a storm that the site is down their focus is going to be in getting back out to that site as quickly as possible to repair any damage that may have occurred or to at least check on the equipment and make sure that it is functioning properly so that folks can rely on their service. She did not know what the mechanism would be unless there was a point of contact or someone in particular at the county. She was just trying to think today if they did that Mr. Cilimberg she did not know who you would even contact for a particular site.

Mr. Loach said he was just saying in the circumstances that she just gave he was sure that somebody goes out to make the assessment of what the damages are. At that time depending on the assessment of the damage they would notify the county that in their estimation there is going to be a lot of construction needed just to let the people know.

Ms. Long said she thinks in many cases there won't be much construction needed. In the example she used they were checking on maintenance they often times it is just a small pickup truck or kind of a Jeep Cherokee sized vehicle that goes out. Those are ones that do the regular maintenance. It is usually when they are swapping out antennas or doing some sort of upgrade like that that heavier equipment is required.

Mr. Lafferty said if they have somebody going out there could they notify the landowner that potentially there is going to be heavy construction going on.

Ms. Long replied that is what they do. They notify the owner of the land where the tower is located, especially under their lease, generally she can't speak for all carriers, but generally in the leases she has seen they don't technically have to notify their landowners. But, they usually do out of courtesy to let those landowners know. So she would hope in circumstances like have been described that the landowner where the tower is located would be able to communicate with their neighbors or at least respond to inquiries from their neighbors when they came up.

Mr. Lafferty said he would be pretty irritated if his driveway was blocked for three days.

Ms. Long pointed out there were some claims. Ntelos has a site out at the Bellair property as well. Mr. Fritz was aware of this. Ntelos was doing some upgrades to its equipment within the right-of-way and so their equipment was in the right-of-way for some time. However, it was off to the side. Staff went out and inspected the work, and concluded that in fact it was being done exactly the way they would have wanted it to be done. They were tunneling under driveways and things like that to make sure that it did not disrupt driveways. So there have been some real efforts to do things in the way that were as sensitive as possible. However, those were equipment upgrades that were required to be done to improve the workings. She thinks that might have involved some landline work and not even wireless work. She was not sure.

Mr. Lafferty said as a matter of courtesy if they could notify the neighbors when they go out and do the inspection he thinks that would make things a lot more understandable for them.

Ms. Long noted they do the inspections on average about one time per month. It is usually more in reality about four times a year. However, they come out on a schedule for inspections, but they also go out after storm events, after reports of a site being down or things like that. So they don't do it on a regular schedule always. It is often responsive to weather events or emergency situations.

Mr. Lafferty suggested if their inspection indicates that there will be major construction then he thinks it would behoove them to notify the neighbors.

Mr. Keller commented through the years as he has done survey work and whatever the entity that he was doing survey work for provided a to whom it may concern letter that could be given to individuals who questioned. While he hates to bring up the issue of violence and people blowing up places it seems that it would be helpful to have something that was official to give to the citizenry when someone comes to a place. If they are developing a work order it seems that could be turned into a paragraph with a contact person back at the home office. He also thinks during holiday times when a number of the shipping companies are using contractors, but they put the magnetic signs on the door that says they are a contractor to a major thing. It seems that if they just had those two courtesies it would take a certain degree of mystery out and that seems to be what our citizen input is about. He encouraged Ms. Long to think about those.

Ms. Long agreed. However, she does mean in any way to minimize the disruptions that some of the neighbors did feel out in Bellair. She was familiar with it and was out there as well. It was poorly handled by AT&T subcontractors to be sure. Once it was brought to AT&T's attention by the county staff they came out and fired the subcontractor and brought their own AT&T in house construction folks in and not only completed the job that had been started, but repaired damage that had been done. Also, she did not know but was not aware of any other situation like that that has occurred in the county. Certainly not within any Ntelos or AT&T facilities that she was aware of. So while she does not in any way minimize the disruption that did take place she would just caution about using one bad example to change the ordinance county wide when it may have been an isolated incident that everyone has learned from including AT&T and hopefully the subcontractors. However, they use different subcontractors now. But, she certainly appreciates your comments. She was not sure why it was so hard to figure out who was involved because she kept thinking well they could have traced it back to the building permit application. Somebody has to submit the application and there has to be a name and phone number, which should have indicated at least provided the contact information for the subcontractor who could have then relayed yes they were doing this job on behalf of AT&T. They have a job number as well.

Mr. Morris invited further questions.

Ms. Firehock noted she had a question for staff. They basically said it is kind of an undue burden on the staff or an additional burden to send notice on that. They don't send notices for all building permits. Mr. Dotson made the point that maybe a cell tower is a little bit of a different kettle of fish. She asked staff to say a little more about what is entailed. Staff mentioned the 15 pending applications. She asked staff to talk a little more about the staff time involved in sending notice on one of those even if the notice was this is happening, here is a fact sheet on the fact that they can't do anything, thank you and for more information please call zoning.

Mr. Fritz clarified that they did not say it would be an undue burden. In fact, what they said is that the impact on a particular application may be minimal, it is the cumulative impact that is of concern. He did not know what that would be. Obviously, if the Board were to amend the ordinance they would try to figure out a way to implement it as efficiently as possible. When they send more notice out to generate public interest you will get public interest, and staff will need to address that. It may be 10 minutes per application, it may be an hour per application, but it is going to be something. While the impact on a particular application may not be substantial that time is time that is not being spent on some discretionary item or on some other item. So ultimately they need to account for all these incremental increases. That is fine and they will do it. The reason they put that budget impact is so Board don't be surprised if staff comes back and say they have had to add five minutes here, five minutes here and five minutes here. That is a new FTE because this is an expanded service. That is fine and staff can do expanded services, but they have to understand that is what it is. Every time you do an expanded service while that one may not be a big impact cumulatively it all starts to add up. That is all they are saying here. He did not know what the time would be. They would have to analyze that. However, it would be something more than zero.

Ms. Baldwin said as a follow up to that they do not really have a clear direction how far that notice would be. Is it abutting owners or more than that? That could lead to a bigger discussion that we've all had in the past.

Mr. Morris asked if there were any other questions. If not, he asked does anyone have a motion.

Mr. Dotson said he has a question for Mr. Kamptner related to a motion. He was familiar with recommending approval or denial. He asked can the Commission recommend to the Board that this study mentioned here be conducted and that in the meantime this matter be tabled. He asked if that is a legitimate recommendation.

Mr. Kamptner replied that could be a recommendation. Or the Commission can also make a recommendation that is either up or down with the ordinance as it is drafted with a separate direction to staff to come back with a resolution of intent to initiate the study of notice to other types of ministerial building permit type applications.

Mr. Fritz pointed out staff has two possible scenarios for them. One would be to expand who they give notice to, which could include building permits, administrative subdivisions and administrative site plans. There is a whole category of family divisions, rural divisions and subdivision categories. Minor site plan amendments get no notice. All building permits get no notice. So there could be a discussion about that. Then separate or included with it there has been some interest expressed at the Board level of expanding notice beyond the abutting property owners to go some distance beyond the abutting property owner. They actually have started to look at that a little bit and what the impacts would be of doing that in terms of different scenarios rural versus urban and what happens. You get into the thousands of people pretty quick. But, it can happen. There are two things there. One would be for what types of projects do you send notice and then secondly if you send notice who gets that notice. So there are two parts of it.

Mr. Loach asked is there any technology out there available that they don't have that would aid the staff in doing something like that.

Mr. Fritz replied that staff has looked at some technology that other counties and cities are using that allows them to have their development tracking system much better integrated with their GIS System. By doing that it gives you some efficiencies in being able to develop those notices in the first place or being able to push the notices out or just make it available through different means. So yes there is some technology out there that staff has seen.

Motion: Mr. Randolph moved and Ms. Firehock seconded to recommend denial of ZTA-2015-00007 Wireless – Public Notice.

Mr. Morris invited further discussion.

Mr. Loach asked if Mr. Dotson was going to add an amendment or conditions on to it.

Mr. Kamptner pointed out it would be a separate motion after the Commission acts on the approval.

Mr. Morris noted they had a motion and second for denial. He asked for a roll call.

The motion passed by a vote of (7:0).

Mr. Morris asked Mr. Dotson for the follow up motion.

Motion: Mr. Dotson moved and Mr. Lafferty seconded that the Planning Commission recommends that an alternative method of providing notice for all types of projects be studied. This could utilize GIS, County View or some other type of development tracking software.

Mr. Morris invited further discussion.

Ms. Firehock asked if they should put a time table on that. She was just concerned that it will be one of those things that they ask for.

Mr. Fritz replied what staff would do is take this recommendation and give it to the Board of Supervisors and see if they endorse it. If the Board endorses it, staff would then ask them to look at the Community Development Work Program to see where they want to prioritize that within the Work Program. Community Development has an adopted work program from the Board of Supervisors.

Mr. Morris asked if that would be taken up by the Board of Supervisors on the date July 8th.

Mr. Fritz replied this is a motion so it would all come to the Board together. Staff will bring up that issue and he assumes the Board will talk about it. Then they will talk and figure out how to deal with prioritization.

Mr. Morris asked for a roll call.

The motion passed by a vote of (7:0).

Mr. Morris noted that ZTA-2015-00007 Wireless – Public Notice would be forwarded to the Board of Supervisors on July 8th with a recommendation for denial and a second recommendation for further analysis.

Mr. Fritz clarified that all three zoning text amendments being heard tonight will go to the Board of Supervisors on July 8th.

Mr. Keller suggested there was still another component. He did not know if they had any ability to deal with this. He asked is there any way that they can require contractors to identify themselves and have some sort of handout that would explain what they are doing.

Mr. Kamptner replied that he was not aware of any authority that would authorize the county to require contractors to do that.

Mr. Keller said it seemed that in this particular industry it would behoove them to do it just in terms of good public relations. So he did not know what the mechanism would be for that, but as they continue to have these discussions he wants to think about asking staff to formulate something along those lines. They are living in a society where neighbors don't know neighbors to the extent as they have historically and that there is this sort of fear factor in our society. He thinks it would behoove us to think of some way to make that more apparent. He thinks that would be good business.

Mr. Morris said his point was very well taken. He pointed out Lee Catlin has been trying for ages to get a solid list of homeowner associations or if it was not a HOA just an organization that represents a subdivision. That is so fluid that it has never really gotten really off the ground no matter how hard she tries. So your point is well taken. A homeowner's association is the place to go if they have it.

Ms. Firehock noted in the rural area that would not be possible.

Mr. Morris said he understands that. But, Bellair is a very established area.

Mr. Keller noted he was still thinking just something that could be handed out when somebody is coming as a contractor in their own vehicle with no identification are they up to good or no good. It could be something as simple as a leaflet explaining what they are doing seems to be not too much to ask.

Mr. Dotson suggested another possible vehicle in for a project requiring a building permit he believes those are required to be posted for public view.

Mr. Kamptner replied yes, building permits are posted on site.

Mr. Dotson said he would suspect the building permit was posted well on the interior of the property so somebody might be trespassing if they went up to read that permit. He was not sure who determines the size of the permit, what color paper it is on, and where it is posted. That might be something for the county to look at which perhaps would cover one category of project.

Mr. Randolph said he would add many applicators now when putting down any kind of pesticide they put a sign up in notifying people that they should not walk on that grass for a period of time usually two days at a minimum. That is kind of standard operating procedure in that industry. So enhancing notification will probably go a long way to addressing some of these issues. He knows certainly in Glenmore if there is any work being done like that they notify the GCA and the GCA notifies all the residents in the community that this work is taking place. But, as Ms. Firehock has quite correctly identified not everyone lives in a planned residential development. So the information flow is not as consistent. Where they are having problems is somewhere between where they have planned residential development, but they may not have the community communications network set up there to make residents aware.

Mr. Morris noted that was a good point; however, he thinks this is something that each individual industry has to look at.

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning

**Albemarle County Planning Commission
October 6, 2015**

The Albemarle County Planning Commission held a public hearing on Tuesday, October 6, 2015, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Bruce Dotson, Karen Firehock, Tim Keller, Mac Lafferty, Vice Chair; Thomas Loach, Cal Morris, Chair; and Richard Randolph. Absent was Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia.

Staff present was Claudette Grant, Senior Planner; Glenn Brooks, County Engineer, Sarah Baldwin, Senior Planner; Bill Fritz, Manager of Special Projects; Wayne Cilimberg, Deputy Director of Community Development; David Benish, Acting Director of Planning; Amelia McCulley, Director of Zoning/Zoning Administrator; Steward Wright, Senior Permits Planner; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Morris, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

The Planning Commission took a break at 7:27 p.m. and reconvened at 7:35 p.m.

Mr. Morris called the meeting back to order at 7:35 p.m.

ZTA-2015-00007 Wireless – Public Notice. The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance that would amend Sec. 18-5.1.40, Personal wireless service facilities; collocation, replacement, and removal of transmission equipment, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 18-5.1.40 by requiring the applicant to provide written notice to landowners of all abutting parcels of proposed Tier I facilities and proposed exempt collocations and exempt replacements of transmission equipment, and to provide documentation of such notice. Currently, the agent is required to provide written notice of proposed Tier I facilities requiring a special exception, and no notice is provided for proposed exempt collocations and exempt replacements of transmission equipment. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Sarah Baldwin)

Ms. Baldwin presented a PowerPoint presentation for ZTA-2015-00007 Wireless – Public Notice.

The proposal is to amend the ordinance to require that notice be provided **by the applicant** to abutting owners for Exempt Collocations or Tier I applications.

On July 8th the Board of Supervisors (BOS) discussed amending the ordinance to provide notice for administrative actions for personal wireless service facilities. As you may recall, the staff and the Planning Commission (PC) recommended denial of the ZTA. The BOS identified the need for staff to further research notice on all projects, but acknowledged that this task could take time. They felt that notice for Tier I and exempt collocations should be put ahead of this research. The BOS recommended staff revise the ZTA to provide for the applicant to provide

notice to abutting owners for Tier I and exempt collocations and further directed staff to bring this revision to the PC.

Recommendation: Staff believes that the intent of the Board of Supervisors is being met by this ordinance amendment.

Mr. Morris invited questions for staff.

Mr. Dotson said he had no problem in terms of the content of the letter of notice that would go out since the appropriate paragraph says describe the facility, proposed location, proposed height and the County Office where the application could be viewed. However, it seems by having the applicant send out the notices we are trying to encourage communication between the applicant and the neighborhood. Therefore, he was wondering if the letter shouldn't also include specifying the entity doing construction, the contact person and number, and the approximate schedule of the work because we really are not trying to direct all the questions to the county office building, but trying to direct them elsewhere. He questioned if staff considered that or would see that as a problem.

Ms. Baldwin replied that she did not see that as a problem. Staff had not specifically talked about it, but that can certainly be added.

Mr. Dotson noted he would not include that in the Tier II facilities where it is appropriate for people to contact the county.

Ms. Firehock asked does this require a registered letter to be sent or a regular letter.

Ms. Baldwin replied it was a regular letter.

Ms. Firehock pointed out that registered letters have been problematic for people with jobs because when they get a registered notice at their house they have to take annual leave to get to the post office in their rural area to get the letter. In the past when she had received a registered letter about development projects it was a 20 minute drive in both directions, which requires her to take two hours of annual leave to get the registered letter. So it is not a good idea in general. She discussed this matter with Liz Palmer who asked why I voted no on this the last time and she pleaded with me to support this.

Mr. Randolph commented that the theme of this notice is going to be very important. When adjacent property owners receive this communication it does not matter who is sending it out because it has some official appearance and is going to raise some expectations of the property owners being able to give input and influence the outcome of a governmental process. At a Tier 1 level what they are recognizing here is that is not a possibility. So the wording has to be gentle, but be very clear and effective in essentially saying we are just going through the courtesy of advising you of this; however, the reality is under federal law we are preempted from you being involved in this approval process.

Ms. Firehock pointed out the Commission voted against this last time because it would set up false expectations for the public, and that it was work for staff.

Mr. Randolph said they have to make sure that the private interest that are going to send this notice out follow a format with language; or, otherwise staff is going to be at the broad end of some hostility reaction that could spill over into the Planning Commission of misunderstanding

and misperception. Therefore, he thinks it is really important to have a common notice with a clear consistent format like the community notice in which they have some consistency now with the use of a common notice. This has to be equally clear. There has to be some kind of approval process so when they develop this that the applicant has to run it through somebody on staff to sign off on it to make sure that the right language is in there. They are saving problems for the business as well as for government if we do that. If we don't do it right it is going to come back to haunt us since it may add to that feeling that you just can't trust government because they gave me this notice and I wanted to get involved, and now they tell me as a tax payer I can't do anything.

Ms. Baldwin pointed out staff talked about the same things, and obviously they are going to have to look at crafting some language that addresses that issue.

Ms. Firehock suggested the Commission could perhaps suggest some language.

There being no further questions for staff, Mr. Morris opened the public hearing for applicant and public comment. Since we are the applicant, he invited public comment. There being no public comment, the public hearing was closed to bring the matter back to the Commission for discussion and action.

Motion: Mr. Randolph moved to recommend approval of ZTA-2015-7 Wireless – Public Notice. There is no other official motion language in here.

Mr. Kamptner asked if the motion includes the discussion about including the name of the contractor, contact person, an overall schedule, and some additional language to be developed by staff.

Ms. Firehock noted that it would include the standardized paragraph as recommended by staff.

Mr. Kamptner said it would include some additional language that staff will provide to the person interested.

Mr. Randolph agreed and that he trusts staff to put that additional language together.

Second: Ms. Firehock seconded the motion.

Mr. Fritz asked to clarify if the Commission wants to add that content in the ordinance itself or is it just a direction to staff that when they prepare the form letter that it would have that information in it.

Mr. Randolph replied it would be the latter because to codify it would cause complications.

Ms. Firehock pointed out they would have to change that over time.

Mr. Dotson disagreed with that.

Mr. Kamptner said there was a motion and a second and now there is some discussion and Mr. Dotson had some additional comment.

Mr. Dotson disagreed with not putting it in the ordinance about the entity, the contact and the schedule because otherwise this states what should be included. So the ordinance is misleading to someone unless those are included.

Ms. Firehock said she thought the only thing they were saying was the exact language in the form letter did not have to be in the ordinance because those regulations will change and they will need to be able to nimbly update that.

Mr. Fritz said that he got it and they will put it in.

Mr. Randolph asked if she was saying everything else would be included, and if so he totally agrees.

Mr. Fritz said that he just wanted to make sure.

Mr. Morris asked for a roll call.

The motion passed by a vote of 7:0.

Mr. Morris noted that ZTA-2015-7 Wireless – Public Notice would be forwarded to the Board of Supervisors with a recommendation for approval on a date to be determined.

In summary, the Planning Commission recommends approval of ZTA-2015-7, by a vote of 7:0, as recommended by staff, as amended, with direction to staff that content of the letter of notice also specify the entity doing construction (contractor), the contact person and number, the overall or approximate schedule of the work, and also include some additional language to be developed by staff.

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning)