

Virginia Broadcasting, LLC – Special Use Permit Project Narrative
Replacement Tower on Carter’s Mountain

Virginia Broadcasting, LLC (“Virginia Broadcasting”) respectfully requests a special use permit allowing it to replace a guy-wire tower and antenna originally erected in 1972 with a self-supporting tower and antenna of the same height and in the same location in the antenna farm on Carter’s Mountain. This property is located on tax map No. 91, parcel 28.

BACKGROUND AND PROJECT PROPOSAL

The United States Congress ordered the Federal Communication Commission to reduce the bandwidth available for television broadcasting from Channels 2 through 51 to Channels 2 through 36 so that the excess bandwidth could be sold to the cellular telephone industry. As part of this process, WVIR-TV was ordered to move from Channel 32 to Channel 2. This process is known in the industry as “the Repack.” WVIR-TV must complete this move no later than September 6, 2019.

Virginia Broadcasting leases one (1) acre of land in the antenna farm on Carter’s Mountain and has two towers there. Both are 314 feet tall, including beacon, and are 1,781 AMSL. The north tower is self-supporting, while the south tower is guyed.

The north tower was constructed in 2004 at 37 degrees, 59 minutes, 02.5 seconds North Latitude, 78 degrees, 28 minutes, 52 seconds West Longitude (NAD-83), and supports WVIR’s channel 32 digital antenna and microwave dishes. The south tower was constructed in 1972 at 37 degrees, 59 minutes, 0.5 seconds North Latitude, 78 degrees, 28 minutes, 54 seconds West Longitude (NAD-83), and currently supports additional microwave dishes.

The 1972 guy-wired tower (the south tower) does not meet current FCC or FAA requirements for wind or ice load for the new, heavier channel 2 antenna. The new channel 2 antenna will weigh five (5) times as much as the current antenna on the south tower. Accordingly, Virginia Broadcasting purposes to demolish the 1972 guy-wire tower and replace it with a new, self-supporting tower with the strength and integrity to support the new Channel 2 antenna. The new tower and antenna will be in the same location as the existing tower and overall will be the same height, 314 feet. Because the channel 2 antenna will be approximately 18 feet longer than the existing antenna on the guy wire tower, the new tower will be approximately 18 feet shorter than the existing tower so that the overall height will remain the same.

The FCC has indicated that it will soon require television stations to transmit with a new broadcast standard, ATSC 3.0. This new standard is incompatible with the current standard, ATSC 1.0, and will require new transmitting equipment, new antennas (more unfunded federal mandates) and new TV receivers. WVIR will be required to offer the old standard when the new standard is implemented. This will require two transmitters, and two antennas, similar to when the industry began offering high definition digital transmissions, while continuing to require analog signals to existing television viewers. WVIR will also continue to maintain microwave dishes on the north tower after the switch to Channel 2.

WVIR-TV went on the air in 1973, bringing Charlottesville and the surrounding areas its first local television station. Virginia Broadcasting is required by the FCC to act in the public's interest and it has done so since inception. Today, WVIR broadcasts six (6) hours of local news per day and an additional four and a half (4 ½) hours of national news per day. It is by far the most viewed television station in the area, providing citizens with important news and information, including serving as a source of the emergency alert system, designed to warn citizens in the event of a

national emergency, as well as local weather emergencies. According to the A. C. Neilson Company, WVIR reaches approximately 72,000 households daily in the Charlottesville market (and over 100,000 households when areas outside the Charlottesville market are included) and it has won many, many national and statewide awards for excellence. Just this past year alone, WVIR won more awards for journalism from the Associated Press than any other TV station in Virginia or West Virginia.

The character of the zoning district will not be changed by the proposed tower. The area is an antenna farm with many antennas currently existing. The proposal is to replace an old guy-wire tower with a self-supporting tower. Guy wire towers are disfavored today. *See*, Albemarle County Code, §5.1.40 (“Guy wires are prohibited”). While the base of the proposed new tower will be wider than the base of the existing guyed tower, it will be narrower than the base of the existing self-supporting tower and the visible impact will be negligible outside of the antenna farm. The new self-supporting tower will be 10 feet narrower at its base than the existing self-supporting tower and the new self-supporting tower narrows as it goes up in height. As can be seen from the photograph attached hereto as Exhibit 1, the visible difference between the existing two towers is negligible outside the antenna farm, except that the current guy wire tower appears more dense and hence, slightly more visible. When the new self-supporting tower, which will be narrower than the existing self-supporting tower, replaces the old guy wire tower, there will be no additional visible impact.

PROPOSED USE PERMITTED BY ZONING ORDINANCE

The proposed use is permitted by Section 10.2.2.6 of the County Zoning Ordinance that permits “energy and communications transmission facilities” by special use permit in an RA

district. The proposed use is consistent with and in compliance with the supplemental regulations in Section 5.1.12 of the County Code.

The proposed use will not endanger the health or safety of workers or residents in the community and will not impair or serve as a detriment to neighboring properties. Virginia Broadcasting's facilities are and will continue to be enclosed by fencing and posted with "no trespassing" signs.

CONSISTENCY WITH COMPREHENSIVE PLAN

The proposed site is located in Rural Area 4 in the antenna farm on Carter's Mountain. There has been a broadcast tower on this precise site since 1973. There are many such towers in the antenna farm in close proximity to WVIR's existing tower. A number of special use permits have been allowed for towers in the antenna farm.

The Comprehensive Plan seeks, in part, to preserve scenic resources, as it should. The proposed replacement tower will have no impact on those resources. The proposed replacement tower will look the same as the existing self-supporting tower to anyone outside of the antenna farm, but will be narrower. The new south tower will be ten (10) feet narrower at its base than the existing north tower. Since the new proposed tower will be replacing the slightly more dense guyed tower, visual impact will be slightly reduced.

The proposed replacement tower is compatible with the surrounding apple orchard operations on Carter's Mountain as the existing tower has co-existed in harmony with it since 1973. The replacement tower will generate little or no demand for fire, rescue, or public services; it will operate without the need for public water or sewer. The proposed replacement tower will not change the character of the antenna farm and is consistent with existing uses.

IMPACTS ON PUBLIC FACILITIES & PUBLIC INFRASTRUCTURE

The replacement tower site is located in a non-public antenna farm on Carter's Mountain. The tower will have no impact on public facilities or public infrastructure.

IMPACTS ON ENVIRONMENTAL FEATURES

There are no known negative impacts on the environment. Arguably, the replacement of a guy-wired tower with a self-supporting structure will have a positive impact on avian fatalities.

GENERAL HEIGHT REGULATION

Section 4.10.3.1 of the Albemarle County Code provides that height limitations contained in the County Code do not apply to television antennas or towers. It goes on to provide, however, that such towers not be located closer in distance to any lot line than the height of the structure, here 314 feet.

The precise site of Virginia Broadcasting's existing tower is approved by the FCC and the FAA. It is believed that this site is located within 314 feet of the lot line. There are no structures or other improvements on the adjacent lot within 314 feet of the tower; the area consists solely of apple trees maintained by Crown Orchard.¹

It is important to understand that towers do not fall sideways. If the existing or proposed tower ever failed, it would collapse upon itself, and go nearly straight down. Virginia Broadcasting is, of course, hiring competent engineers and tower manufacturers to ensure that no failure occurs.

¹ It is possible that this adjacent lot, as pertinent here, has been acquired by Crown Orchard by adverse possession after more than 20 years of open and obvious possession and use as part of its apple orchard.

To the extent a modification or waiver of the distance to lot line requirement is needed, Virginia Broadcasting respectfully requests such a modification or waiver.

Application for Special Use Permit



IMPORTANT: Your application will be considered **INCOMPLETE** until all of the required attachments listed on page 2 have been submitted and the application signature is verified (see Page 3). Also, please see the list on page 4 for the appropriate fee(s) related to your application.

PROJECT NAME: (how should we refer to this application?) WVIR-TV Replacement of existing television tower.

PROPOSAL/REQUEST: To replace an existing guy-wired tower with a new self-supporting tower.

ZONING ORDINANCE SECTION(S): 10.2.2.6; 5.1.12

EXISTING COMP PLAN LAND USE/DENSITY: Rural

LOCATION/ADDRESS OF PROPERTY FOR SPECIAL USE PERMIT:
Off Route 53 in Carter's Mountain Orchard

TAX MAP PARCEL(S): TM 91, Parcel 28

ZONING DISTRICT: RA

OF ACRES TO BE COVERED BY SPECIAL USE PERMIT (if a portion, it must be delineated on a plat):

Is this an amendment to an existing Special Use Permit? If Yes provide that SP Number. SP- _____

☐ YES ☒ NO

Are you submitting a preliminary site plan with this application?

☒ YES ☐ NO

Contact Person (Who should we call/write concerning this project?): Gregory S. Duncan

Address 412 East Jefferson Street City Charlottesville State Virginia Zip 22902

Daytime Phone () 979-8556 Fax # () _____ E-mail gregdun@ntelos.net

Owner of Record Crown Orchard, LLC

Address P. O. Box 299 City Batesville State Virginia Zip 22924

Daytime Phone () 977-0619 Fax # () 979-6277 E-mail _____

Applicant (Who is the Contact person representing?): Virginia Broadcasting, LLC

Address 503 East Market Street City Charlottesville State Virginia Zip 22902

Daytime Phone () 220-2900 Fax # () _____ E-mail _____

Does the owner of this property own (or have any ownership interest in) any abutting property? If yes, please list those tax map and parcel numbers:

No

FOR OFFICE USE ONLY SP # 2018-00020

SIGN # _____

Fee Amount \$ _____ Date Paid _____ By who? _____ Receipt # _____ Ck# _____ By: JP

ZONING ORDINANCE SECTION _____

Concurrent review of Site Development Plan? YES _____ NO _____

County of Albemarle
Department of Community Development
401 McIntire Road Charlottesville, VA 22902 Voice: (434) 296-5832 Fax: (434) 972-4126

Special Use Permit Application Revised 4/23/2018 Page 1 of 4

REQUIRED ATTACHMENTS & OTHER INFORMATION TO BE PROVIDED FOR THE APPLICATION TO BE OFFICIALLY SUBMITTED & DEEMED COMPLETE

- ☐ **Application Signature Page**
- ☐ **One (1) completed & signed copy of the Checklist for a Special Use Permit.**
- ☐ **One (1) copy of the Pre-application Comment Form received from county staff**
- ☐ **One (1) copy of any special studies or documentation as specified in the Pre-application Comment Form.**
- ☐ **Seventeen (17) folded copies** of a Conceptual Plan.
- ☐ **Seventeen (17) copies** of a written narrative

The narrative must be laid out to identify each of the bulleted **TITLES** as follows:

- **PROJECT PROPOSAL**

The project proposal, including

- its public need or benefit;
- how the special use will not be a substantial detriment to adjacent lots,
- how the character of the zoning district will not be changed by the proposed special use, and
- how the special use will be in harmony with the following;
 - the purpose and intent of the Zoning Ordinance,
 - the uses permitted by right in the zoning district,
 - the regulations provided in Section 5 of the Zoning Ordinance as applicable, and
 - the public health, safety and general welfare.

(be as descriptive as possible, including details such as but not limited to the number of persons involved in the use, operating hours, and any unique features of the use)

- **CONSISTENCY WITH COMPREHENSIVE PLAN**

The proposed project's consistency with the comprehensive plan, including the land use plan and the master plan for the applicable development area;

- **IMPACTS ON PUBLIC FACILITIES & PUBLIC INFRASTRUCTURE**

The proposed project's impacts on public facilities and public infrastructure.

- **IMPACTS ON ENVIRONMENTAL FEATURES**

The proposed project's impacts on environmental features.

- ☐ **One (1) copy of the most recent recorded plat**, that shows the Deed Book/Page Number, of the parcel(s) composing the proposed project, or a boundary survey if a portion of one or more parcels compose the proposed project, both of which shall include a metes and bounds description of the boundaries.

- ☐ **Taxes, charges, fees, liens owed to the County of Albemarle**

As the owner/agent I certify that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, which are owed to the County of Albemarle and have been properly assessed against the subject property, **have been paid.**

PLEASE CONSULT THE LIST OF ITEMS WHICH WILL BE REVIEWED BY STAFF
LINKED HERE

APPLICATION SIGNATURE PAGE

VERIFICATION OF THE SIGNATURE ON THIS PAGE MUST HAPPEN BEFORE THE APPLICATION MAY BE DEEMED COMPLETE

If ownership of the property is in the name of any type of legal entity or organization including, but not limited to, an LLC, a corporation, a partnership or association, or a trust, then a document acceptable to the County must be submitted with this application certifying that the person signing below has the authority to do so.

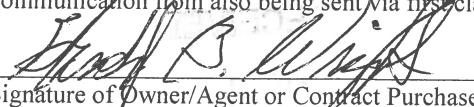
If the applicant is a contract purchaser, a document acceptable to the County must be submitted containing the owner's written consent to the application and must include any applicable documents authorizing that person to provide consent. If the applicant is the agent of the owner, a document acceptable to the County must be submitted that is evidence of the existence and scope of the agency. Please attach the owner's written consent.

☐ **One (1) copy of the applicable ownership information.**

CHECK AS APPLICABLE	OWNERSHIP OF THE PROPERTY IS A	DOCUMENT TO BE PROVIDED FOR THIS APPLICATION
<input type="checkbox"/>	Limited liability company ("LLC")	The articles of organization and when the power is delegated to someone other than a manager or a member, also the operating agreement.
<input type="checkbox"/>	Stock & Nonstock corporation	
	(1) for a board of directors	(1) <ul style="list-style-type: none"> a. Stock - the articles of incorporation or a shareholders agreement may limit the board's statutory authority. b. Nonstock - the articles of incorporation and the by-laws, the latter of which may include a member or director agreement, may limit the board's statutory authority
	(2) for a person expressly authorized by the board of directors	(2) written evidence of that authorization such as a board resolution or board minutes
	(3) for a committee	(3) an action of the board of directors authorizing the committee to act; the articles of incorporation or the by-laws may limit the statutory authority
	(4) for a corporate officer	(4) the by-laws or the delegating resolution of the board of directors.
<input type="checkbox"/>	Partnership	The statement of partnership authority, which may limit the authority of one or more partners.
<input type="checkbox"/>	Limited partnership	The partnership agreement, or amendments thereto, which may limit the authority of one or more general partners.
<input type="checkbox"/>	Incorporated & Unincorporated church and other religious body	(1) for trustees, an authorizing court order (2) for the corporation holding title, the appropriate corporate documents (3) for a bishop, minister or ecclesiastical officer, the laws, rules or ecclesiastical polity of the entity that authorizes the person to hold, improve, mortgage, sell and convey the property.
<input type="checkbox"/>	Land trust	The deed of conveyance to the trustees and the trust instrument
See Attachment A in the Land Use Law Handbook for a complete list of Authorized Signatories for Land Use Applications		

Owner/Applicant Must Read and Sign

I hereby certify that I own the subject property, or have the legal power to act on behalf of the owner in filing this application. I also certify that the information provided on this application and accompanying information is accurate, true, and correct to the best of my knowledge. By signing this application I am consenting to written comments, letters and or notifications regarding this application being provided to me or my designated contact via fax and or email. This consent does not preclude such written communication from also being sent via first class mail.


 Signature of Owner/Agent or Contract Purchaser
 Harold Wright, Jr.
 Print Name

Nov 8, 2018
 Date
 434-220-2900
 Daytime phone number of Signatory