

LEXINGTON PLANNING COMMISSION

September 9, 2021 - 5:00 P.M
First Floor Meeting Room (Community Meeting Room), Lexington City Hall
300 East Washington Street, Lexington, VA 24450

AGENDA

1. **CALL TO ORDER**
2. **APPROVAL OF THE AGENDA**
3. **APPROVAL OF MINUTES**
 - A. Minutes from July 1, 2021 work session with City Council*
 - B. Minutes from August 26, 2021*
4. **CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA**
5. **NEW BUSINESS**
 - A. PS 2021-03: An application by Harrell Feldt proposing a preliminary subdivision plat (boundary line adjustment) to add a portion of Tax Parcel # 29-1-15 to Tax Parcel # 28-1-8.
 - 1) Staff Report*
 - 2) Applicant Statement
 - 3) Public Comment
 - 4) Commission Discussion & Decision
 - B. PS 2021-04: An application by the City of Lexington proposing a preliminary subdivision plat to subdivide the 5.8 acre parcel owned by the City of Lexington and Adjacent to Spotswood Drive into 4 parcels with Tax Parcel #s 29-1-30, 29-1-31, 29-1-30A, and 29-1-31A.
 - 1) Staff Report*
 - 2) Applicant Statement
 - 3) Public Comment
 - 4) Commission Discussion & Decision
 - C. EC COA 2021-03: An application by Tiffany Kidd for new signs for the Trendy Southern Creations business at 125 Walker Street, Tax Map # 30-1-9, owned by RBSA, LLC.
 - 1) Staff Report*
 - 2) Applicant Statement
 - 3) Public Comment
 - 4) Commission Discussion & Decision

D. ZOA 2021-03: Annual Zoning Ordinance Amendments, Small Cell facilities.

- 1) Continued discussion of Small Cell text amendment*
- 2) Public comment

6. OTHER BUSINESS

- A. Zoning & Planning Report
- B. Catalyst Projects Update (Assess Stormwater fees, Jordan's Point Park Plan implementation, Bike/Ped Plan, Increase Sidewalk Connectivity, Reprogram Traffic Signals Downtown, Accessory Dwelling Unit Ordinance)
- C. Key Annual PC Dates (Comp Plan Review, Annual CIP, Zoning Text Updates, etc.)
- D. Monthly Presentations

7. CITY COUNCIL REPORT

8. ADJOURN

*indicates attachment



MINUTES
City Council Joint Work Sessions
Thursday, July 1, 2021 @ 6:00 PM
 Lylburn Downing Middle School

PRESENT: Mayor Frank Friedman, Vice-Mayor Marylin Alexander, Councilmember Chuck Smith, Councilmember Leslie Straughan, Councilmember Dennis Ayers, Councilmember David Sigler, and Councilmember Charles Aligood

ABSENT: Chairman John Driscoll, Commissioner Pat Bradley, Commissioner Jamie Goodin, Commissioner Blake Shester and Commissioner Matt Tuchler

CALL TO ORDER - MAYOR FRIEDMAN

Mayor Friedman called the City Council Work Session to order at 6:00 p.m.

CALL TO ORDER - PLANNING COMMISSION CHAIR JOHN DRISCOLL

Chairman Driscoll called the Planning Commission Work Session to order at 6:01 p.m.

DISCUSSION OF PROJECTS AND SCHEDULE FOR THE PLANNING COMMISSION AND OF CITY COUNCIL DIRECTED PRIORITIES

- **Discussion of projects and schedule for the Planning Commission and of City Council directed priorities**

Start Time: 6:02 p.m. (DropBox Audio: 2:35)

Action: Planning Commission Chair John Driscoll and Planning Director Arne Glaeser led a discussion over the following:

In October 2020 when the City Council and the Planning Commission met to discuss the draft Comprehensive Plan it was suggested that joint work sessions be held periodically throughout the year, the first meeting after the adoption of the Comprehensive Plan is scheduled on July 01, 2021.

1. Update and Discussion on Catalyst Projects

2. Proposed Planning Commission Schedule

- a. For the balance of 2021 year, the Staff and the PC will be undertaking the following:
 - Zoning text amendments
 - Educational session on Small Area plans

- Other, Joint Meeting with County PC?

3. **Developing priorities within Staffing and Community Resources**

Developing realistic work plans around thematic and operational priorities can be an effective approach to planning ahead, working within available resources and engaging community partners.

- a. Drawing on the Comprehensive Plan, what are the pressing issues, priorities or projects that can be organized into successive actions that build on each other towards implementation?
- b. From the Council's perspective what are the priority themes from the Comprehensive Plan that the Planning Commission should build into its calendar in the coming year or that Staff, under the Council's direction should consider?

This discussion will help inform the Planning Commission's annual review of the Comprehensive Plan, see agenda item 4.

4. **Process for the annual review of the Comprehensive Plan**

- a. Arne Glaser to present City led initiatives
- b. John Driscoll to present PC led initiatives
- c. See Annex 1 for updates on Catalyst Projects

The Implementation Chapter of the Comprehensive Plan proposes an annual review as part of the Commission's "responsibilities in using, coordinating, and updating the Plan." This review is scheduled to commence in September 2021 based on a schedule developed by the Planning Commission and Staff at the time of adoption. The Planning Commission welcomes comments from the City Council prior to the Planning Commission undertaking this review. Please see Annex 2 for a full description of the review process, questions that the review addresses and the calendar of activities.

Annex 1. UPDATE OF THE CATALYST PROJECTS

City Managed Initiatives

- Assess stormwater runoff fees:
During the budget process for FY 22, City Council was in agreement that now is not the time to institute a new fee program due to the pandemic.
- Jordan's Point Park Implementation:
A special account has been added to the Capital Improvement funding to partially fund Jordan's Point Park improvements on an annual basis.
- Bike/Ped Plan:
Staff submitted a grant application for a citywide bike and pedestrian plan to the Virginia Office of Intermodal Planning and Investment and technical assistance was awarded. OIPI selected consultant firm Michael Baker International to complete the Lexington Bicycle and Pedestrian Plan and will take 9 to 12 months to complete. The project will include public input during stakeholder meetings, an electronic survey, Planning Commission and City Council public meetings.
Increase Sidewalk Connectivity:
FY22 budget contains \$35,000 for sidewalks.
- Reprogram Traffic Signals Downtown:

W&L engineering students completed a Capstone project that targeted a review of our Central Business District signal timings, and their signal timing suggestions were incorporated along Nelson Street.

- **Accessory Dwelling Unit Ordinance:**

The annual Zoning Ordinance update was split into a grouping of 15, short term items and into 4 projects that require significantly more discussion. The 15 proposed amendments are advertised for a July 1, 2021 City Council public hearing and the remaining 4 projects were prioritized as follows, 1) Small Cell facilities, 2) Planned Unit Development, 3) Accessory Dwelling Units, and 4) Cottage Housing. Planning Commission is working through the Small Cell amendment currently and the other 3 projects will follow in order as the Planning Commission schedule and staff resources allow.

Planning Commission led initiatives

- **Small Area Plans:**

The Lexington Comprehensive Plan 2040 recommended that “the unique planning, design, and investment prospects within Opportunity Areas may warrant additional study through the development of small area plans in the coming years.” A land-use strategy in the implementation matrix suggests a community education activity to “engage the community to identify development goals for Opportunity Areas and assess the need for small area plans for these areas.”

To begin understanding the potential use of a small area plan, the Planning Commission offered to organize a short education session within its regular meeting. The objective is to develop a commonly understood definition of small area plans, including the legal basis, provide examples relevant to Lexington, and discuss the potential benefits and possible limitations of small area plans to guide land-use decisions proactively. The desired outcome would be a recommendation by Planning Commission to pursue the topic more thoroughly if appropriate for Lexington.

- **Green Infrastructure**

The goal of the Green Infrastructure chapter in the Lexington Comprehensive Plan 2040 is to “protect, preserve and promote Lexington’s natural ecosystems and green infrastructure as a cornerstone of sustainable development and social, environmental and economic well-being.” The Green Infrastructure Working Group was instrumental in the development of this chapter and provided recommendations that were incorporated into the chapter.

One of the catalyst projects suggested by the Planning Commission was to reconvene the Green Infrastructure Working Group to review the Green Infrastructure chapter and recommend actions and activities that can be undertaken to begin implementation of the strategies outlined in the chapter. The suggest approach will be to organize the working of the group around a series of themes, the first one is **Connectivity** “linking neighborhoods, destinations within the City, waterways, and regional assets.” An initial focus can be to provide practical recommendations during the development of the bike/ped plan.

Convening the group for its initial meeting will be the responsibility of Planning Commission; subsequent work sessions will be scheduled and structured by the Working Group. A scope of work is being developed by the Planning Commission.

Annex 2. LEXINGTON 2040 COMPREHENSIVE PLAN ANNUAL REVIEW CALENDAR

In addition to its primary function of advising City Council in matters related to land use planning and development, the commission is responsible for preparing and maintaining the Comprehensive Plan. The Lexington 2040 Comprehensive Plan outlines the rationale for the review and update.

“Continuous review and progress monitoring holds everyone accountable to the City’s long-range vision. The Code of Virginia § 15.2-2230 requires that Comprehensive Plans be reviewed every five years. In addition to the five-year review and update, annual reviews and revisions of ordinances and plans is considered a best practice. Reviewing the Plan regularly helps measure success in achieving Plan goals. It also provides an opportunity to propose and integrate strategic initiatives and policy changes that can be incorporated into the annual budget process, if necessary. This annual review helps set budgetary priorities that are consistent with the community’s vision and ensures that monitoring is systematic and planned. (Page 149).

The following action items are noted as specific to the Planning Commissions role in implementing the Comprehensive Plan.

- **“Issue Identification.** As is done with the Zoning Ordinance, an ongoing list will be compiled of issues and questions that arise over the course of the year concerning the Comprehensive Plan for annual review and action where needed.
- **“Annual Review.** Each year, the Planning Commission will review progress toward completion of various projects / strategies, in preparation for its annual report to City Council. This activity will be scheduled into the Planning Commission’s work calendar.” (P. 150)

We are in our first year after the adoption of the Plan and the steps the Planning Commission jointly develops with the City Council and Staff can become the basis for operationalizing the annual review to monitor progress on implementing the plan.

- *Issue Identification.* Based on the first year of implementation, are there particular issues arising from the City Council perspective and activities that should be addressed in the PC’s 2021 annual review?
- *Using the Plan.* How is the Comprehensive Plan used as a resource to guide recommendations from staff and policy decisions by the City Council? Are there procedures and practices in place for staff to reference the comprehensive plan as well as the Council’s Strategic Plan when presenting recommendations to the City Council?
- *Engaging the Community.* What are City Council recommendations for how the Planning Commission to solicit the views on the wider Lexington City community on priorities in the coming year?

Annual Review. Planning Commission undertakes an annual review of comprehensive plan related activities commencing in September, the annual review is intended to:

- Measure success in achieving plan goals through the recommended strategies.
- Propose strategic initiatives and appropriate code changes to be pursued under the coming year's budget.
- Prioritize a short list of strategies to be addressed in the coming year that are not budget related.
- Identify unlisted strategies that will achieve plan goals.
- List development actions which affect the plan's provisions.

- Consider input from regional service providers e.g., Maury River Service Authority.
- Explain difficulties in implementing the plan.

Schedule of Activities. The Lexington Comprehensive Plan introduces provisions for integrating the Comprehensive Plan into the annual review of the Capital Improvement Program (CIP). The following is a proposed schedule for accomplishing this.

	<ul style="list-style-type: none"> • Blue, existing CIP/Budget process based on Lexington’s budget calendar. • Red, additional steps to align the comprehensive plan and the CIP. • Brown, additional activities related to City Council
September	Begin a Comp Plan review (see Annual Review activities)
October	Budget education to include presentation on Budget Process by Finance Director and ongoing Projects Status by Director of Public Works Council identifies goals from the City’s Strategic Plan to be advanced in the next fiscal year (how the Strategic Plan is integrated into the budget and CIP process is at the pleasure of City Council).
November	Staff prepares requests for capital projects--due in early December (see Note 2) Planning Commission reviews the list of <u>new</u> capital projects recommended by staff and nominates/prioritizes new capital projects for the CIP.
December	Planning Commission Annual Report. PC identifies accomplishments from the Comprehensive Plan review and its work plan for the coming year.
January	Planning Commission’s Annual Report is presented to City Council.
February	Council Work Session on CIP The initial review of the CIP by City Council is reported to the Planning Commission.
March	Public Hearing and Adoption of CIP by Council
April	Budget work sessions for City Council
May	Public Hearing on Budget
June	Budget adoption and the appropriations resolution

Discussion: City Council and the Planning Commission discussed-

- who would be leading the educational sessions on small area plans
- helping the public understand what small area plans are
- Planning Commission holding a meeting in October to educate everyone on small area plans
- being mindful of staff time
- primary functions of the Planning Commission
- joint Planning Commission meetings with Buena Vista and Rockbridge County
- walkability between the three jurisdictions
- City Council priorities for the Planning Commission
- recusals necessary for Washington & Lee University submittals to the Planning Commission/City Council
- ARPA funding for projects
- Jordan's Point Master Plan, opportunities for implementation and how much money has been set aside for FY22

- being intentional about which sidewalks are replaced or put in place
- keeping the harmony between City Council, Planning Commission and City staff
- what is in the budget and budgeting money for the Jordan's Point Park Master Plan
- the great job the Planning Commission does
- ways the Planning Commission can focus on capacity building

Comments: Mayor Friedman, Chairman Driscoll, Councilmember Sigler, Councilmember Aligood, Commissioner Goodin, Councilmember Straughan, Councilmember Ayers, Commissioner Bradley

ADJOURNMENT

Chairman Driscoll adjourned the Planning Commission Work Session to order at 6:58 p.m.

Mayor Friedman adjourned the City Council Work Session at 6:58 p.m.

Mayor Frank W. Friedman, Lexington, VA

Jani L. Hostetter, Clerk of Council

MINUTES

**The Lexington Planning Commission
Thursday, August 26, 2021 – 5:00 p.m.
Zoom Meeting – City Hall
300 East Washington Street**

Planning Commission:

Presiding: Jamie Goodin, Chair,
Present: Blake Shester, Vice-Chair
Nicholas Betts
Pat Bradley
John Driscoll
Leslie Straughan, Council Liaison
Matt Tuchler

City Staff:

Arne Glaeser, Planning Department
Kate Beard, Administrative Assistant

CALL TO ORDER

Chair Goodin called the meeting to order at 5:00 p.m.

AGENDA

P. Bradley moved to approve the agenda with two additions to Other Business suggested by J. Driscoll. N. Betts seconded and the motion passed unanimously. (7-0)

MINUTES

At J. Driscoll's suggestion, staff will present the minutes from the July 1, 2021 joint work session with City Council for review at the September 9, 2021 meeting.

Minutes from the August 12, 2021 were unanimously approved as presented (B. Shester / L. Straughan)

CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA

None

NEW BUSINESS

A. EC COA 2021-05: Application by John Adamson for exterior improvements to the property at 539 E. Nelson Street, Tax Parcels 30-7-9, 30-7-8, 30-7-7, 30-7-6, owned by 539 East Nelson Street, LLC.

- 1) Staff Report – This is a request to make exterior improvements to the property at 539 E. Nelson Street. The proposed improvements include replacement of all windows, freshening the exterior paint, installation of an HVAC screening fence, installation of a dumpster pad and screening enclosure, a new roof, new half round gutters and downspouts, and new landscaping of the Nelson Street side of the building. The window replacement and painting have already been completed. A. Glaeser recommended approval of the application and said he had received no comments from the public about this project.
- 2) Applicant Statement – John Adamson, 539 East Nelson Street, LLC – M. Tuchler questioned why some of the improvements were completed prior to submission of the application. Mr. Adamson apologized, saying that ordering materials is challenging

under current conditions and he had gotten ahead of himself. He offered that the installed replacement windows are “paintable” should the Commission determine the color needs to be remedied. He responded to Commissioners’ questions regarding the location of the proposed dumpster by explaining he had acquired 113 Walker Street, an adjacent property not mentioned in the application, on which he proposes to place the dumpster and which he eventually intends to use for additional parking. A. Glaeser added that though there is currently a residence at 113 Walker, there is no zoning issue as the parcel is in the C-2 commercial zoning district. L. Straughan asked about signage for the property and noted there were new signs located on the property which are not addressed by the application under consideration. Mr. Adamson said the tenant would be submitting a separate application for the signage and expressed surprise that that application was not currently before the Commission for approval. A. Glaeser stated that staff has had many conversations with the sign company, but the application is not yet complete. He briefly summarized his knowledge of the sign proposal, particularly as it will interact with the landscaping portion of the application under consideration. The four proposed trees will replace the 3 originally approved trees which had overgrown into the building and had to be removed. N. Betts asked if the doors would be repainted to match the windows. Mr. Adamson replied he would prefer to replace the doors in a matching finish when his budget allows rather than repaint, perhaps within the next 18 months. A. Glaeser added that staff recommends applicants include possible future improvements on an application so as to avoid the necessity of filing a new application. There was further discussion about the placement of the dumpster, its screening, and the type of waste that will be generated by this tenant. There was discussion of the orientation of a free-standing sign and the type of trees proposed along Nelson Street. J. Driscoll suggested it would be nice to have shade-providing trees in that location.

- 3) Public Comment – C. Aligood, 506 Calvary Road – Commented that several years ago a study was done of pedestrian access along the Nelson Street corridor which he believes may have included the subject property. He asked that Commission be aware of the study, which he believes was approved but not funded.
- 4) Commission Discussion & Decision – M. Tuchler asked if there was a limit on the amount of time an applicant had to take action following an approval by the Commission. A. Glaeser said he believed there was not. There was discussion about the Corridor Study raised by Mr. Aligood and consensus was the study did not recommend improvements for the parcel at 539 E. Nelson St. There was discussion about the types of penalties that may be levied against property owners who make unapproved exterior modifications in the Entrance Corridor. A. Glaeser confirmed that a Certificate of Appropriateness would be necessary for the addition of solar panels on the subject property. **M. Tuchler moved to approve the Entrance Corridor Certificate of Appropriateness application EC COA 2021-05 for the exterior improvements to the building located at 539 East Nelson Street as proposed by the applicant. J. Driscoll seconded, and the motion passed unanimously. (7-0)**

B. ZOA 2021-03: Annual Zoning Ordinance Amendments, Small Cell facilities.

- 1) Continued discussion of Small Cell text amendment – A. Glaeser said he would like to reach a general agreement about how to structure the amendment before making

decisions about the wording. He would also like to determine when to involve the Architectural Review Board in updating the Design Guidelines. He explained that small cell facility regulations are proposed to be added to the Lexington Zoning Chapter, the Historic District Design Guidelines, and the Streets and Sidewalks Chapter in accordance with the state regulations, and provided a brief recap of why this was being proposed. He led the Commission through the staff report and pointed out the precise places in the Zoning Ordinance and Historic District Design Guidelines where he proposed the additions be made. He explained the provenance of the proposed additional language selections and the reasoning involved in the choice of each. There was general agreement that the amendments to the Design Guidelines should be reviewed by the Architectural Review Board before being considered by the Commission. The Commission then discussed adding language concerning small cell facilities in public rights-of-way to the Streets and Sidewalks chapter of the City Code after Section 5 “Excavation Permits.” There was discussion about what the Commission could expect to cover at its next meeting, how staff can most helpfully present the material, and a loose time line for moving the remaining zoning amendments to City Council for approval.

2) Public Comment - None

OTHER BUSINESS

A. Zoning Report – A. Glaeser reported the following:

- Staff has sent out a notice of violation for a property on Morningside Drive operating as a short term rental.
- Staff had a lengthy conversation with a Jefferson Street property owner who had received a notice of violation for property maintenance issues.
- Staff is attempting to make contact with the owner of another short term rental on Morningside Drive which recently changed hands but has not been registered by the new owner.
- The W & L trustees will soon be reviewing the campus Master Plan and may request approval for a Master Plan overlay.
- Staff is in the process of researching regulations for Planned Unit Developments.
- At their August 25, 2021 meeting, Threshold discussed having a guest speaker to address affordable housing at a joint educational session with the Planning Commission.
- The water and sewer project for Diamond Hill and Green Hill was begun recently.
- Staff has advertised public hearings for two preliminary subdivision plats for the Commission’s next meeting.

Commissioners voiced appreciation for and interest in the addition of this report on the agenda. J. Driscoll suggested that it be renamed the Zoning & Planning Report. He further suggested that the Commission have a discussion about the information it will need to consider when reviewing the W&L Master Plan prior to the actual application review. A. Glaeser said he could provide that information whenever the Commission would like to add it to its agenda.

B. Report on presentation for American Planning Association annual conference - J. Driscoll said the conference was held via Zoom and the presentation for the 2040 Comprehensive Plan

went well. Kelly Davis put together a 20 minute slide presentation and followed up by asking Commissioner Driscoll and Camille Miller questions primarily about how the current Comp Plan differs from the one it replaced .The presentation had approximately 70 attendees.

C. Update on educational session with Threshold - J. Driscoll said he would be meeting with Marylin Alexander and A. Glaeser to suggest topics for the joint session. He noted that many affordable housing issues are addressed through zoning and suggested educational sessions such as this one may help inform what zoning amendments the Commission chooses to undertake in the future. J. Goodin expressed enthusiasm for this collaboration with Threshold and suggested Commissioners consider other ways the Planning Commission could collaborate with other City Boards and Commissions.

CITY COUNCIL REPORT

L. Straughan had no report as City Council has not meet since the last Commission meeting. She informed the Commissioners that Threshold currently has three vacancies and asked them to encourage anyone whom they believe would be an asset to apply.

ADJOURN

The meeting was adjourned at 6:23 pm with unanimous approval (P. Bradley/N. Betts).

J. Goodin, Chair, Planning Commission

Preliminary Subdivision Application¹⁶

PS 2021-03 – Boundary Line Adjustment 516 S. Main Street & 514 S. Main Street

Project Name Boundary Line Adjustment for Harrell Feldt and Estate of John Doane

Property Location 516 South Main Street (Tax Map # 21-1-8) and 514 South Main Street (Tax Map # 29-1-15)

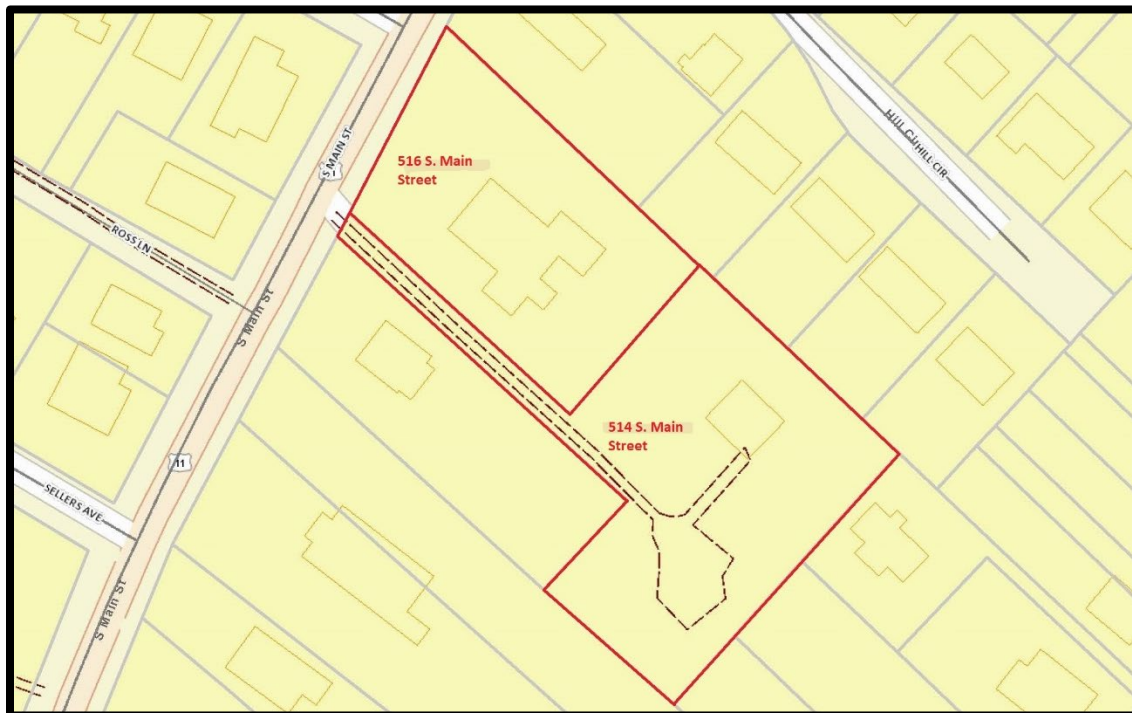
Zoning R-1 (General Residential)

Owner / Petitioner Harrell Feldt

Petitioner’s Intent Adjust the boundaries of 516 South Main Street & 514 South Main Street

PLANNING COMMISSION RECOMMENDATION: Pending
STAFF RECOMMENDATION: Approval

location map

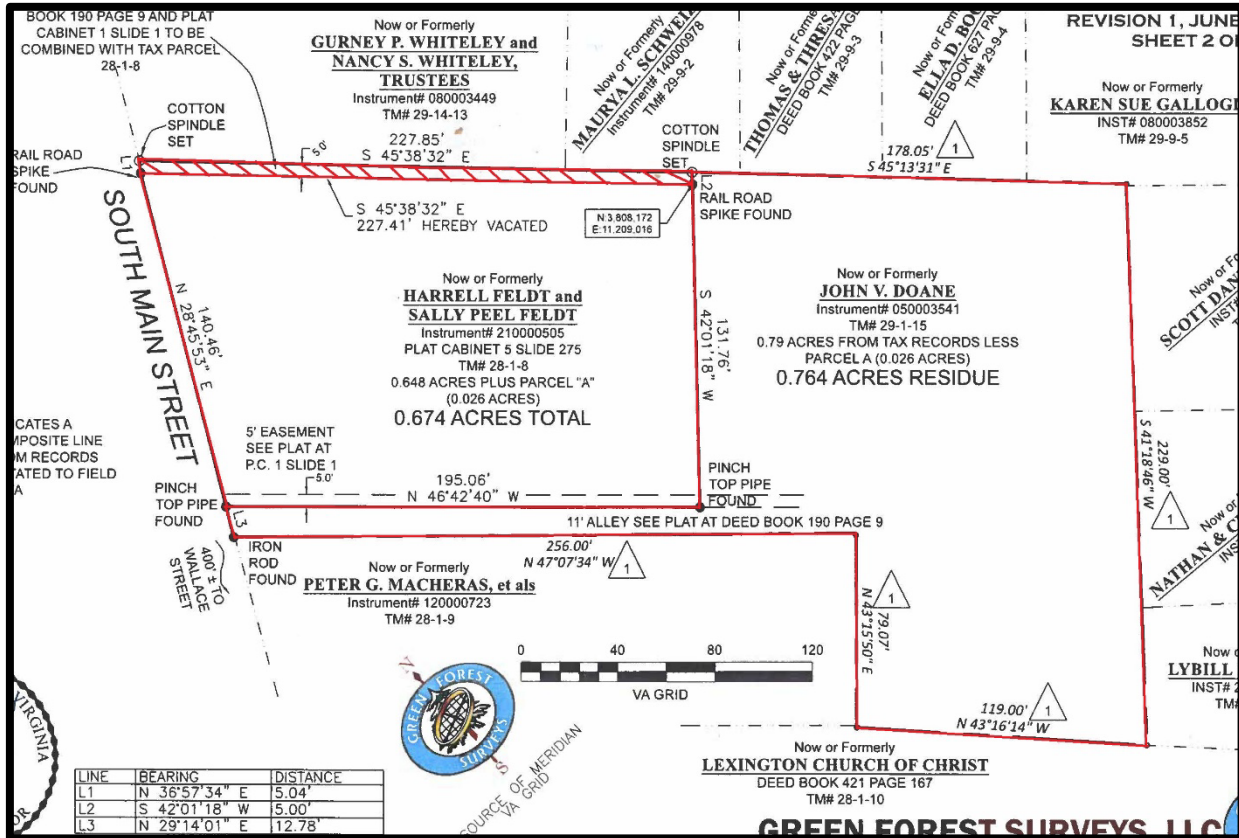


**Preliminary Subdivision Application
PS 2021-03 – Boundary Line Adjustment 516 S. Main Street & 514 S. Main Street**

OVERVIEW OF REQUEST

The applicant requests a boundary line adjustment to add a portion of 514 South Main Street (Tax Map # 29-1-15) to 516 South Main Smith Street (Tax Map # 21-1-8) in accordance with the following survey provided by Green Forest Surveys, LLC. The hatched area in the following survey will be transferred from the Doane parcel to the Feldt parcel.

Boundary Line Adjustment Survey



AUTHORITY TO REVIEW

Sections 360-24 and 360-25 of the Lexington Subdivision Ordinance establish the review authority and procedures for the Planning Commission's and City Council's review of preliminary subdivision plats. The Planning Commission must review all preliminary plats and may recommend approval or denial. If the Commission recommends denial of a preliminary plat it must state the reason for its recommendation of denial and the specific changes that are necessary for the plat to be recommended for approval.

Upon receipt of the Planning Commission's recommendation, the City Council shall review the preliminary plat and, within 60 days of the receipt of the Commission's recommendation, recommend approval or denial of the preliminary plat. Council may take no action on any preliminary plat until holding a public hearing in accordance with state law. Adjoining property owners shall be notified by first class mail of the pending public hearing, and a legal ad shall be published notifying the general public of the pending Council review.

STAFF REVIEW COMMENTS

As proposed, the boundary line adjustment meets the zoning requirements for parcels in the R-1 zoning district.

PLANNING COMMISSION RECOMMENDATION

Pending

STAFF RECOMMENDATION

Finding that the submitted preliminary plat has been properly drawn and that it is accompanied by those items, in proper form, required by the Subdivision Ordinance, and that the proposed subdivision conforms to the requirements and purposes of the Subdivision Ordinance, the Staff recommends that the preliminary plat be **APPROVED** as submitted.

SUGGESTED MOTION

I move to approve/deny Preliminary Subdivision Application PS 2021-03 for the adjustment of boundary lines between 516 South Main Street (Tax Map # 21-1-8) and 514 South Main Street (Tax Map # 29-1-15, in accordance with the Boundary Line Adjustment Survey for 516 South Main St. completed by Green Forest Surveys, LLC as submitted by the applicant.

www.lexingtonva.gov

Planning & Development Department

~~P.O. Box 922~~

300 East Washington Street

Lexington, Virginia 24450

Phone: (540) 462-3704 Fax: (540) 463-5310

SUBDIVISION APPLICATION AND CHECKLIST

Applicant¹
 Name: HARRELL FELDT Phone: 540 461-8522
 Company: KENT DOANE EXEC EST JOHN DOANE Fax: 713 504-1955
 Address: 516 S. MAIN ST LEXINGTON, VA 24450 Email: HFELDTLAW@GMAIL.COM
 Applicant's Signature: [Signature] Date: 8/19/21

Subdivision Plat Preparer
 Name: CHRISTOPHER PAPPAS Phone: 540 261-1077
 Company: GREEN FOREST SURVEYS VA Fax: _____
 Address: P.O BOX 121 FAIRFIELD VA 24935 Email: _____

Property Owner
 Name: EST OF JOHN DOANE Phone: 804 661 0602
 Address: 8218 Hampton Arbor Cir Chesterfield, VA 23832 Email: Kent.doane@gmail.com
 Owner's Signature: Kent Doane, Executor Date: 29 Aug 2021

Proposal Information² (attach list of properties if request includes multiple properties)
 Address (or location description): _____
 Tax Map: _____ Deed Book and Page #: _____
 Acreage: _____ Zoning (attach any existing zoning conditions or proffers): _____
 Number of Lots Proposed: _____

1. Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.
 2. Any application deemed incomplete by staff will not be accepted.

NON REFUNDABLE

BOUNDARY LINE ADJUSTMENT SURVEY FOR
516 SOUTH MAIN ST.
 CITY OF LEXINGTON, VIRGINIA
 GREEN FOREST JOB # GF01724
 REVISION 1, JUNE 14, 2021
 SHEET 2 OF 2

Now or Formerly
KAREN SUE GALLOGLY
 INST# 080003852
 TM# 29-9-5

PARCEL "A"
 0.026 ACRES
 5' STRIP SEE PLAT AT DEED BOOK 190 PAGE 9 AND PLAT CABINET 1 SLIDE 1 TO BE COMBINED WITH TAX PARCEL 28-1-8

Now or Formerly
GURNEY P. WHITELEY and NANCY S. WHITELEY, TRUSTEES
 Instrument# 080003449
 TM# 29-14-13

Now or Formerly
MAURYA L. SCHWEIZER
 Instrument# 140000978
 TM# 29-9-2

Now or Formerly
THOMAS & THRESA MOORE
 DEED BOOK 422 PAGE 746
 TM# 29-9-3

Now or Formerly
ELLA D. BOONE
 DEED BOOK 627 PAGE 596
 TM# 29-9-4

RAIL ROAD SPIKE FOUND
 COTTON SPINDLE SET

COTTON SPINDLE SET
 RAIL ROAD SPIKE FOUND

178.05'
 S 45°13'31" E

227.85'
 S 45°38'32" E
 227.41' HEREBY VACATED

N 3.808,172
 E: 11.209,016

Now or Formerly
HARRELL FELDT and SALLY PEEL FELDT
 Instrument# 210000505
 PLAT CABINET 5 SLIDE 275
 TM# 28-1-8
 0.648 ACRES PLUS PARCEL "A" (0.026 ACRES)
0.674 ACRES TOTAL

Now or Formerly
JOHN V. DOANE
 Instrument# 050003541
 TM# 29-1-15
 0.79 ACRES FROM TAX RECORDS LESS PARCEL A (0.026 ACRES)
0.764 ACRES RESIDUE

Now or Formerly
SCOTT DANIEL BERGER
 INST# 190000023
 TM# 29-1-16

1 INDICATES A COMPOSITE LINE FROM RECORDS ROTATED TO FIELD DATA

SOUTH MAIN STREET
 N 28°45'53" E
 140.46'

5' EASEMENT SEE PLAT AT P.C. 1 SLIDE 1
 PINCH TOP PIPE FOUND

195.06'
 N 46°42'40" W

S 42°01'18" W
 131.76'

PINCH TOP PIPE FOUND

11' ALLEY SEE PLAT AT DEED BOOK 190 PAGE 9

400' ± TO WALLACE STREET

IRON ROD FOUND

Now or Formerly
PETER G. MACHERAS, et als
 Instrument# 120000723
 TM# 28-1-9

256.00'
 N 47°07'34" W

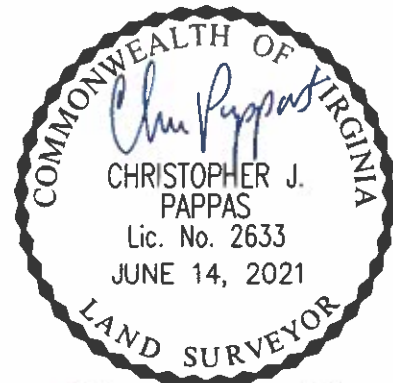
79.07'
 N 43°15'50" E

Now or Formerly
NATHAN & CHRISTA BOWDEN
 INST# 060005707
 TM# 29-1-18

Now or Formerly
LYBILL F. MCKEMY
 INST# 200000059W
 TM# 29-1-19

119.00'
 N 43°16'14" W

Now or Formerly
LEXINGTON CHURCH OF CHRIST
 DEED BOOK 421 PAGE 167
 TM# 28-1-10



LINE	BEARING	DISTANCE
L1	N 36°57'34" E	5.04'
L2	S 42°01'18" W	5.00'
L3	N 29°14'01" E	12.78'



SOURCE OF MERIDIAN
 VA GRID

GREEN FOREST SURVEYS, LLC

WWW.GREENFORESTSURVEYS.COM
 P.O. BOX 121, FAIRFIELD, VA 24435 (540) 261-1077



Project Name	Spotswood subdivision
Property Location	350 Spotswood Drive & other unaddressed properties, Tax Map #s: 29-1-31A, 29-1-31, 29-1-30, and 29-1-30A
Zoning	R-LC (Residential-Light Commercial) & POS (Parks and Open Space)
Owner / Petitioner	City of Lexington/Jim Halasz, City Manager
Petitioner's Intent	subdivide 5.8 acres ± into 4 parcels

PLANNING COMMISSION RECOMMENDATION: Pending
STAFF RECOMMENDATION: Approval

location map



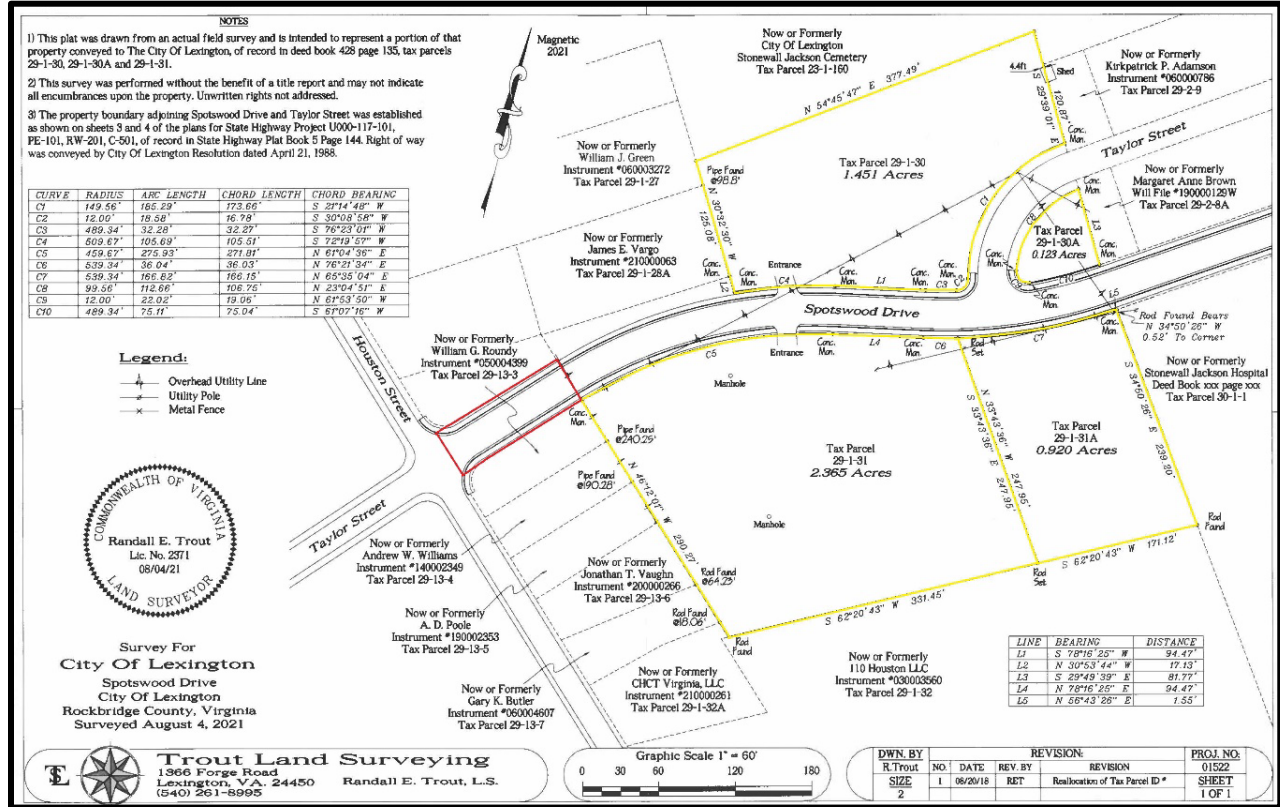
OVERVIEW OF REQUEST

The City of Lexington owns a 5.8 acre parcel ± (yellow outline on the above location map) that was bisected by the construction of Spotswood Drive in 1986. The 5.8 acre parcel ± however was not subdivided and the City is now requesting to subdivide the property into 4 separate parcels with the Spotswood Drive portion remaining as right of way and not a

**Preliminary Subdivision Application 10
PS 2021-04 – Spotswood subdivision**

separate tax parcel. The subdivision of the property is necessary for the contracted sale of the old rescue squad building (Tax Map #29-1-31A) to the Rockbridge Area Relief Association.

plat of proposed subdivision



AUTHORITY TO REVIEW

Sections 360-24 and 360-25 of the Lexington Subdivision Ordinance establish the review authority and procedures for the Planning Commission’s and City Council’s review of preliminary subdivision plats. The Planning Commission must review all preliminary plats and may recommend approval or denial. If the Commission recommends denial of a preliminary plat it must state the reason for its recommendation of denial and the specific changes that are necessary for the plat to be recommended for approval.

Upon receipt of the Planning Commission’s recommendation, the City Council shall review the preliminary plat and within 60 days of the receipt of the Commission’s recommendation, recommend approval or denial of the preliminary plat. Council may take no action on any preliminary plat until holding a public hearing in accordance with state law. Adjoining property owners shall be notified by first class mail of the pending

public hearing, and a legal ad shall be published notifying the general public of the pending Council review.

STAFF REVIEW COMMENTS

As proposed, the four proposed parcels meet the minimum lot requirements. The two parcels on the south side of Spotswood Drive are zoned R-LC and they exceed the minimum R-LC lot size requirement of 8,000 square feet (2.365 and 0.920 acres for the vacant parcel and the old rescue squad parcel respectively). These two parcels also exceed the minimum R-LC lot width requirement of 60 feet (331.45' and 171.12' respectively).

The two parcels on the north side of Spotswood Drive are zoned POS and they exceed the minimum POS lot requirements because the minimum lot size and lot width requirements are zero for parcels zoned POS.

PLANNING COMMISSION RECOMMENDATION

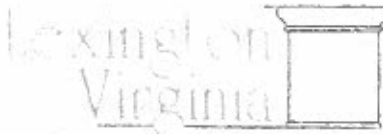
Pending

STAFF RECOMMENDATION

Finding that the submitted preliminary plat has been properly drawn and that it is accompanied by those items, in proper form, required by the Subdivision Ordinance, and that the proposed subdivision conforms to the requirements and purposes of the Subdivision Ordinance, the Staff recommends that the preliminary plat be **APPROVED** as submitted.

SUGGESTED MOTION

I move to approve Preliminary Subdivision Application PS 2021-04 for the subdivision of the 5.8 acre parcel ± on Spotswood Drive owned by the City of Lexington into four parcels with Tax Map Numbers 29-1-30, 29-1-30A, 29-1-31, 29-1-31A in accordance with the plat completed by Trout Land Surveying, Inc. as submitted by the applicant.



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Planning & Development Department

~~P.O. Box 922~~

300 East Washington Street
Lexington, Virginia 24450

Phone: (540) 462-3704 Fax: (540) 463-5310

SUBDIVISION APPLICATION AND CHECKLIST

Applicant¹

Name: JIM HARASZ, CITY MANAGER Phone: 462-3700

Company: CITY OF LEXINGTON Fax: _____

Address: 300 E. WASHINGTON ST. Email: JHARASZ@LEXINGTONVA.GOV

Applicant's Signature: [Signature] Date: 9/27/21

Subdivision Plat Preparer

Name: TROUT LAND SURVEYING Phone: 261-8995

Company: _____ Fax: _____

Address: 1366 FORGIE RD. Email: _____

Property Owner

Name: CITY OF LEXINGTON Phone: _____

Address: _____ Email: _____

Owner's Signature: _____ Date: _____

Proposal Information² (attach list of properties if request includes multiple properties)

Address (or location description): SUBDIVIDE 5.8 ACRES INTO 4 PARCELS

Tax Map: 29-1-30, 29-1-30A, 29-1-31, 29-1-31A Deed Book and Page #: 428/135

Acreage: 5.8 ± Zoning (attach any existing zoning conditions or proffers): R-LC

Number of Lots Proposed: 4

1. Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.
2. Any application deemed incomplete by staff will not be accepted.

NON REFUNDABLE



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Lexington, Virginia 24450

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Notice to Adjacent Property Owners

The City will give notice of public hearings to be held on the application to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice will give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. Notices will be mailed a minimum of ten (10) days prior to the date of the scheduled City Council meeting.

Posting of the Property

The City will place a sign on the subject property which indicates that an action is pending. The sign will be located to be clearly visible from the street.

THIS SECTION TO BE COMPLETED BY STAFF ONLY

Application Fees:

Case Number: SUB- 2021 - 04

Preliminary Plat: \$500 + \$50 for each additional lot created

Amount Paid: N/A

Final Plat: \$0

Date Received: Received By:

Staff Review

Planning: Public Works:

Police: Fire/Rescue:

Preliminary Plat Approvals

Planning Commission

Meeting Date: Action:

City Council

Legal Ad Dates: Adj. Property Notifications:

Public Hearing Date: Action:

Final Plat Approval

Action: [] Approved [] Denied

Planning and Development Director

Date

NON-REPLACEMENT

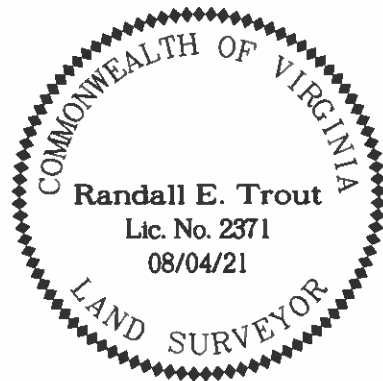
NOTES

- 1) This plat was drawn from an actual field survey and is intended to represent a portion of that property conveyed to The City Of Lexington, of record in deed book 428 page 135, tax parcels 29-1-30, 29-1-30A and 29-1-31.
- 2) This survey was performed without the benefit of a title report and may not indicate all encumbrances upon the property. Unwritten rights not addressed.
- 3) The property boundary adjoining Spotswood Drive and Taylor Street was established as shown on sheets 3 and 4 of the plans for State Highway Project U000-117-101, PE-101, RW-201, C-501, of record in State Highway Plat Book 5 Page 144. Right of way was conveyed by City Of Lexington Resolution dated April 21, 1988.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	149.56'	185.29'	173.66'	S 21°14'48" W
C2	12.00'	18.58'	16.78'	S 30°08'58" W
C3	489.34'	32.28'	32.27'	S 76°23'01" W
C4	509.67'	105.69'	105.51'	S 72°19'57" W
C5	459.67'	275.93'	271.81'	N 61°04'36" E
C6	539.34'	36.04'	36.03'	N 76°21'34" E
C7	539.34'	166.82'	166.15'	N 65°35'04" E
C8	99.56'	112.66'	106.75'	N 23°04'51" E
C9	12.00'	22.02'	19.06'	N 61°53'50" W
C10	489.34'	75.11'	75.04'	S 61°07'16" W

Legend:

- Overhead Utility Line
- Utility Pole
- Metal Fence

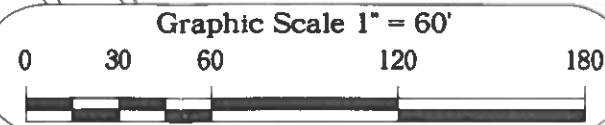


Survey For
City Of Lexington
 Spotswood Drive
 City Of Lexington
 Rockbridge County, Virginia
 Surveyed August 4, 2021

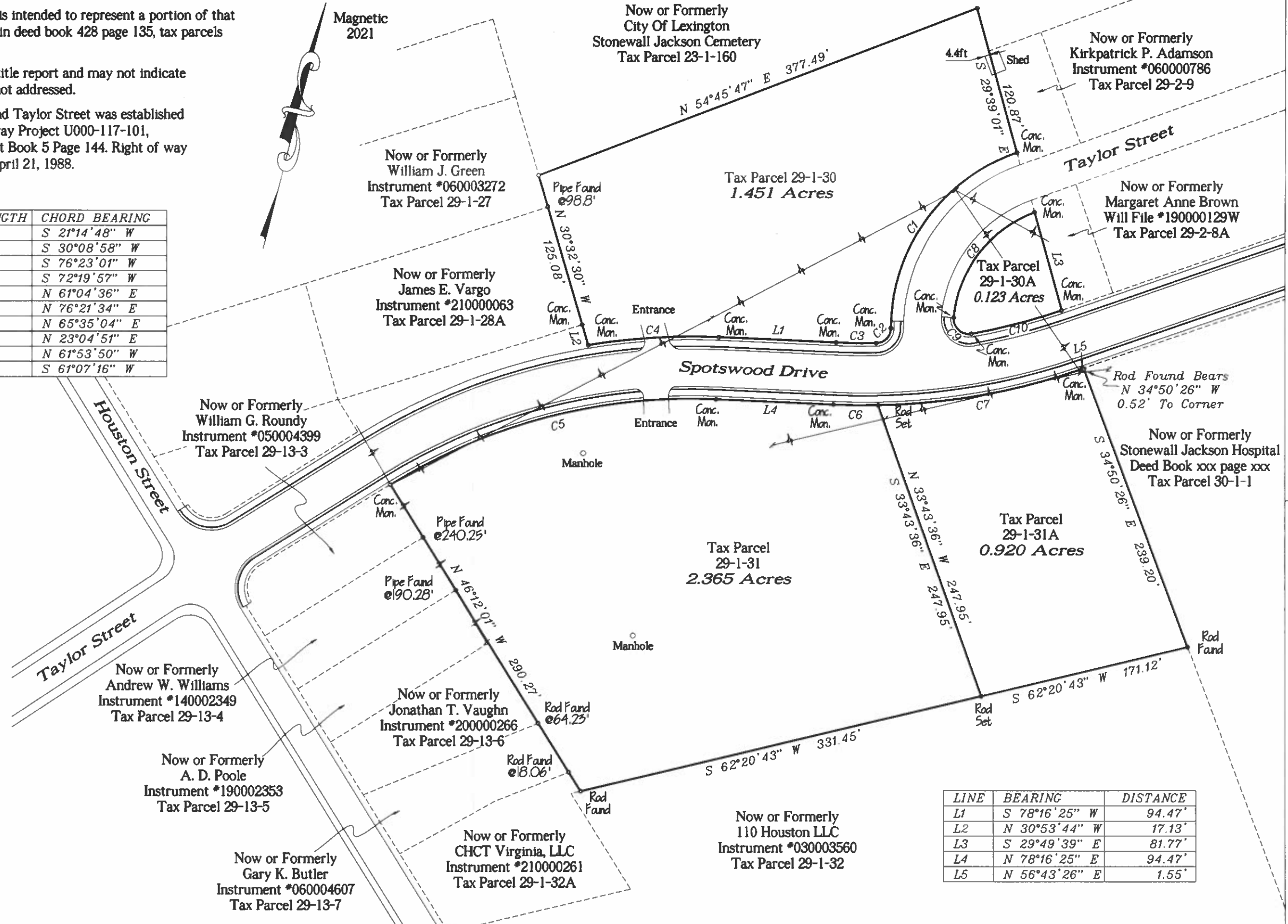


Trout Land Surveying
 1366 Forge Road
 Lexington, VA. 24450
 (540) 261-8995

Randall E. Trout, L.S.



DWN. BY	REVISION:				PROJ. NO.
	NO.	DATE	REV. BY	REVISION	
R.Trout	1	08/20/18	RET	Reallocation of Tax Parcel ID *	01522
SIZE	2				SHEET
					1 OF 1



LINE	BEARING	DISTANCE
L1	S 78°16'25" W	94.47'
L2	N 30°53'44" W	17.13'
L3	S 29°49'39" E	81.77'
L4	N 78°16'25" E	94.47'
L5	N 56°43'26" E	1.55'

Staff Report & Recommendation
Entrance Corridor Certificate of Appropriateness
EC COA 2021-03 – Trendy Southern Creations Signs

Project Name	Trendy Southern Creations signs
Property Location	125 Walker Street
Zoning	Entrance Corridor Overlay District (EC), Commercial Shopping Centers (C-2) zoning district
Owner/Applicant	RBSA, LLC / Tiffany Kidd

OVERVIEW OF REQUEST

This request is for one wall sign and one freestanding sign at the new Trendy Southern Creations location in the Rockbridge Square Shopping Center. The parcel is located in the Commercial Shopping Centers (C-2) zoning district and in the Entrance Corridor Overlay District (EC). Trendy Southern Creations is located in the old Fitness Your Way storefront on the side of the Dollar General building facing Don Tequila. The proposed wall sign will be 20.5 square feet (10 feet wide and 2.5 feet high) and will replace the Fitness Your Way sign. It will be made of white aluminum with a vinyl weather proof wrap and will feature 8 – 12 inch boutique lettering on a black and white cow print background. The lettering will be white, outlined in black and teal. The sign will be illuminated from above by 2 4 ft. long LED lights under an aluminum hood. The applicant also proposes a similar, appropriately scaled panel be placed in the existing multi-tenant free standing sign.

location map (Rockbridge Square Shopping Center)



Staff Report & Recommendation
Entrance Corridor Certificate of Appropriateness
EC COA 2021-03 – Trendy Southern Creations Signs

photograph of existing storefront



photograph of existing freestanding sign



APPLICABLE ZONING DISTRICT SECTIONS

Section 420-3 of the zoning ordinance lists a general store as a permitted use by-right in the C-2 zoning district.

APPLICABLE SIGNAGE REGULATIONS

Section 420-13.2 of the sign regulations requires a sign permit before a sign may be erected, constructed, posted, painted, altered, or relocated. The proposed alterations to the freestanding sign at the shopping center entrance and the new wall sign therefore require review and approval.

Section 420-13.6 of the sign regulations allows any business located within a C-2 zoning district to display 1 wall sign per street frontage with an allowable area of 1 square foot per lineal foot of building frontage; with a 32 square feet minimum and 100 square feet maximum. The proposed wall sign is 25.5 square feet in area which is less than the minimum 32 square feet allowed.

Section 420-13.9 requires illuminated signs to be illuminated in such a way that light does not shine into on-coming traffic, affect highway safety, or shine directly into a residential dwelling unit zoned R-1, R-2, or R-M. The sign panel proposed for the freestanding, entrance sign will be backlit and this type of lighting is not typically bright enough to cause issues with traffic or create issues with adjacent residences.

APPLICABLE ENTRANCE CORRIDOR REGULATIONS

Section 420-6.6.A requires a Certificate of Appropriateness be approved by the Planning Commission prior to 1) building permit issuance for exterior building modifications, 2) site plan approval, and 3) exterior color changes to a building or to a sign.

Section 420-6.7.B allows the Planning Commission to consider any architectural feature which influences appearance, such as, but not limited to, motif and style, color, texture and materials, configuration, orientation, mass, shape, height and location of buildings, location and configuration of parking areas, landscaping and buffering.

Section 420-6.8 states all applications for an entrance corridor certificates of appropriateness must satisfy the design standards for landscaping, signage, architecture, site planning, and lighting. Only the signage design standards are applicable to this certificate of appropriateness request and the remaining standards are not applicable.

B. Signage.

1. Each parcel shall have an overall sign plan which reflects a consistent style and specifies the size and color scheme for proposed signage.
2. Materials used in signs and their support structures should reflect the building served by the sign.
3. Sign colors should be harmonious with the building which they serve.

Staff Report & Recommendation
Entrance Corridor Certificate of Appropriateness
EC COA 2021-03 – Trendy Southern Creations Signs

STAFF RECOMMENDATION

Staff finds the proposed improvements meet the zoning criteria.

SUGGESTED MOTION

I move to approve/deny the Entrance Corridor Certificate of Appropriateness application EC COA 2021-03 for an illuminated freestanding sign panel and for an illuminated wall sign for the Trendy Southern Creations business at 125 Walker Street as proposed by the applicant.



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Planning & Development Department

P.O. Box 922

300 East Washington Street

Lexington, Virginia 24450

Phone: (540) 462-3704 Fax: (540) 463-5310

SIGN PERMIT APPLICATION

Applicant¹

Name: Tiffany Kidd Phone: 540-460-0562

Company: Trendy Southern Creations Fax: _____

Address: 125 Walker Street Email: tiffanykidd66@gmail.com

Applicant's Signature: [Signature] Date: 8/25/21

Property Owner

Name: John Shoulders Phone: 540-353-7561

Address: 4909 Starkey Rd Suite 103 Email: jfsno@rev.net

Owner's Signature: [Signature] Date: 8/25/21

Sign Contractor

Name: Taylor Signs Phone: 434-944-3967

Company: Michael Taylor Fax: _____

Address: 3457 Patrick Henry Highway Email: mtaylor2@taylorsigns@gmail.com

Proposal Information²

Address (or location description): 125 Walker Street Lexington

Tax Map: _____ Deed Book and Page #: _____

Acreage: _____ Zoning (attach any existing conditions or proffers): _____

Property Doing Business As: Trendy Southern Creations (boutique)

Overlay District:

- Historic (requires Architectural Review Board review and approval)
- Entrance Corridor (requires Planning Commission review and approval)
- None (requires Planning and Development Department review and approval only)

1. Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.
2. Any application deemed incomplete by staff will not be accepted.



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Sign Information

	<u>Sign Type</u>	<u>Square Feet</u>	<u>Width</u>	<u>Height</u>
Sign 1	storefront sign	_____	10 ft	2 1/2 ft.
Sign 2	free new panel on existing	_____	_____	_____
Sign 3	_____	_____	_____	_____

Street Frontage (width) of business space in feet 31 ft.

Street Frontage (width) of building in feet 120 ft.

Are other signs currently displayed on the same building? Yes No

If "Yes", please provide the size of each existing building sign that is to remain.

Width _____ Height _____

Width _____ Height _____

If a projecting sign, clearance from sidewalk: _____ feet

What materials will be used? aluminum, vinyl wrap

Will the sign be illuminated? Yes No

Please attach a sketch of sign(s) and samples showing the following:

- Dimensions of sign
- Lettering style and size
- How colors will be used
- Photo showing building and adjoining structures
- Exact wording layout of sign
- Paint samples
- Style of bracket, stand, and/or awning

- * Also add a panel to the free panel sign on East Nelson
- * 2 4ft LED lights under a aluminum hood to protect from the weather
- * Light will shine down above sign
- * Vinyl (weather proof wrap)
- * Sign will be placed where fitness your way sign is now
10ft.



- * Lettering size - Large letters 12 inches, small letters 8 inches
- * Lettering style - boutique
- * White aluminum, black cow print background, traced teal and black white letters
- * Trendy Southern Creations
- * Metal is $\frac{1}{8}$ inch thick
- * Will be secured with 3inch concrete screws every 8 inches all the way around

Draft amendments for Small Cell Facilities

In their 2017 session, the General Assembly passed SB1282 which impacts how the City assesses and approves wireless facilities both on and off city property. Small cell facility regulations are proposed to be added to a) the Lexington Zoning Chapter, b) to the Historic District Design Guidelines, and c) to the Streets and Sidewalks Chapter in accordance with the state regulations for small cell facilities.

The following report is divided into three sections and the **highlighted** items indicate proposed, amended language. The following table of contents for the Zoning Chapter identifies the two historic districts and the use and design standards for Broadcasting or Communication Tower that are proposed to be amended.

Chapter 420. Zoning Ordinance Table of Contents

Article I. In General

Article II. Review and Approval Procedures

Article III. Use Matrix.

Article IV. Zoning District Regulations

Article V. Planned Unit Development (PUD)

Article VI. Entrance Corridor Overlay District (EC)

Article VII. Institutional District I-1

Article VIII. **Historic Downtown Preservation District**

Article IX. **Residential Historic Neighborhood Conservation District**

Article X. General Floodplain District FP

Article XI. Use and Design Standards

§420-11.1. Residential Uses

§420-11.2. Civic Uses

§420-11.3. Commercial Uses

§420-11.4. Industrial Uses

§420-11.5. Miscellaneous Uses

1. Parking Facility

2. Portable buildings

3. Portable Storage Container

4. Broadcasting or Communication Tower

5. **Small Cell Facilities**

Article XII. Off-Street Parking and Loading Requirements

Article XIII. Signs

Article XIV. Landscaping

Article XV. Exterior Lighting

Article XVI. Nonconforming Uses

Article XVII. Amendments

Article XVIII. Enforcement

Article XIX. Board of Zoning Appeals

Article XX. Definitions

The Broadcasting or Communication Tower use and design standards will be reviewed first because they include the majority of the limitations imposed by the State in 2017.

A. Proposed Amendments to the Zoning Chapter

Pursuant to Section 15.2-2316.3 of the Code of Virginia, small cell facilities placed on existing structures are a use permitted in all zoning districts, and the City may require administrative approval. Amendments to the Lexington use and design standards for Broadcasting or Communication Towers are proposed to regulate this administrative approval of small cell facilities.

Article XI. Use and Design Standards (Lexington Zoning Chapter)

The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this ordinance that may apply.

§420-11.5. Miscellaneous Uses.

4. Broadcasting or Communication Tower.

- A. Applicability. The requirements set forth in this section shall control all antennas and broadcasting or communication towers except any antenna that is under 75 feet in height and is owned and operated by a federally licensed amateur radio station operator.*
- B. General guidelines and requirements.*
 - 1. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or towers on that lot. Antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.*
 - 2. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the City an inventory of its existing facilities that are either within the City or within five miles of the City limits, including specific information about the location, height, and design of each tower. The City may share such information with other applicants applying for approvals or conditional use permits under this section or other organizations seeking to locate antennas within the City; provided, however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.*
- C. Setbacks. The following setback requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the City may reduce the standard setback requirements if the goals of this section would be better served thereby:*
 - 1. Towers must be set back a distance equal to 200% of the height of the tower from any off-site residential structure and in no case less than 400 feet.*

2. *Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures.*

5. Wireless Communications Infrastructure.

(The following language is from the Manassas Park zoning supplemental regulations for small wireless communications infrastructure and this language will require adjustments to fit Lexington.)

The Governing Body of the City of Lexington has determined that it is in the best interests of the city and its citizens to regulate the installation of wireless communications infrastructure within the city.

A. Definitions. As used in this article, unless the context requires a different meaning:

“Administrative review-eligible project” means a project that provides for:

1. The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities is (i) not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) designed to support small cell facilities; or

2. The co-location on any existing structure of a wireless facility that is not a small cell facility. (Administrative review-eligible project and other definitions in blue were added in 2018 to VA Code.)

“Antenna” means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

“Base station” means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

“Co-locate” means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. “Co-location” has a corresponding meaning.

“Department” means the Department of Transportation.”

“Existing structure” means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality of an agreement with the owner of the structure to co-locate equipment on that structure. “Existing structure” includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

“Micro-wireless facility” means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

“New structure” means a wireless support structure that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.

“Project” means (i) the installation or construction by a wireless services provider or wireless infrastructure provider of a new structure or (ii) the co-location on any existing structure of a wireless facility that is not a small cell facility. “Project” does not include the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure to which the provisions of § 15.2-2316.4 apply.

“Small cell facility” means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

“Standard process project” means any project other than an administrative review-eligible project.

“Utility pole” means a structure owned, operated, or owned and operated by a public utility, local government, or the commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television or electricity.

“Water tower” means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

“Wireless facility” means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul; and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

“Wireless infrastructure provider” means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

“Wireless services” means: (i) “personal wireless services” as defined in 47 U.S.C. § 332©(7)©(i); (ii) “personal wireless service facilities” as defined in 47 U.S.C. § 332©(7)©(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

“Wireless services provider” means a provider of wireless services.

“Wireless support structure” means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. “Wireless support structure” does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

B. Zoning; small cell facilities.

1. A conditional use permit shall not be required for a small cell facility installed by a wireless services provider or wireless infrastructure provider on an existing structure, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) has provided notice to the city.
2. Administrative review and approval shall be required prior to the issuance of a zoning permit for the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure. An applicant may submit up to thirty-five (35) permit requests on a single application. In addition:
 - a. The city shall approve or disapprove the application within sixty (60) days after receipt of the complete application. Within ten (10) days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The sixty-day period may be extended by the city in writing for a period not to exceed an additional thirty (30) days. The application shall be deemed approved if the city fails to act within the initial sixty (60) days or an extended thirty-day period.
 - b. The fee for processing a small cell facility permit application shall be in the amount established by the fee schedule.
 Staff prefers to use the Williamsburg example and place the application fee amounts in the ordinance as opposed to referencing a fee schedule as follows:
An application fee of \$100 each for up to five small cell facilities plus \$50 for each additional small cell facility applied for.
 - c. Approval for a permit shall not be unreasonably conditioned, withheld, or delayed.
 - d. The city may disapprove a proposed location or installation of a small cell facility only for the following reasons:
 - (1) Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;
 - (2) The public safety or other critical public service needs;
 - (3) Only in the case of an installation on or in publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an

agreement for attachment to the structure, aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or

(4) Conflict with an applicable local ordinance adopted pursuant to section 15.2-2306 of the Code of Virginia on a historic property that is not eligible for the review process established under 54 U.S.C. § 306108.

e. Nothing shall prohibit an applicant from voluntarily submitting, and the city from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities.

(The Manassas Park code did not include provision to remove abandoned facilities which is allowed by VA Code 15.2-2316.4.B.6 and staff recommends the Williamsburg language for abandoned facilities be inserted here.)

3. Abandoned facilities. Wireless facilities along with any structures or equipment associated therewith, shall be removed from any property within 60 days upon cessation of use or abandonment.

4. Notwithstanding anything to the contrary in this subsection, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from city-imposed permitting requirements and fees.

C. Zoning; other wireless facilities and wireless support structures.

1. Although a conditional use permit is not required for the installation or construction of an administrative review-eligible project, administrative review shall be required for each such project prior to the issuance of a zoning permit.

2. The fee for zoning approval required for administrative review-eligible projects and standard process projects shall be in the amount established by the fee schedule.

Staff prefers to place the application fee amounts in the ordinance as opposed to referencing a fee schedule as follows:

The fee for zoning approval required for administrative review-eligible projects is \$500 each, and the fee for zoning approval required for standard process projects is the actual direct costs to process the application, including permits and inspections.

3. The processing of any application submitted under paragraph (1) above or for any zoning approval required for a standard process project shall be subject to the following:

a. Within ten (10) business days after receiving an incomplete application, the city shall notify the applicant that the application is incomplete. The notice shall specify any additional information required to complete the application. The notice shall be sent by electronic mail to the applicant's email address provided in the application. If the city fails to provide such notice within such ten-day period, the application shall be deemed complete.

- b. Except as provided in subparagraph c below, the city shall approve or disapprove a complete application:
- (1) For a new structure, within the lesser of one hundred fifty (150) days after receipt of the completed application or the period required by federal law for such approval or disapproval; or
- (2) For the co-location of any wireless facility that is not a small cell facility, within the lesser of ninety (90) days after receipt of the completed application or the period required by federal law for such approval or disapproval, unless the application constitutes an eligible facilities request as defined in 47 U.S.C. § 1455(a).
- c. Any period specified in subparagraph b above for the city to approve or disapprove an application may be extended by mutual agreement between the applicant and the city.
- d. A complete application for a project shall be deemed approved if the city fails to approve or disapprove the application within the applicable period specified in subparagraph b above or any agreed extension thereof pursuant to subparagraph c above.
4. If the city disapproves an application submitted under paragraph (3) above or for any zoning approval required for a standard process project:
- a. The city shall provide the applicant with a written statement of the reasons for such disapproval; and
- b. If the city is aware of any modifications to the project as described in the application that if made would permit the city to approve the proposed project, the city shall identify them in the written statement provided under subparagraph a above. The city's subsequent disapproval of an application for a project that incorporates the modifications identified in such a statement may be used by the applicant as evidence that the city's subsequent disapproval was arbitrary or capricious in any appeal of the city's action.
5. The city's action on disapproval of an application submitted under paragraph (1) above or for any zoning approval required for a standard process project shall:
- a. 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; and
- b. Be supported by substantial record evidence contained in a written record publicly released within thirty (30) days following the disapproval.
6. An applicant adversely affected by the disapproval of an application submitted under paragraph (1) or for any zoning approval required for a standard process project may file an appeal pursuant to subsection F of section 15.2-2285 of the Code of Virginia, or to section 15.2-2314 of the Code of Virginia if the requested zoning approval involves a

variance, within thirty (30) days following delivery to the applicant or notice to the applicant of the record described in subparagraph b of paragraph (5) above.

D. Application reviews.

1. In its receiving, consideration, and processing of a complete application submitted under paragraph (c)(1) above or for any zoning approval required for a standard process project, the city shall not:
 - a. Disapprove an application on the basis of:
 - (1) 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;
 - (2) The applicant's specific need for the project, including the applicant's desire to provide additional wireless coverage or capacity; or
 - (3) The wireless facility technology selected by the applicant for use at the project;
 - b. Require an applicant to provide proprietary, confidential, or other business information to justify the need for the project, including propagation maps and telecommunications traffic studies, or information reviewed by a federal agency as part of the approval process for the same structure and wireless facility, provided that the city may require an applicant to provide a copy of any approval granted by a federal agency, including conditions imposed by that agency;
 - c. Require the removal of existing wireless support structures or wireless facilities, wherever located, as a condition for approval of an application. The city may, however, adopt reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities;
 - d. Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other types of financial surety, to ensure that abandoned or unused wireless facilities can be removed, unless the city imposes similar requirements on other permits for other types of similar commercial development. Any such instrument shall not exceed a reasonable estimate of the direct cost of the removal of the wireless facilities;
 - e. Discriminate or create a preference on the basis of the ownership, including ownership by the city, of any property, structure, base station, or wireless support structure, when promulgating rules or procedures for siting wireless facilities or for evaluating applications;
 - f. Impose any unreasonable requirements or obligations regarding the presentation or appearance of a project, including unreasonable requirements relating to (i) the kinds of materials used or (ii) the arranging, screening, or landscaping of wireless facilities or wireless structures;
 - g. Impose any requirement that an applicant purchase, subscribe to, use, or employ facilities, networks, or services owned, provided, or operated by the city, in whole or in part, or by any entity in which the city has a competitive, economic, financial, governance, or other interest;

- h. Condition or require the approval of an application solely on the basis of the applicant's agreement to allow any wireless facilities provided or operated, in whole or in part, by the city or by any other entity, to be placed at or co-located with the applicant's project;
 - i. Impose a setback or fall zone requirement for a project that is larger than a setback or fall zone area that is imposed on other types of similar structures of a similar size, including utility poles;
 - j. Limit the duration of the approval of an application, except the city may require that construction of the approved project shall commence within two (2) years following final approval and be diligently pursued to completion; or
 - k. Require an applicant to perform services unrelated to the project described in the application, including restoration work on any surface not disturbed by the applicant's project.
- 2. Nothing in this section shall prohibit the city from disapproving an application submitted under paragraph (c)(1) above or for any zoning approval required for a standard process project:
 - a. On the basis of the fact that the proposed height of any wireless support structure, wireless facility, or wireless support structure with attached wireless facilities exceeds fifty (50) feet above ground level, provided that the city follows a local ordinance or regulation that does 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; or
 - b. That proposes to locate a new structure, or to co-locate a wireless facility, in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning proceeding as set forth in objectives contained in a comprehensive plan, if:
 - (1) The undergrounding requirement or comprehensive plan objective existed at least three (3) months prior to the submission of the application;
 - (2) The city allows the co-location of wireless facilities on existing utility poles, government-owned structures with the government's consent, existing wireless support structures, or a building within that area;
 - (3) The city allows the replacement of existing utility poles and wireless support structures with poles or support structures of the same size or smaller within that area; and
 - (4) The disapproval of the application does 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.

3. Nothing in this section shall prohibit an applicant from voluntarily submitting, and the city from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of a new structure or facility.
 4. Nothing in this section shall prohibit the city from disapproving an application submitted under a standard process project on the basis of the availability of existing wireless support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.
 5. The city shall not require zoning approval for (i) routine maintenance or (ii) the replacement of wireless facilities or wireless support structures within a six-foot perimeter with wireless facilities or wireless support structures that are substantially similar or the same size or smaller. Notwithstanding the foregoing sentence, a permit shall be required to work within the right-of-way for the activities described in clause (i) or (ii), if applicable.
 6. Nothing in this section shall prohibit the city from limiting the number of new structures or the number of wireless facilities that can be installed in a specific location.
- E. Relocation of facilities. Whenever the city determines that it is necessary in connection with the repair, relocation, or improvement of the public rights-of-way or any public project, the city may require by written notification that any person that has installed small cell facilities in the city's streets, alleys, or other public rights-of-way, or on public grounds or city-owned property, to remove or relocate any facilities located in the public rights-of-way or on public grounds or on city-owned property.

Within ~~sixty (60)~~ one hundred eighty (180) days after receipt of notification, unless the city extends such period for good cause shown, such person shall remove or relocate its facilities to such place and under such terms and conditions as specified by the city. Such person shall bear all expenses associated with the removal and relocation of its facilities except that the city will issue, without charge, whatever local permits are required for the relocation of such facilities. If such person does not complete its removal or relocation within ~~sixty (60)~~ one hundred eighty (180) days after receipt of the notification or such other period as authorized by the city, the city may take such actions as necessary to effect such removal or relocation at such person's expense. If the city or its representatives remove or relocate any facilities that are located in the city's streets, alleys, or other public rights-of-way, or on public grounds or city-owned property because the owner of the facilities fails to do so in a timely manner, neither the city or its representatives shall be liable for any damages the facilities may suffer as a result of such removal or relocation.

Locality must provide a minimum of 180 days advance written notice to relocate wireless support structures per Code of VA, Title 56. Public Service Companies. Chapter 15.1. Wireless Communications Infrastructure. Section 56-484.30. Agreements for use of public rights of way to construct new wireless support structures; relocation of wireless support structures.

- F. [Failure to remove or relocate.] Further, any person that fails to remove its facilities in a timely manner will be responsible for any additional costs and expenses incurred by the city as a result of such person's failure to remove or relocate its facilities as instructed by the city.

(Ord. No. 19-1700-1028, § 1, 1-22-19, Manassas Park)

B. Proposed Amendments to the Historic Design Guidelines

Section 15.2-2316.3 of the Code of Virginia also allows the City to require small cell facilities comply with architectural review guidelines in historic districts and revisions to the Lexington Historic District Design Guidelines are proposed.

The Lexington Zoning chapter includes an article for the Historic Downtown Preservation District and another article for the Residential Historic neighborhood Conservation District. Both of these articles include criteria known as considerational factors that shall be contemplated before the issuance of a Certificate of Appropriateness by the Architectural Review Board. With the adoption of design guidelines in 2020, the considerational factors were amended to add any applicable provision of the city's design guidelines in the issuance of a Certificate of Appropriateness. The design guidelines can therefore be amended with new guidelines for small cell facilities, and any future small cell facility application must be in compliance with the adopted small cell design guidelines in order for the Architectural Review Board to approve a Certificate of Appropriateness.

Article VIII. Historic Downtown Preservation District (Lexington Zoning Chapter)

§420-8.6. Certificate of appropriateness.

A. *Action by Architectural Review Board.*

B. *Considerational factors. Before a certificate of appropriateness is issued by the Board, and upon conferring with the applicant for the certificate of appropriateness, the Board, in addition to other pertinent factors which may be involved in the execution of the purposes and objectives declared in §420-8.1, shall consider:*

1. *The historical or architectural value and significance of the building or structure and its relationship to or congruity with the historic value of the land, place or area in the Historic Downtown Preservation District upon which it is proposed to be located, constructed, reconstructed, altered or repaired.*
2. *The appropriateness of the exterior architectural features of such building or structure to such land, place or area and its relationship to or congruity with the exterior architectural features of other land, places, areas, buildings or structures in the Historic Downtown Preservation District and environs.*
3. *The general exterior design, arrangement, textures, materials, planting and color proposed to be used in the location, construction, alteration or repair of the building, structure or improvement and the types of windows, exterior doors, lights, landscaping and parking viewed from a public street, public way or other public place and their relationship to or congruity with the other factors to be considered by the Board under this section.*

4. Any applicable provisions of the city's design guidelines

(Proposal is to add new small cell facility design guidelines to the Lexington Historic District Design Guidelines)

C. *Factors not necessarily considered.*

Article IX. Residential Historic Neighborhood Conservation District (Lexington Zoning Chapter)

§420-9.8. Considerational factors.

Before a certificate of appropriateness is issued by the Board for work within these Residential Historic Neighborhood Conservation Districts, and upon conferring with the applicant for the certificate of appropriateness, the Board, in addition to considering the purposes and objectives specified in §420-9.1, shall consider:

- A. *The appropriateness of the exterior architectural features of the building and its relationship to or congruity with the exterior architectural features of other land, places, areas, buildings or structures in the Residential Historic Neighborhood Conservation District and environs.*
- B. *The general exterior design, arrangement, textures, and materials proposed to be used in the construction of the building when viewed from the public street (or streets in the case of a corner lot) along the lot front of said building and its relationship to the other factors to be considered by the Board under this section. Among other things, the Board is to consider the overall architectural design, form and style, including the height, mass, proportion and scale; architectural details, such as the design and style of decorative or functional fixtures, such as lighting, windows and doors; the design and arrangement of buildings on the site; and the texture and materials of a proposal when assessing architectural compatibility.*
- C. **Any applicable provisions of the city's design guidelines.**

(Proposal is to add new small cell facility design guidelines to the Lexington Historic District Design Guidelines)

Lexington, Virginia Historic District Design Guidelines Table of Contents

(The full Lexington Historic District Design Guidelines can be found at <http://lexingtonva.gov/civicax/filebank/blobdload.aspx?t=59454.53&BlobID=28194>)

- 1. Introduction
- 2. Planning your project
- 3. Architectural & development overview
- 4. Guidelines for site design
 - A. Walkways, driveways & parking
 - B. Plantings & trees
 - C. Fences & walls
 - D. Lighting
 - E. Outbuildings, garages, & other site features
 - F. Site appurtenances

G. Small Cell Facilities

(Proposal is to add new small cell facility design guidelines to the site appurtenances section of the guidelines for site design)

5. Guidelines for existing buildings – elements
6. Guidelines for existing buildings – materials
7. Guidelines for new construction & additions
8. Guidelines for awnings, canopies & marquees
9. Guidelines for signs
10. Guidelines for painting
11. Guidelines for energy conservation
12. Guidelines for accessibility
13. Guidelines for archaeology
14. Guidelines for vacant buildings
15. Moving & demolition

Lexington, Virginia Historic District Design Guidelines

IV. SITE DESIGN

F. Site appurtenances

Site appurtenances, such as overhead wires, fuel tanks, utility poles and meters, antennae and satellite dishes, exterior HVAC units, and trash containers, are a necessary part of contemporary life. The placement of these items can either have a neutral impact on the character of the site and structure or detract from their historic appearance.

Site features fall into two categories: those features that can be controlled by the property owner – antennae, satellite dishes, mechanical units, trash containers, etc. – and those that cannot – overhead wires, utility poles, etc.

Guidelines:

1. *Place site appurtenances such as HVAC equipment in inconspicuous areas to the rear of the building, or in side yards, and screen with appropriate plantings or fencing while allowing for sufficient air flow. Site appurtenances should not be placed in location visible from a public right of way if possible.*
2. *Antennae, satellite dishes, and solar panels can be located on rooftop location not visible from the public right of way. Do not install satellite dishes on parts of the building's façade or porch.*
3. *Store trash containers in screened locations not visible from the public rights of way.*
4. *Consider placing overhead utilities coming to the private site underground whenever possible.*
5. *For commercial buildings with limited site space, place mechanical units on sections of the roof that are not visible from public rights of ways if possible, and screen the units as needed.*

(Included in this section are 5 photographic examples of site appurtenances.)

[\(The following language is proposed to be inserted at the end of the existing section of the Lexington Historic District Design Guidelines devoted to site appurtenances. The following language is from the Town of Middleburg, VA Historic District Design Guidelines for “small cell](#)

facilities and other wireless antennas and infrastructure” and adjustments will be needed to fit Lexington.)

In 2018, the Federal Communications Commission (FCC) issued guidance and adopted rules to streamline wireless infrastructure siting review processes to facilitate the deployment of next-generation wireless facilities.¹ To address the growing demand for wireless technology across the United States, cellular providers propose to increase the capacity of their networks by deploying small cell infrastructure, a new lower-powered antenna technology, to reduce data traffic load on larger cell towers. This new technology requires infrastructure to be installed in closer proximity to the users on the ground and this infrastructure will affect the aesthetics of public spaces.

In its order, the FCC concluded that aesthetics requirements are not preempted if they are (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance.¹ As with other types of antennas and utility facilities providing contemporary functionality, small cell antennas (and its supporting equipment) and other wireless antennas, such as those providing municipal wi-fi, are generally incompatible with the character of the Downtown and Residential Historic Districts, and their inappropriate location can have a negative visual impact on those Districts.

In concert with the preceding guidelines for site design and elements, the following guidelines are provided pertaining to small cell and other wireless antennas and infrastructure (collectively “facilities”):

- 1. To the greatest extent practicable, such facilities must be hidden from view.*
- 2. Any small cell or other wireless antenna must be as small as possible consistent with the requirements for reception and transmission, but in no case shall any antenna exceed **three (3) cubic feet in volume**.*
- 3. All other wireless equipment associated with any such facility must also be as small as possible consistent with the requirements for reception and transmission, but in no case shall such equipment have a cumulative volume of more than 28 cubic feet*
- 4. If located on or adjacent to a building, such facilities must be located in the most inconspicuous location.*
- 5. In no case shall any installation of such facilities to a building be done in such a manner that the method of attachment will cause harm or degradation to the building facade, architectural features or any structural element.*
- 6. Such facilities should not be mounted on front roofs of buildings because they create visual disruption of the historic streetscape and are difficult to screen effectively. Such facilities shall not disrupt the architectural character of a structure; rather, they should be hidden behind architectural features, such as a parapet. If there is no parapet, they shall be mounted as far back from the roof line as possible and painted to match the predominant color of the roof to limit visibility from a public right-of-way.*

¹ Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Fed. Reg. Vol. 83, No. 199 (Oct. 15, 2018). Federal Register: The Daily Journal of the United States Government.

7. Conduit and cabling should not be installed on building facades that may be seen from the public right-of-way. If there is no practicable alternative such as interior cabling or location on a non-visible facade, then any such conduit or cabling must be as minimal in size as possible and of a color compatible with the structure.
8. Any facilities collocated on existing utility poles or on new support structures shall be in a matte black finish.
9. Aside from antennas and cabling, no other facilities should be collocated on existing utility poles. Any additional required facilities (e.g. equipment cabinet) should be ground mounted.
10. Aside from antennas and cabling, no other facilities shall be located on a new support structure. Any additional required facilities (e.g. equipment cabinet) shall be ground mounted.
11. Any ground mounted facilities shall be completely enclosed and screened with vegetation. When located adjacent to a building, such ground mounted facilities may alternatively be screened with an enclosure of material and color compatible with the building.
12. New support structures (i.e. poles) for such facilities are not appropriate on Main Street between ? Street and ? Street. This core section of the Downtown Historic Preservation is predominantly characterized by buildings sited directly to, and sometimes encroaching into, the public right-of-way. Coupled with often narrow sidewalks and decorative streetlights, this section of Main Street does not offer an appropriate setting for new support structures and facilities. Alternatively, applicants should look to existing utility pole infrastructure located off of, and behind structures along, Main Street for collocation of such facilities.
13. If collocation on existing utility pole infrastructure is not feasible, any new support structures for such facilities should be sited alongside existing utility pole infrastructure located off of, and behind structures along, Main Street in existing rights-of-way or utility easements. Location away from existing sidewalks and streets is preferred.
14. Any new support structure that must be located along or adjacent to an existing sidewalk or street shall be round, smooth metal in a matte black finish, should be no larger than 6" in diameter and shall provide for interior cabling. The height of any such structure shall be no higher than necessary consistent with the requirements for reception and transmission, but in no case shall exceed 30 feet in height. Deployments needing additional height shall collocate on an existing building or utility pole or on a new support structure located away from existing sidewalks and streets.
15. Any new support structure located along an existing sidewalk or street shall align with existing features such as utility poles and trees as to maintain organization and keep out of the pedestrian path.

16. New support structures located away from existing sidewalks and streets, and alongside or in line with existing utility poles, may match such existing utility poles in design and material. Such new support structures should be no taller or larger in diameter than such existing utility poles. Cabling along any wood support structure shall be within conduit or otherwise covered, with such conduit or covering to be in a matte black finish.
17. In no case shall any new support structure or facilities impede safe and convenient pedestrian circulation or vehicular traffic, to include VDOT standards for sight distances, nor create any conflict with access to and from public or private parking spaces.
18. In no case shall any new support structure or facilities violate applicable local, state or federal law, including the Americans with Disabilities Act.
19. In no case shall any new support structure or facilities be located within 15 feet from an existing fire hydrant or building's fire department connection.
20. Any proposed pruning or removal of trees, shrubs or other landscaping in conjunction with the location or collocation of such facilities must be approved by the City. In all cases, tree "topping" or other improper pruning is prohibited. In no case shall the City be obligated to approve removal of a tree from the public right-of-way or from private property where such tree is required by a site plan governing the property's development.

(Town of Middleburg, Virginia, adopted 4/11/19)

C. Proposed Amendments to the Streets and Sidewalks Chapter

Section 15.2-2316.3 of the Code of Virginia requires a city to allow an application for a right of way permit to access the public right of way for the purpose of installing small cell facilities onto privately owned structures located within the public right of way. The wireless provider must have permission from the owner of the structure to co-locate and provides notice of that agreement and co-location to the locality. Following are proposed amendments to the Lexington Streets and Sidewalks Chapter to allow access to the public right of way for the purpose of installing small cell facilities.

Chapter 356 Streets and Sidewalks Table of Contents (Code of the City of Lexington)

1. Street system
2. Public alleyways
3. Installation and repair of sidewalks, curbs and gutters
4. Driveway crossings over existing sidewalks
5. Duty of City Manager as to improvements and repairs
6. Care of City trucks and equipment used on streets
7. Tampering with structures on streets
8. Excavation permits
- 9. Small Cell Facilities**
- ~~9~~10. Wires and cables
- ~~10~~11. Unauthorized occupation or use
- ~~11~~12. Depositing wood, coal, lumber and other materials
- ~~12~~13. Barriers around construction
- ~~13~~14. Removal of permanent obstructions
- ~~14~~15. Vegetation obstructing view at intersections
- ~~15~~16. Removal of snow from sidewalk or footway
- ~~16~~17. Discharge of water
- ~~17~~18. Gutters for buildings where eaves project over sidewalk
- ~~18~~19. Flags and flagstaffs
- ~~19~~20. Parades and processions
- ~~20~~21. Marking and naming of streets
- ~~21~~22. Goods, wares and merchandise
- ~~22~~23. Loafing and loitering

Code of the City of Lexington, VA
Chapter 356 Streets and Sidewalks

§ 356-8 Excavation permits. *(Note: this is the closest thing in Lexington to a right of way permit.)*
(The following language is from the Williamsburg “use permits for public rights of way and places” and this language will require adjustments to fit Lexington.)

- A. *Except as provided in section 356-9, No person shall excavate or disturb the surface of any street without first obtaining from the City Manager or his designated representative a permit for the performance of the contemplated project. The word "person" as used in this section shall include any firm, association, cooperation and utility company.*
- B. *Emergency excavations may be made without an advance permit, but application for a permit will be submitted within 48 hours after commencement of the excavation.*
- C. *The permit application shall be in writing describing the project, its location, the area of street disturbance necessary and the contemplated dates of commencement and completion of the project.*
- D. *Each application for a permit shall have attached a check payable to the City Treasurer in the amount of \$25 to cover the permit fee, which sum shall be refunded in the event the application is denied, except that in no event shall any person be required to pay an amount exceeding \$2,500 in permit fees per City fiscal year.*
- E. *The applicant, upon issuance of the permit, who is not otherwise under bond or a franchise, shall post a performance bond or in lieu thereof a certified check in such amount to be determined by the City Manager to insure compliance with the restoration and repair requirements of this section, the amount of such bond not to exceed the bond required by other franchise utilities, which bond shall be effective for the period of one year from the date of completion of the project.*
- F. *Any person disturbing the surface of any street shall repair the same in accordance with the current specifications of the Virginia Department of Transportation (Road and Bridge Specifications, § 303.10, Backfilling of Opening, and § 303.11, Embankments) or in accordance with subsequent amendments thereto and shall be responsible for maintaining such repairs for a period of one year from the date of project completion.*
- G. *Upon completion of the project, the street shall be marked by the applicant in such manner and color as may be designated and assigned by the City Manager.*
- H. *Any person who fails to obtain a permit as required by this section or, upon issuance of a permit, fails to comply with the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25 nor more than \$200. Each day's continuance thereof shall be a separate offense. Any such violation shall be deemed a nuisance and the court or trial justice trying the case shall have power to cause the nuisance to be abated and to commit the offenders and all their agents and employees engaged in such offenses in jail until such order of the court shall be obeyed.*
- I. *The fee and bond requirements of this section shall be waived as to any person performing work on behalf of the City*

§ 356-9 Wireless facilities within city rights-of-way

(a) Definitions. As used in this article, unless the context requires a different meaning:

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Base station" means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Districtwide permit" means a permit granted by the Department to a wireless services provider or wireless infrastructure provider that allows the permittee to use the rights-of-way under the Department's jurisdiction to install or maintain small cell facilities on existing structures in one of the Commonwealth's nine construction districts. A districtwide permit allows the permittee to perform multiple occurrences of activities necessary to install or maintain small cell facilities on non-limited access right-of-way without obtaining a single use permit for each occurrence. The central office permit manager shall be responsible for the issuance of all districtwide permits. The Department may authorize districtwide permits covering multiple districts.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television or electricity.

"Water Tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul; and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means: (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

- (b) Application. Wireless service providers installing small cell facilities co-located on existing structures shall utilize the application process as provided in section 9-364, except that the permit processing fee for such application(s) shall not exceed \$250.00. Said application shall either be approved or disapproved within 60 days of the date the completed application is received. The 60-day period may be extended in writing for a period not to exceed 30 days. The applicant shall be notified within ten days from the date the application is received if the application is incomplete and specify any missing information. Said application shall also contain notice of an agreement to co-locate on one or more existing structures in the rights-of-way. 9-364 is a rights of way use permit application and processing fee
- (c) Wireless service providers installing or maintaining micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall not be required to obtain a permit except as herein below provided. The wireless provider shall notify the city in the event that they propose to install or repair micro-wireless facilities within a public right-of-way at least 24 hours prior to performing the work. A permit may be required by the city in the event that the work involves working within the highway travel lane or requires closure of a highway travel lane, disturbs the pavement, shoulder, roadway or ditch line, includes placement on a limited access right-of-way, or requires any specific precautions to ensure safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place and manner that is inconsistent with terms of an existing permit for that facility or the structure upon which it is attached. In the event an application is required to obtain a permit herein, no application fee shall be required for such application.
- (d) Wireless facilities other than co-located small cell facilities or wireless facilities shall only be permitted within city rights-of-way with the approval of city council as part of a franchise application for use of the public rights-of-way, consistent with state law.

(e) Wireless facilities permitted within city rights-of-way which cease to be used or which are abandoned shall be removed from city rights-of-way within 60 days upon cessation of use or abandonment.

(Ord. No. 17-19, 11-9-17, Williamsburg, VA)