



# Albemarle County

## Legislation Text

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**File #:** 18-414, **Version:** 1

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**AGENDA DATE:** 8/1/2018

**TITLE:** Appeal of SDP201800027 - Verizon - Frys Spring Tier II (5th Street Station)

**SUBJECT/PROPOSAL/REQUEST:** Appeal of agent's disapproval of a Tier II Personal Wireless Service Facility.

**ITEM TYPE:** Regular Action Item

**STAFF CONTACT(S):** Richardson, Walker, Kamptner, Graham, Fritz, Knuppel

**PRESENTER (S):** Andrew Knuppel

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** Staff disapproved the application for a Tier II Personal Wireless Service Facility on Tax Map Parcel 076M1-00-00-00027 (SDP201800027-Verizon-Frys Spring Tier II) on June 21, 2018 (Attachment A), providing notice to the applicant in writing and identifying which requirements were not satisfied. The applicant has appealed this action (Attachment D), challenging the staff's finding that County Code § 18-5.1.40(b)(6) could not be satisfied under the current proposal.

**STRATEGIC PLAN:** Thriving Development Areas: Attract quality employment, commercial, and high density residential uses into development areas by providing services and infrastructure that encourage redevelopment and private investment while protecting the quality of neighborhoods.

**DISCUSSION:** County Code § 18-5.1.40(b)(6) states in part: "The site shall provide adequate opportunities for screening and the facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility. The facility also shall be sited to minimize its visibility from any entrance corridor overlay district... regardless of whether the site is adjacent to the district..

Administrative practice is to maintain a narrow interpretation of the County Code unless further guidance from the Board is provided. While staff found from the balloon test that the facility would be sited to minimize visibility from adjacent parcels and streets, staff was unable to make the finding that the site provides adequate opportunities for screening. No trees that are being used for screening, including the reference tree, are located on the parcel seeking to receive approval: all trees being used for screening are located within the Interstate 64 / VDOT right-of-way.

The County will consider tree conservation easements on abutting parcels as a method to secure screening, but this is predicated on the fact that the applicant would be able to ensure compliance and prevent the clearing of screening trees by other parties. As staff cannot find that the VDOT right-of-way is included in the site, and VDOT has stated that it will not grant the applicant an easement, staff is unable to make the finding required by County Code § 18-5.1.40(b)(6) that adequate opportunities for screening are provided by the site.

**BUDGET IMPACT:** There is no budget impact.

**RECOMMENDATION:** Staff recommends that the Board adopt the attached Resolution (Attachment E) denying the appeal and affirming the Agent's June 21, 2018 determination that adequate opportunities for screening will not be provided as required by County Code § 18-5.1.40(b)(6).

**ATTACHMENTS:**

- A. Disapproval Letter
- B. Relevant County Code Section
- C. Site Plan
- D. Applicant's Appeal
- E. Resolution