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TOWN OF LEESBURG
NOTICE OF PUBLIC HEARING
TO CONSIDER AMENDMENTS TO ZONING ORDINANCE
ARTICLES 5, 6, 7, 8, 9 AND 18 RELATED TO
TELECOMMUNICATIONS

Pursuant to Sections 15.2-1427, 15.2-2204, 15.2-2205 and 15.2-2285 of the Code of Virginia, 1950, as amended, the **LEESBURG TOWN COUNCIL** will hold a public hearing on **TUESDAY, SEPTEMBER 27, 2016 at 7:30 p.m.** in the Town Council Chambers, 25 West Market Street, Leesburg, Virginia, 20176 to consider the following amendments to the Zoning Ordinance:

1. Amending all pertinent sections in Article 5 Residential Zoning Districts, Article 6 Nonresidential Districts, Article 7 Crescent Design District, Article 8 Planned Districts and Article 9 Use Regulations in order to establish the telecommunications system type known as Distributed Antenna Systems (DAS)/Small Cells as a use by right or by special exception with performance standards in all zoning districts.
2. Sec. 18.1.39.1 Distributed Antenna Systems (DAS)/Small Cells establishing a definition for the term referring to a new telecommunications technology.
3. Sec.9.2 Use Table establishing Power Mount Facilities on Existing Electric Transmission Towers as a special exception in the R-E, R-1, O-1 and B-4 Zoning Districts.
4. Sec. 7.10.9.D.1 Use Regulations establishing Power Mount Facilities on Existing Electric Transmission Towers under Note [4] in the CD-C Zoning District when that option is exercised in the CD-OS/CD-C Zoning District.
5. Sec. 8.5.3 Special Exception Uses establishing Paragraph C to permit Power Mount Facilities on Existing Electric Transmission Towers in a PRC District.
6. Sec. 5.1.2 Use Regulations establishing Power Mount Facilities on Existing Electric Transmission Towers as a special exception in the R-E Zoning District.
7. Sec. 5.2.2 Use Regulations establishing Power Mount Facilities on Existing Electric Transmission Towers as a special exception in the R-1 Zoning District.
8. Sec. 6.1.2 Use Regulations establishing Power Mount Facilities on Existing Electric Transmission Towers as a special exception in the O-1 Zoning District.
9. Sec. 6.6.2 Use Regulations establishing Power Mount Facilities on Existing Electric Transmission Towers as a special exception in the B-4 Zoning District.

Copies and additional information regarding each of these proposed Zoning Ordinance amendments are available at the Department of Planning and Zoning located on the second floor of the Leesburg Town Hall, 25 West Market Street, Leesburg, Virginia 20176 during normal business hours (Monday-Friday, 8:30 a.m. to 5:00 p.m.), or by calling 703-771-2765 and asking for Christopher Murphy, Zoning Administrator. This zoning ordinance amendment application is identified as case number TLOA-2016-0001.

At this hearing all persons desiring to express their views concerning these matters will be heard. Persons requiring special accommodations should contact the Clerk of Council at (703) 771-2733, three days in advance of the meeting. For TTY/TDD service, use the Virginia Relay Center by dialing 711.

Date of Council Meeting: September 27, 2016

TOWN OF LEESBURG
TOWN COUNCIL PUBLIC HEARING

Subject: TLOA-2016-0001, Telecommunications Facilities Zoning Ordinance Text Amendment.

Staff Contact: Christopher Murphy, AICP, Zoning Administrator

Council Action Requested: Approval of TLOA-2016-0001 to amend the Zoning Ordinance to establish new terms, definitions, and regulations pertaining to telecommunications facilities intended to add deployment of new antenna technologies throughout a broader area of the Town

Staff Recommendation: Approval of TLOA-2016-0001 (Ordinance provided in Attachment #1) amending Zoning Ordinance Articles 5, 6, 7, 8, 9 and 18. This will allow for the implementation of new micro cell wireless technologies throughout Town as well as expand the availability of power-mount macro cell facilities on existing poles.

Commission Recommendation: The Planning Commission held a public hearing on June 2, 2016. Due to the complexity of ordinance revisions and the lack of expertise in such matters on the part of the Commission, the Commission asked the Technology and Communications Commission to review the proposed ordinance and recommendations to the Planning Commission relating to definitions and types of facilities. The Technology Committee provided assurances that the technology is standard and not exclusive to one carrier or another, and that the pace of technological innovation makes it impossible to create ever-lasting regulations relating to telecommunications.

After continued meetings to discuss treatment of ground-mounted equipment, in particular on July 21 and August 4, the Commission recommended the following motion at their September 1st meeting:

> I move that Zoning Ordinance Amendment TLOA 2016-0001, Telecommunications Facilities Amendments be forwarded to the Town Council with a recommendation of approval, on the basis that the amendments further the objectives of the Town Plan and that the proposal would serve the public necessity, convenience, general welfare and good zoning practice

Fiscal Impact: No fiscal impact analysis was conducted as part of this amendment. It can be speculated that enhanced wireless coverage throughout Town will be fiscally beneficial.

Work Plan Impact: The approval of this amendment will most likely affect the work plan for the Department of Planning & Zoning with the expected influx of applications to establish Small Cell and DAS infrastructure throughout Town.

Executive Summary: Since the enactment of the existing Telecommunications regulations in the Zoning Ordinance, new technologies (namely, Distributed Antenna Systems or DAS and Small Cells) and implementations of those technologies have emerged that were not contemplated by, nor addressed by, the current regulations. DAS and Small Cell systems are used to enhance wireless service coverage in an environment with ever-increasing demand for such service. The amendments provided here will permit DAS and Small Cell installations throughout Town.

Background: On January 12, 2016 Town Council adopted Resolution No. 2016-0009 initiating Zoning Ordinance amendments to address anticipated telecommunications service demands in Leesburg and to incorporate new technologies that may be deployed throughout Town.

The Council's action to initiate these amendments followed a presentation to Town Council by a telecommunications service provider's representative who asked Council to consider expanding existing telecommunications regulation in the Zoning Ordinance to allow deployment of new antenna technology application throughout a larger area of Town.

Currently Town Plan Chapter 10 Community Facilities and Services, Objective 4.d provides the following guidance for siting telecommunications facilities within the Town:

Encourage telecommunications facilities to be collocated on existing structures, and located outside Town limits where possible.

The new technologies being contemplated under Resolution No. 2016-0009, and presented in this staff report, are known as "Small Cell and Distributed Antenna Systems", or DAS. Both of these systems rely on being collocated. Application of these technologies typically involves installation of antennas on existing buildings, structures, utility poles, and/or light standards. In that such installations are considered "collocations" (i.e., putting telecommunications facilities on a structure not purpose-built to house or support telecommunications facilities), they are consistent with the Town Plan policy objective cited above.

Council shall note that a revision to Town Plan Chapter 10 Community Facilities and Services is being processed in tandem with this zoning amendment. The intent of the corresponding Town Plan Amendment is to provide more specific guidance for future telecommunications uses applications.

Telecommunication Service Provider's Presentation/Request:
On November 10, 2015, Mr. Ed Donohue of Donahue & Stearns (a law firm that specializes in land use legal issues for deployment of wireless infrastructure) made a presentation to Council proposing text amendments to the Zoning Ordinance that would allow greater distribution of

telecom facilities by expanding the types of permissible facilities and where such facilities are allowed to be installed throughout the Town. Specifically, telecommunications service providers hope to take advantage of new technologies known as Small Cells and DAS~~,~~ to broaden available wireless call and data spectrum capacity across their network.

Mr. Donohue explained that it is his client's hope to achieve this by amending the Zoning Ordinance to permit Small Cells and DAS antenna installations by right in all zoning districts, including residential and planned districts; and, by expanding the definition of "Structure" (Sec. 18.1.180) to include light standards and utility poles as structures so that Small Cells and DAS can also be collocated on them within public road rights-of-way and/or on private property.

Mr. Donohue's presentation pointed to the potential opportunity to enhance telecommunications service coverage in town by taking advantage of the existing Dominion Power electric transmission towers that exist along the Route 7/Bypass Corridor. Most of the towers that run along the Bypass, especially south of downtown, are situated in R-Districts or in Planned Districts and are currently ineligible for installation of facilities like Power-Mounts, (antenna arrays installed on utility transmission towers).

Telecommunications Regulations:
Antennas to transmit wireless communications are governed by The *Telecommunications Act of 1996* (47 U.S.C.), which are federal regulations which comprehensively encourages the deployment of telecommunications services. The Act allows localities to govern siting decisions through their zoning ordinances, but the Act prohibits localities from adopting regulations that prohibit or have the effect of prohibiting wireless services, or unreasonably discriminate against providers. The Act requires localities to act on applications for approval of wireless facilities within a reasonable period of time and if the locality denies a request, the denial must be in writing and supported by substantial evidence. Most important for the Town, the Act allows localities to prohibit wireless facilities within certain zoning districts and to allow wireless facilities through a special exception.

Zoning Ordinance Section 9.3.26 *Telecommunications Facilities* governs the application process and siting of telecommunication facilities.

Current Telecommunications Zoning Regulations:

Currently, the Town recognizes four types of wireless telecommunications facilities; Antennas, Monopole/Power Mount facilities, Transmission Tower (lattice type), and Temporary Mobile Land-Based Telecom Testing Facility. In accordance with the *1996 Telecommunications Act* each facility type is provided for within specific zoning ordinances with applicable use standards for each. Council shall note that each of these facilities types are either co-located on existing structures, i.e. antennas and Power Mount, or are freestanding purpose built facilities, i.e. Monopole, Transmission Tower, and Temporary Mobile Land-Based Telecom Testing Facility. Current zoning regulations do not provide for installation of telecommunications facilities on things that are not defined as structures, i.e. utility poles, parking lot light pole standards, or sign structures.

Because of the widespread use of smart phones and other wireless devices, and projected increases in the numbers of such devices throughout the United States, wireless telecommunications carriers have to provide greater bandwidth in more locations in order to meet the existing and projected voice and data spectrum bandwidth utilization demands of their customers. In order to help meet these demands, telecom carriers have begun to deploy Small Cells and DAS throughout the country.

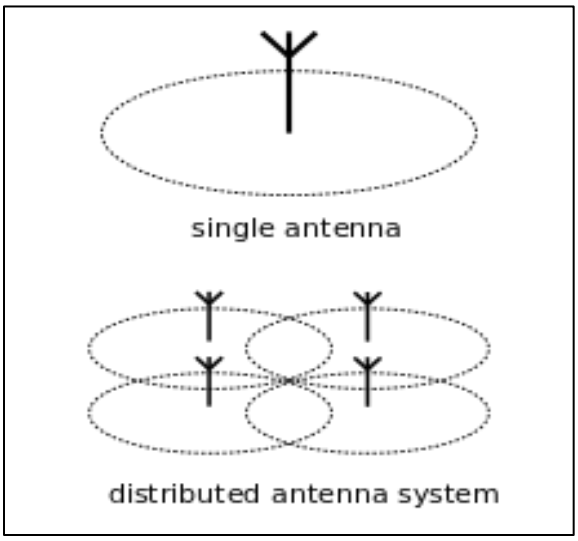
At present, the Zoning Ordinance permits wireless technology systems antenna collocations on building or structures as "antenna" wherever that use is permitted, i.e., O-1, B-1, B-2, B-3, B-4 I-1, CD-MUR, CD-C, CD-MUO, and CD-CC Zoning Districts. In fact, recently a DAS antenna has been issued by right approval through a Zoning Permit for installation on the roof at 15 Catoctin Circle, SE. (TLZP-2015-0184)

What are Small Cells and DAS:

Small Cell applications are a series of small antenna physically connected, by fiber optic lines, to a controller that is, in turn, connected to a macro cell connected to the main wireless network. Such applications are used to enhance signal strength or to fill holes in a wireless network and extend its broad range of services to a very narrowly defined area where there is a great demand for wireless service, e.g., malls, hotels, transportation hubs, campuses, stadiums, etc.

DAS is also an integrated solution for coverage enhancement of wireless systems much like Small Cells, but DAS applications provide service within a building (iDAS) or specific geographic area (oDAS) where service is degraded due to geography, foliage or structure interference. This type of deployment is typically installed on utility/telephone poles, street lamps or traffic signal poles.

In other words, instead of relying on the main cellular communication system made up of the series of monopole and tower locations, Small Cell and DAS take signal and splits the transmission among several antenna separated in a space that provides better coverage for voice and data within that space served by the particular deployment. This is illustrated in the diagram provided here:



In this diagram, the "single antenna" is the monopole or transmission tower that ties the "distributed antenna system" to the main cellular service system. The distributed antenna system is localized to a specific location like a campus, or a mall parking lot, or an area with poor reception due to topography.

What does a Small Cell or a DAS look like:
The photographs below illustrate examples of the types of antenna that are used in a Small Cell and/or DAS system deployment.

Roof mounted DAS: 15 Catoctin Circle, SE

Utility Pole Small Cell Installation: Whip antenna with pole-mounted equipment cabinet:

Utility Pole Small Cell Installation: Height extension atop a utility pole

Each antenna requires its own separate equipment box. These boxes can be located on utility and light poles or can they can be ground mounted at the base of the pole. The pictures below show both examples.

Traffic signal installation with ground-mounted equipment cabinet:

Traffic signal antenna and pole-mounted equipment cabinets installation:

Note that telecom facilities that are located in the public right of way will require approval from the utility as well as a license or franchise agreement and public right of way permits from the Town.

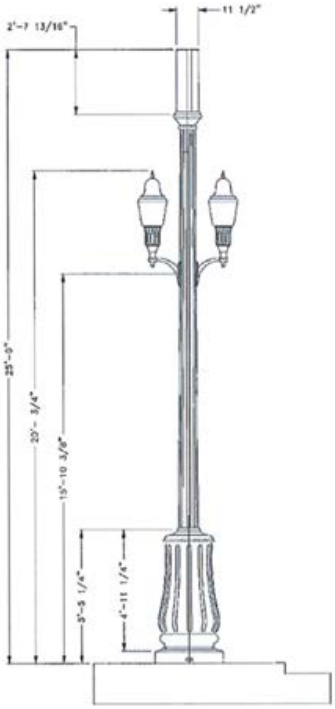
The Planning Commission spent a considerable amount of time discussing how to treat screening of ground-mounted equipment boxes associated with DAS and Small Cell installations. In addition, the Commission also wanted to address screening of roof-mounted facilities. Their concerns were that the equipment boxes would be unattractive and thus detract from the neighborhoods where installed. Residential areas and the H-1 Old and Historic District were discussed in great length.

In addition to the appearance of ground-mounted equipment, the Commission wanted to see roof-top and/or building mounted facilities properly screened for the same reason

Examples of the types of acceptable screening techniques decided upon by the Commission have been included in the amendment as part of the use standards in Section 9.3.26. In order to better describe what is intended by the screening requirements being established in the amendment, illustrations will be included in the text of the ordinance that graphically depict what is intended.

Examples of those screening techniques include, but are not limited to the following:

Light standard types:



Building and roof-mounted types:

<u>Attachments</u>:

1. Ordinance

PRESENTED: September 27, 2016

ORDINANCE NO.: _____ ADOPTED: September 27 2016

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTING ELECTRICAL TRANSMISSION TOWERS

WHEREAS, the Town Council initiated zoning text amendment TLOA-2016-0001 on January 12, 2016 initiating Zoning Ordinance amendments to address anticipated telecommunications service demands in Leesburg and to incorporate new technologies that may be deployed throughout Town.; and

WHEREAS, a duly advertised Planning Commission public hearing was held on June 2, 2016; and

WHEREAS, at the September 1, 2016 meeting, the Planning Commission recommended approval of these amendments to the Zoning Ordinance to the Town Council; and

WHEREAS, the Town Council held a duly advertised public hearing on these amendments on September 27 2016; and

WHEREAS, the Council has concluded that the approval of these amendments to the Zoning Ordinance would be in the public interest and in accordance with sound zoning and planning principles.

The Council of the Town of Leesburg, Virginia hereby ORDAINS:

SECTION I. The zoning text amendments contained in TLOA 2016-0001 – Telecommunications Facilities, is hereby approved; and

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

SECTION II. That the following sections of the Zoning Ordinance of the Town of Leesburg, Virginia, 2003, as amended, be and the same are hereby amended to read as follows:

Sec. 18.1 Terms Defined

18.1.43.1 Distributed Antenna Systems (DAS)
A low-power centralized baseband that is pooled across a large number of spatially separated antenna nodes that provides wireless service within a discrete geographic area, or structure, where wireless service is degraded due to geography, foliage or structure interference such nodes are typically located on existing infrastructure such as utility/telephone poles, street lamps or traffic signal poles. Except when deployed in an interior of a building, i.e., in an iDAS application, stealth or camouflage deployments in faux exterior building additions will not be considered interior antenna deployments. All applicable regulations pertaining to such exterior installations shall apply.

18.1.174.1 Small Cell
A compact, low-powered short-range mobile phone base station deployed to alleviate wireless network congestion and/or to address gaps in wireless network coverage in limited areas with a concentrated population of wireless device users such as, but not limited to, malls, hotels, transportation hubs, campuses, stadiums, etc. Any stealth or camouflage deployments in faux exterior building additions will not be considered interior antenna deployments. All applicable regulations pertaining to such exterior installations shall apply.

Sec 9.2 Use Table

Use Type	RE	R1	R2	R4	R6	RHD	R8	R16	R22	O1	B1	B2	B3	B4	I1	Use Standard
P = Permitted by Right S = Special Exception Approval Required (Sec. 3.4)																
Telecommunications Facilities																
Antennas										P	P	P	P	P	P	Sec. 9.3.26.B

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

Use Type	RE	R1	R2	R4	R6	RHD	R8	R16	R22	O1	B1	B2	B3	B4	I1	Use Standard
Small Cells and/or Distributed Antenna Systems (DAS	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	Sec. 9.3.26.F
Monopoles/Power Mount Facilities												S	S		S	Sec. 9.3.26.C
Power Mount Facilities on Existing Electric Transmission Towers	S	S		S						S				S		Sec. 9.3.26.C
Transmission Tower (lattice type)												S			S	Sec. 9.3.26.D
Temporary Mobile Land-Based Telecom Testing Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 9.3.26.E

Sec.9.3 Use Standards

9.3.26 Telecommunication Facilities

All future telecommunications structures, including transmission lines, should be placed underground per the Town's under grounding policy if possible. The following standards have been established to permit the establishment of telecommunications facilities above ground if under grounding is not feasible in a manner that minimizes the visual impact of towers through careful siting, design, and screening; reduces the potential for damage to adjacent properties caused by tower failure or falling ice; and maximizes the use of any transmission towers and structures through the promotion of co-location so as to minimize the need to construct new towers.

Mobile and land based telecommunication facilities shall be permitted on any lot in the zoning districts where indicated in this Ordinance when such a use is in accordance with the following limitations and when such use is not specifically precluded or regulated by any applicable proffered conditions, development conditions or special exception condition which limits the number, type and location of antenna and/or related equipment structure. Further provided, however, such use shall be in substantial conformance with any proffered conditions, development condition or special exception condition. In addition, such uses shall be subject to the requirements of Sec. 15.2-2232 of the Code of Virginia, 1950, as amended.

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

The standards of this section shall apply to all telecommunication uses and structures as provided below.

F. Distributed Antenna Systems (DAS) and/or Small Cells Distributed Antenna Systems (DAS) and/or Small Cells with related unmanned equipment may be installed on non-residential buildings or structures, existing or replacement of existing utility distribution poles or existing or replacement of existing light standards in those zoning districts where permitted by right with the minimum standards provided below. Failure to meet any one, or more, use standard shall require special exception review and approval in accordance with Section 3.4 Special Exceptions.

Permissible antenna types in a DAS or Small Cell application include: 1.) omnidirectional/whip antennas; 2.) panel antennas; and 3.) antennas enclosed in a cylinder subject to the following minimum use standards:

1. **Local Collector Rights-of-Way:** Utility distribution pole installations, where permitted, shall be limited to rights-of-way of roads having a Local Collector classification or higher on the Roadway Network Policy Map in the Leesburg Town Plan.

2. **Camouflage:** Every effort shall be made by the applicant to utilize stealth and/or camouflage technologies/techniques on each DAS/Small Cell node and all appurtenant ground-mounted, pole-mounted and/or roof-mounted equipment in order to minimize or eliminate potential visual impacts on surrounding properties. Examples of stealth solutions include, but are not limited to, the following:

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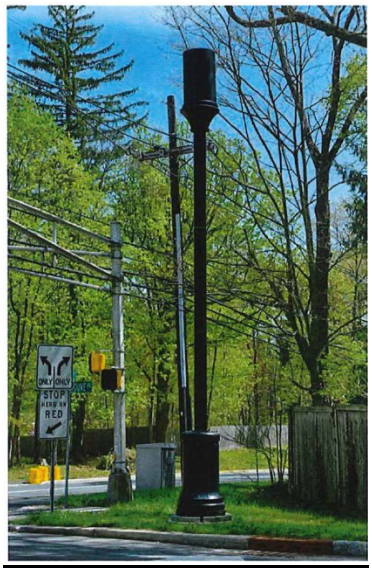

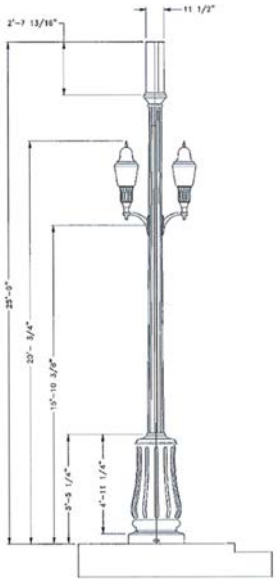

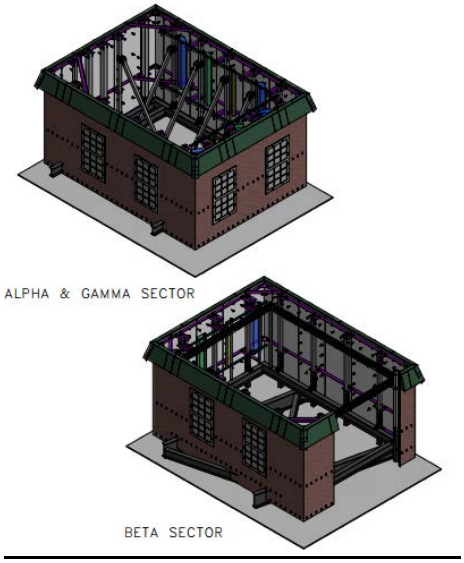

In any instance where stealth and/or camouflage technologies cannot be employed, the applicant shall provide evidence satisfactory to the Zoning Administrator justifying why it is impossible to employ such measures.

3. Maximum Size and Height for Roof-Mounted Small Cell and/or DAS:

a. Any antennas used in a Small Cell application shall not exceed 60”H x 24”W x 8”D.

b. Any DAS node antenna shall not exceed six feet (6’) in height or thirty inches (30”) in diameter.

c. Overall height of any roof-top or building mounted Small Cell and/or DAS antennas with supports shall not exceed 10 feet in height above the top of parapet for flat-roofed buildings or the roof line of pitched roof buildings unless an acceptable stealth solution is used, and approved by the Zoning Administrator and/or the BAR, when applicable, that is architecturally suitable and effectively camouflages the facility from adjacent properties. Examples include, but are not limited to, the following types of stealth solutions:

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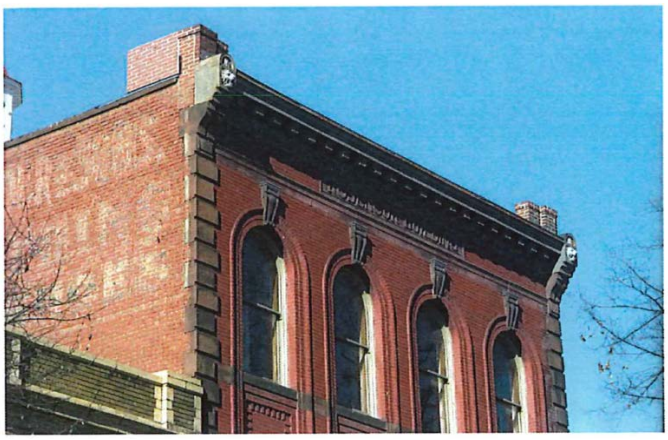

4. **Maximum Number:** There shall be a maximum of three (3) omnidirectional/whip antennas, or panel antennas, or any number antennas within a single canister enclosure on any single utility pole or light standard. Such antenna and any associated building, structure, utility pole or light standard–mounted equipment cabinets shall not exceed twenty (20) cubic feet and shall be of a material or color which closely matches and blends with the associated building, structure, utility pole or light standard.

5. **Maximum Extension:** Antennas shall be mounted so that the antenna with supporting mount does not extend more than eight and one-half (8 ½) feet above the existing utility pole or light standard or one (1) foot from the utility pole or light standard.

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6. Maximum Replacement Pole Height/Diameter: The height of a replacement utility distribution pole or light standard, including antennas, shall not exceed sixty-four (64) feet in height. The diameter of a replacement utility distribution pole or light standard shall not exceed eighteen (18) inches. The height of the light fixture shall not be higher than the height of the fixture prior to the replacement of the light standard.

7. Ground-Mounted Equipment: When appurtenant equipment cabinets are located on the ground in any yard or street right-of-way, the following minimum standards shall apply:

a. No ground-mounted equipment associated with any antenna nodes shall be permitted on the property of, or in the right-of-way in front of, a residential use;

b. Ground-mounted equipment may be permitted inside of the Route7/15 Bypass when an acceptable stealth solution is used, and approved by the Zoning Administrator and/or the BAR, when applicable, that is architecturally suitable and effectively camouflages the facility from adjacent properties. Examples include, but are not limited to, the following types of stealth solutions:

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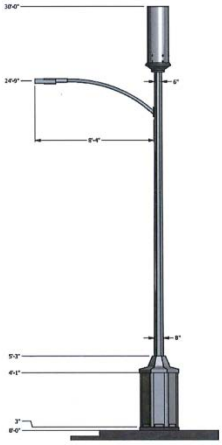

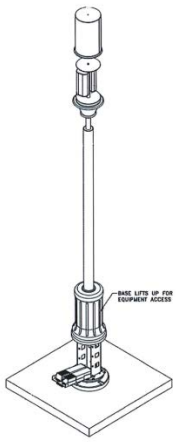

Ground-mounted equipment appurtenant to power-mount facilities on existing electric transmission poles shall be permitted when in accordance with Sec. 9.3.26.A.3 Standards Applicable to all Telecommunications Facilities.

c. Any ground-mounted equipment cabinet shall not exceed five (5) feet in height or a total of seventy (70) cubic feet in volume, except within the H-1 Overlay where the maximum volume shall be limited to twenty (20) cubic feet;

d. Any ground-mounted equipment cabinet shall be located a minimum of ten (10) feet from all lot lines when located outside of a street right-of-way;

e. Any ground-mounted equipment cabinet shall be located so as not to obstruct any applicable sight distance and/or visibility standards required by the Town or the Virginia Department of Transportation;

f. Any ground-mounted equipment installed within a public right-of-way shall be locate so as to provide a minimum of four (4) feet of clearance along the sidewalk in order to maintain adequate pedestrian circulation.

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g. Any Small Cell and/or DAS equipment installed at ground level internal to a light pole as part of a stealth solution will be considered to be ground-mounted.

8. **Maximum Roof Area:** Roof-mounted antennas or equipment related to DAS/Small Cells shall not occupy more than 25% of the area of the roof.

9. **Lighting Prohibited:** Unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, no artificial lighting shall be permitted.

10. **Advertising Prohibited:** No advertising of any type may be placed on the facility.

11. **H-1 and H-2 Review Required:** Any Small Cell and/or DAS application proposed in the H-1 or H-2 Overlays shall require a Certificate of Appropriateness from the Board of Architectural Review. No ground mounted equipment shall be permitted anywhere within the H-1 Overlay District.

12. **Removal of Abandoned Equipment:** All antennas and related unmanned equipment shall be removed within ninety (90) days after such antenna or related unmanned equipment are no longer in use.

Sec. 9.1 R-E, Single-Family Residential Estate District

5.1.2 Use Regulations

R-E Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

Sec. 9.2 R-1, Single-Family Residential District

5.2.2 Use Regulations

R-1 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS))	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

Sec. 9.3 R-2 Single-Family Residential District

5.3.2 Use Regulations

R-2 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

Sec. 9.4 R-4, Single-Family Residential District

5.4.2 Use Regulations

R-4 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

Sec. 9.5 R-6, Moderate Density Residential District

5.5.2 Use Regulations

R-6 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

Sec. 9.6 R-HD, Historic Residential District

5.6.2 Use Regulations

R-HD Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

Sec. 9.7 R-8, Medium-Density Attached Residential District

5.7.2 Use Regulations

R-8 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

Sec. 9.8 R-16, Planned Housing Development District

5.8.2 Use Regulations

R-16 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS))	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

Sec. 9.9 R-22, Multi-Family Residential District

5.9.2 Use Regulations

R-22 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

Sec.6.1 O-1, General Office District

6.1.2 Use Regulations

O-1 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

Sec. 6.3.B-1 Community (Downtown) Business District

6.3.2.Use Regulations

B-1 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

Sec. 6.4 B-2, Established Corridor Commercial District

6.4.2 Use Regulations

B-2 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

6.5.2 Use Regulations

B-3 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

Sec. 6.6 B-4, Mixed-Use Business District

6.6.2 Use Regulations

B-4 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

Sec. 6.7 I-1, Industrial/Research Park District

6.7.2 Use Regulations

I-1 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

Sec. 7.10 Crescent Design (CD) District

7.10.9.D CD-C, Crescent Design – Commercial

7.10.9.D.1 Use Regulations

Table 7.10.9.D.1 CD-C Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

Sec. 7.10 Crescent Design (CD) District

7.10.9.H CD-CC, Crescent Design – Commercial Corridor

7.10.9.H.1 Use Regulations

Table 7.10.9.H.1 CD-CC Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Small Cells and/or Distributed Antenna Systems (DAS)	P/S	Sec. 9.3.26.F	Sec. 18.1.39.3

Sec. 7.10 Crescent Design (CD) District

7.10.9.D CD-C, Crescent Design – Commercial

7.10.9.D.1 Use Regulations

Table 7.10.9.D.1 CD-C Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications facility: Power Mount Facilities on Existing Electric Transmission Towers [4]	S	Sec. 9.3.26.A.& C.	Sec. 18.1.14

[4] In the CD-C only when that option is exercised in the CD-OS/CD-C (option) Zoning District.

Sec. 8.5 PRC, Planned Residential Community District

8.5.3 Special Exception Uses

D. Power Mount Facilities on Existing Electric Transmission Towers subject to minimum use standards provided in Sec. 9.3.26.A. Standards Applicable to all Telecommunications Facilities & C. Monopoles and Power Mount Facilities.

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

Sec. 5.1 R-E, Single-Family Residential Estate District

5.1.2 Use Regulations

R-E Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Power Mount Facilities on Existing Electric Transmission Towers	S	Sec. 9.3.26.A.& C.	Sec. 18.1.14

Sec. 5.2 R-1, Single-Family Residential District

5.2.2 Use Regulations

R-1 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Power Mount Facilities on Existing Electric Transmission Towers	S	Sec. 9.3.26.A.& C.	Sec. 18.1.14

Sec. 5.4 R-4, Single-Family Residential District

5.4.2 Use Regulations

R-4 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Power Mount Facilities on Existing Electric Transmission Towers	S	Sec. 9.3.26.A.& C.	Sec. 18.1.14

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

Sec. 6.1 O-1, General Office District

6.1.2 Use Regulations

O-1 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Power Mount Facilities on Existing Electric Transmission Towers	S	Sec. 9.3.26.A.& C.	Sec. 18.1.14

Sec. 6.6 B-4, Mixed-Use Business District

6.6.2 Use Regulations

B-4 Uses			
Use		Use Standards	Definition
Commercial Uses			
Telecommunications Facility: Power Mount Facilities on Existing Electric Transmission Towers	S	Sec. 9.3.26.A.& C.	Sec. 18.1.14

SECTION III. All prior ordinances in conflict herewith are hereby repealed.

SECTION IV. Severability. If a court of competent jurisdiction declares any provision of this ordinance invalid, the decision shall not affect the validity of the ordinance as a whole or any remaining provisions of this ordinance.

SECTION V. This ordinance shall be in effect upon its adoption.

PASSED this 27th day of September, 2016.

_____

David S. Butler, Mayor
Town of Leesburg

AN ORDINANCE: AMENDING ZONING ORDINANCE ARTICLES 5, 6, 7, 8, 9 AND 18 TO ESTABLISH DEFININTIONS FOR AND USE REGULATIONS RELATING TO THE TELECOMMUNICATIONS SYSTEMS TYPES KNOWN AS DISTRIBUTED ANTENNA SYSTEMS (DAS), SMALL CELLS AND POWER MOUNT FACILITES ON EXISTIG ELECTRICAL TRANSMISSION TOWERS

ATTEST:

_____

Clerk of Council

TOWN OF LEESBURG
NOTICE OF TOWN COUNCIL PUBLIC HEARING
TO CONSIDER A TOWN PLAN AMENDMENT
TLTA-2016-0001, TELECOMMUNICATION POLICIES

Pursuant to Sections 15.2-1427, 15.2-2204, 15.2-2205 and 15.2-2285 of the Code of Virginia, 1950, as amended, the **Leesburg Town Council** will hold a public hearing on **Tuesday, September 27, 2016 at 7:30 p.m.** in the Town Council Chambers, 25 West Market Street, Leesburg, Virginia, 20176 to consider TLTA-2016-0001, a Town Plan Amendment, to Chapter 10, Community Facilities and Services to update and add policy guidance on the location, siting, design, visual impact and compatibility of telecommunication facilities in the Town of Leesburg as well as policy guidance on when commission permit applications are needed for telecommunication facilities.

Additional information and copies of this Town Plan amendment are available at the Department of Planning and Zoning located on the second floor of the Leesburg Town Hall, 25 West Market Street, Leesburg, Virginia 20176 during normal business hours (Monday-Friday, 8:30 a.m. to 5:00 p.m.), or by contacting Susan Berry Hill, Director, 703-771-2770 or sberryhill@leesbugva.gov.

At these hearings, all persons desiring to express their views concerning these matters will be heard. Persons requiring special accommodations at the Town Council meeting should contact the Clerk to the Council at (703) 771-2733 three days in advance of the meeting. For TTY/TDD service, use the Virginia Relay Center by dialing 711.

Ad to run:
9/14/16
9/21/16

Date of Council Meeting: September 27, 2016

TOWN OF LEESBURG
TOWN COUNCIL MEETING

Subject: Town Plan Amendment TLTA-2016-0001, Telecommunication Policies

Staff Contact: Susan Berry Hill, Director

Council Action Requested: Approval of TLTA-2016-0001, Town Plan Amendment to update telecommunication policies.

Staff Recommendation: Approval of TLTA-2016-0001, Telecommunication Policies.

Commission Recommendation: On September 1, 2016, the Planning Commission recommended approval to amend the Town Plan, Chapter 10 Community Facilities and Services by deleting Objective 4d; providing edits to Objective 4; and adding new policy language identified as new Objective 15 pertaining to telecommunication facilities.

During the meeting, the Planning Commission discussed changes to the draft language and these changes were included in the motion. The motion was approved by a vote of 5-0-1. The proposed Town Plan language inclusive of Planning Commission changes is included with this report as Attachment 3.

Fiscal Impact: This Town Plan amendment and the associated Zoning Ordinance text amendment (TLOA 2016-001) will likely result in additional revenues for the Town through additional license agreements and right-of-way permits for private telecommunication facilities that are located on poles that are in the Town's public right of way. Increases in the telecommunication network may result in greater economic returns for local businesses and serve as an economic driver for future economic development.

Work Plan Impact: None. Processing of these types of applications is part of the core function of the Department of Planning and Zoning.

Executive Summary: Last fall, Mr. Ed Donahue made a presentation to Town Council proposing zoning text amendments that would allow expansion of telecommunication networks for Distributed Antennal Systems (DAS) and Small Cell systems as by-right uses in all districts. On January 1, 2016 Town Council initiated a Zoning Ordinance Text Amendment to consider his proposal (Resolution 2016-009). As staff worked on this zoning text amendment, it became clear that updates to the Town Plan policy for telecommunications should also be made. At present there is only one policy in the Town Plan that specifically addresses telecommunication facilities. This policy is located in Chapter 10, Community Facilities and Services, Objective 4 d. which states:

> *Encourage telecommunication facilities to be collocated on existing structures and be located outside of Town limits where possible.*

This policy does not provide locational guidance or other kinds of performance guidance for telecommunication facilities. Moreover, the Town Plan does not currently offer any guidance on when a Commission Permit is necessary for the location of these facilities. As such, staff requested that Council initiate a Town Plan amendment. Council took action to initiate a Town Plan amendment on April 26, 2016 by approving Resolution 2016-062.

Background: The Town Plan generally seeks to minimize visual impacts associated with public facilities and assure that Leesburg's commercial and residential neighborhoods continue to be attractive, highly desirable places in which to shop, work and live so that that real estate values are stable or enhanced over time. Another goal is to assure that residents and businesses have acceptable levels of broadband service to meet growing data needs. This Town Plan amendment and the associated Zoning text amendment seek to address both of these goals.

This Town Plan amendment includes two key changes to policy regarding telecommunications: expanded guidance on the location and aesthetics of telecommunication facilities and new guidance on when a Commission Permit is necessary for such facilities.

As noted above, the Town Plan currently has one very general policy that encourages co-location of telecommunication systems on "existing structures". The proposed Town Plan language in Objective 15 replaces Objective 4 (a) with expanded guidance:

- The preferred locations for new telecommunication antenna facilities is expanded from simply stating that such facilities should be collocated on existing structures to also include poles and towers.
- Aesthetic and height guidelines are added to the policy language including language that addresses equipment cabinets that are associated with telecommunication antenna.

The policy language is also expanded to state that the Town's goal is to minimize the need for new towers and monopoles. Expansion of telecommunication networks through use of small-scale technology like DAS and Small Cells should be emphasized in order to minimize the need for larger-scale telecommunication facilities.

Lastly, the Town Plan amendment addresses when a Commission Permit is necessary for the location of telecommunication facilities. The Code of Virginia (Section 15.2-2232) requires that public utilities or public service facilities, such as telecommunication facilities, be in *general location, character, and extent* be in substantial accord with the comprehensive plan. When future public facilities are anticipated and shown on a comprehensive plan facilities map or discussed through comprehensive plan policy language, a commission permit is not necessary. However, if there is no reference to a

public facility in the comprehensive plan, then a Commission Permit is required and a public review process is required with the Planning Commission.

The Commission Permit requirement is particularly important for large-scale public facilities such as monopoles or telecommunication towers that have a visual impact on the community. In such cases, the Commission Permit process gives the public an opportunity to express comments about "location, character, and extent" of a proposed facility and for the Planning Commission to take that input and provide a decision about the proposal. However, for smaller-scale systems such as DAS a public review process is not be necessary if basic guidelines can be met regarding visual impacts. The subject Town Plan amendment clarifies that a Commission Permit is not required for DAS and Small Cell facilities that meet general location and performance criteria.

Currently, the Town Plan contains no policy guidance for when a Commission Permit is necessary. The Town Plan does not have a future facilities map, nor is there written policy guidance for how telecommunication systems should be addressed with respect to a Commission Permit application. The proposed Town Plan amendment will correct this deficiency.

Attachments:

1) Town Council Resolution 2016-062
2) August 4, 2016 Planning Commission Staff Report
3) Resolution - Proposed Town Plan Language for Telecommunication Policy

The Town of
Leesburg,
Virginia

PRESENTED April 26, 2016

RESOLUTION NO.: 2016-062 ADOPTED April 26, 2016

A RESOLUTION: INITIATING AMENDMENTS TO THE LEESBURG TOWN PLAN FOR THE PURPOSE OF PROVIDING GUIDANCE FOR TELECOMMUNICATION FACILITIES.

WHEREAS, the Town Plan provides policy guidance for land use and public facility planning including guidance for telecommunication facilities; and

WHEREAS, the Town Plan presently contains limited guidance on preferred locations and development parameters for telecommunication facilities; and

WHEREAS, the telecommunication industry has developed new types of telecommunication facilities that are smaller in size which are intended to increase coverage and capacity; and

WHEREAS, the Town Plan should be amended to update policy guidance to address the new, smaller scale types of telecommunication facilities; and

WHEREAS, the public necessity, convenience, general welfare and good planning practice require the proposed amendments.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia as follows:

SECTION I. Amendments to Town Plan chapter on Community Facilities and Services are hereby initiated and referred to the Planning Commission to update policies for the location of telecommunication facilities within the Town of Leesburg.

RESOLUTION: INITIATING AMENDMENTS TO THE LEESBURG ZONING ORDINANCE FOR THE PURPOSE OF PROVIDING GUIDANCE FOR TELECOMMUNCATION FACILITIES.

SECTION II. The Planning Commission shall hold a public hearing to consider these amendments to the Town Plan and report its recommendation to the Town Council pursuant the Chapter 22, Title 15.2-2204 of the 1950 Code of Virginia, as amended

PASSED this 26th day of April, 2016.

David S. Butler, Mayor
Town of Leesburg

ATTEST:

Clerk of Council

Date of Meeting: August 4, 2016

TOWN OF LEESBURG
PLANNING COMMISSION POST PUBLIC HEARING REPORT

Subject: TLTA-2016-0001, Telecommunication Policy

Staff Contact: Susan Berry Hill, AICP, Director

Applicant: Not applicable

Applicant's Representative: Not applicable

Proposal: This is a text amendment to the Town Plan, Chapter 10, Community Facilities and Services to add policy direction for telecommunication facilities.
(NOTE: There is a related Zoning Ordinance Amendment TLOA 2016-0001 to amend requirements for certain types of telecommunications antennas, to add definitions for such facilities and add use standards.

Planning Commission Critical Action Date: September 9, 2016

Recommendation: Staff recommends approval of TLTA-2016-0001 based on the findings contained in this report.

Acceptance Date: This amendment was initiated by Town Council on April 26, 2016.

Web Link: A comprehensive listing of all application documents is found on the Town website: **http://www.leesburgva.gov/government/departments/planning-zoning/2016-leesburg-zoning-ordinance-amendments.**

Suggested Motions:

Approval
I move that *Town Plan* Amendment TLTA-2016-0001 to amend the *Town Plan*, Chapter 10, Community Facilities and Services by deleting Objective 4d; providing edits to Objective 4; and adding new policy language identified as new Objective 15 pertaining to telecommunication facilities be forwarded to the Town Council with a recommendation of approval on the basis that the amendment meets the Approval Criteria of TLZO Section 3.16 and will serve the public necessity, convenience, general welfare and good planning practice based on the findings as provided in the August 4, 2016 Planning Commission Staff Report.

- Or -

Denial
I move that *Town Plan* Amendment TLTA-2016-0001 to amend the *Town Plan*, Chapter 10, Community Facilities and Services by deleting Objective 4d; providing edits to Objective 4; and adding new policy language identified as new Objective 15 pertaining to telecommunication

facilities be forwarded to the Town Council with a recommendation of denial on the basis that the amendment does not meet the Approval Criteria of TLZO Section 3.16 and will not serve the public necessity, convenience, general welfare and good planning practice based on the following findings: _____.

- Or -

Alternate Motion
I move that _____.

I. PROPOSAL: This *Town Plan* amendment was initiated by Town Council on April 26, 2016 to accompany a Zoning Ordinance text amendment, TLOA 2016-0001, to update policies pertaining to telecommunication facilities. The plan amendments and zoning text amendments attempt to consider current advancements in the telecommunications industry and streamline the review process for certain types of facilities subject to performance standards. This town Plan amendment proposes to update the Town Plan policy on such facilities by adding locational criteria and general performance standards for certain types of telecommunication facilities and it will provide guidance as to whether a commission permit is necessary for the establishment of such facilities when considering whether the facility is a normal extension of established wireless communications networks.

II. APPROVAL CRITERIA: The proposed amendment is subject to the approval criteria specified in TLZO Sec. 3.16.12. Detailed criteria are specified as submission requirements in TLZO Sec. 3.16.5.D. Each of these criteria is addressed below.

III. STAFF ANALYSIS:

Update: The Planning Commission held a public hearing on June 2, 2016 on this Town Plan amendment as well as a companion zoning text amendment. Further discussion was held on July 21 at which the Planning Commission requested various edits to the proposed language in New Objective 15 and edits to existing Objective 4. Changes to respond to these requests are highlighted in yellow on page 5. Other edits were recommended to New Objective 15 on page 5-6. Staff recommends that the Town Plan be amended to include these edits.

The Planning Commission also requested that staff address the fiscal impacts of the proposed amendment. This report has been updated to provide a generalized analysis of the fiscal impact of the proposal. This analysis can be found on page 7 on this memo in Criteria #3. This review criteria pertains to TLZO Section 3.16.5. D. 4 Fiscal Analysis.

Background to Town Plan Amendment: In November, 2015, Mr. Ed Donahue of the law firm Donahue & Stearns made a presentation to Council proposing zoning text amendments that would allow greater distribution of certain types of telecommunication facilities, particularly Distributed Antenna Systems (DAS) and Small Cell systems as by-right uses in all districts.

After this presentation, staff met with Mr. Donahue and representatives from Verizon to discuss the proposal. On January 12, 2016 Town Council approved Resolution 2016-009, to initiate zoning ordinance text amendments to consider Mr. Donahue's proposal.

Demand for mobile cellular, personal communication and wireless broadband service has increased dramatically with the advent and proliferation of smart phone technology. This requires additional network telecommunication facilities to fill the gaps for service and to supplement existing networks. DAS and small cell technology has been developed to fill this void.

DAS help to improve coverage in areas where macro facilities are unavailable, infeasible or not permitted. A DAS node is installed on existing utility poles within the ROW and the system 'hands-off' signals in a linear fashion from one node to another. DAS facilities are approximately the same size as transformers that exist on utility poles.

Small cell technology offers a single site solution in areas where there is a need for increased capacity to handle demand. A small cell facility will off-load demand from surrounding macro sites. This, in turn, frees bandwidth on the macro sites to handle increased data transmission speeds.

These facilities, sometimes referred to as miniaturization technology, did not exist even a few years ago and the Town Plan currently does not address the review of such technology with respect to location and performance standards.

As staff worked on these zoning text amendments, it became clear that clarifying amendments should also be considered for the Town Plan. At present there is only one policy in the Town Plan that specifically addresses telecommunication facilities. This policy is located in Chapter 10, Community Facilities and Services, Objective 4 d. which states:

> *Encourage telecommunication facilities to be collocated on existing structures and be located outside of Town limits where possible.*

This policy does not provide locational guidance or other kinds of performance guidance for telecommunication facilities. Moreover, the Town Plan does not currently offer any guidance on when a commission permit is necessary for the location of these facilities.

The Code of Virginia (Section 15.2-2232) requires that the Planning Commission review applications for public utility or public service facilities, such as telecommunication facilities, to determine if the *general location, character, and extent* of the proposed use is in substantial accord with the Comprehensive Plan. The commission permit requirement is important for large-scale public facilities such as monopoles or telecommunication towers because these types of facilities will have a visual impact on the community. As such, the Commission Permit process should

give the public an opportunity to express comments about "location, character, and extent" of a proposed facility and for the Planning Commission to take that input and provide a decision about the proposal. However, for effective deployment of telecommunication networks, technology advances have developed smaller-scale systems that fill voids in coverage and expand capacity without the need for larger, tower and monopole facilities that have greater visual impacts.

This spring the 2016 Virginia General Assembly approved House Bill 883which becomes effective on July 1, 2016 (Attachment 3). This bill stipulated that when a telecommunication tower or facility is located in a zoning district where it is permitted by right, it is deemed to be substantially in accord with the Comprehensive Plan and Planning Commission approval under Virginia Code Section 15.2-2232 shall not be required. This means that a commission permit application will not be required and the facility is deemed a "feature shown" on the Town Plan.

The purpose of this Town Plan amendment is expand upon the current Town Plan policy that recommends collocation of telecommunication facilities by providing general locational and performance standards for such facilities and to clarify when commission permits are necessary for telecommunication facilities.

Summary of Proposed Changes: The draft Town Plan language is provided below. In summary, the amendment proposes the following:

- The preferred locations for new telecommunication antenna facilities are collocation on existing structures, buildings, poles, and towers.
- New general performance standards are provided in the Town Plan for antenna facilities.
- Antenna that can meet Town Plan and Zoning Ordinance performance standards will be considered as by right uses and thus not subject to a commission permit process.
- If antenna facilities cannot meet the performance standards, then such uses must be reviewed legislatively through special exception and commission permit review processes.
- If new monopoles or towers must be located in Leesburg to address coverage needs, the preferred locations will be within overhead transmission line right-of-way or in industrial or employment areas.

This language is intended to provide a foundation for the companion amendment to the Zoning Ordinance.

Proposed Draft Language:

Town Plan

Chapter 10: Community Facilities and Services

Objective 4. Locate and construct community facilities that are compatible with the Town character and which protect residential areas, natural areas and heritage resources. ~~in regard to~~

~~other Plan policies, including compatibility with the Town character, and protection and enhancement of residential areas, natural resource, and heritage resources.~~

a. Continue to require new development to place power lines underground.
b. Consider undergrounding existing power lines with capital projects.
c. Design streets to include tree planning areas to help meet the Town goal to increase tree canopy.
d. ~~Encourage telecommunication facilities to be collocated on existing structures, and located outside of Town limits where possible.~~
e. Community facility design and construction standards should be ~~informed~~ influenced ~~by~~ by the objective of the natural resources element of the Town Plan.
f. Encourage the State Corporate Commission to take into account the impacts on the Town when considering approval of electrical transmission lines.

NEW **Objective 15.** Mobile and land-based telecommunication services can include antenna, towers, monopoles, distributed antenna system (DAS), small cell or other miniaturization technology and communication devices as well as related equipment for transmitting, receiving , or relaying telecommunication signals and together form a wireless telecommunication network. The Plan polices will ensure the siting of such facilities to provide adequate levels of service but also to reduce or eliminate the visual impacts of such facilities. Opportunities to co-locate telecommunication antenna on existing structures, buildings, poles, towers, and monopoles will be encouraged as a first preference in an effort to minimize the need for new monopoles and towers. If new telecommunication antenna cannot be located on existing structures, buildings or poles, the Town encourages the location of new monopoles or towers to be located within overhead transmission line right-of-way or in industrial or employment areas.

a. To minimize the need for new towers and monopoles, new telecommunication antennas should be collocated on existing buildings, towers, monopoles, water tanks, overhead utility transmission line structure and other structures when feasible. These antennas will be allowed on structures or poles subject to performance standards to mitigate visual impacts. The collocation of any additional antenna or related equipment on an existing~~, approved~~ telecommunication tower, monopole or structure upon which an approved antenna has been mounted shall be deemed to be a feature already shown on the Comprehensive Plan that shall not require Planning Commission approval provided such collocation conforms to the applicable approved conditions and/or performance standards to mitigate visual impacts.

b. Distributed Antennal Systems (DAS) and small cell antenna or other antenna facilities are designed to extend or supplement the wireless network . These types of antennas area designed to provide more localized service and may address geographically challenging areas. They are smaller in size and are located at street level or below tree level and can blend into the built environment. ~~As such, they are deemed as normal~~ Service extensions of the wireless communications network ~~and~~ shall be deemed a feature already shown on the Comprehensive Plan that shall not require Planning Commission approval provided such collocation is consistent with performance standards as determined below and in the Zoning Ordinance.

c. General performance standards for such telecommunication facilities shall include the following and are in addition to any specific performance standards in the Zoning Ordinance :

~~1. Collocation on a tower or monopole should not increase the height or bulk such that it is disproportionate to the structure, tower, monopole or pole on which it is located.~~

1. When collocating antenna on utility poles, the antenna and associated equipment cabinets should not increase the height or bulk of such host facilities to the extent that they would become structurally compromised or excessively cluttered.

2. ~~Generally,~~ The height of such telecommunication facilities will be commensurate with the height limitations in the residential or nonresidential districts in which they are located. Specific height limitations will be included as use standards in the Zoning Ordinance.
3. Equipment cabinets associated with telecommunication antenna shall be located on the ground or elevated on a structure or pole such that the positioning of such facility will not obscure site distance for motorists or impede pedestrian travel. For ground mounted cabinets, vegetative screening should be installed if practical.
4. Antenna and its mounting shall be of a color or finish that closely matches and blends with the surface to which they are attached.
5. If located in residential areas, such facilities shall not be located directly in front of residential units and be located such that the visual impact is minimized. ~~and~~ Facilities ~~is~~ shall be in character with the surrounding residential area and meet the performance standards in the Zoning Ordinance.
6. Camouflaging techniques should be considered to minimize visual impacts of telecommunication facilities. The type of camouflage technique used should be sensitive to the residential , non-residential, and/or environmental context of the location in which the facility is located. Camouflage housing such as church steeples, flagpoles, copula or other such encasements should be designed to be realistic and to be of a size and scale that are appropriate for the context.

1. TLZO SECTION 3.16.5.D.2. CRITERIA

a. *How the amendment better realizes a Town Plan goal or objective (e.g., to provide a more compatible land use pattern; better transitions between land uses).*

Analysis: The amendment expands upon the current Town Plan language by specifying that collocation is the preferred way to handle expansion of the telecommunication network. Performance standards provide more guidance regarding expectations of how telecommunication facilities should be designed and installed to meet community aesthetics

b. *How the amendment may rectify conflicting Plan goals or objectives.*

Analysis: Not applicable.

c. ***How the amendment may clarify the intent of a Plan goal or objective.***

Analysis: The amendment will provide clarification regarding when a commission permit is required.

d. ***How the amendment may provide more specific Plan guidance.***

Analysis: The amendment proposes new performance standards for telecommunication antenna that will help clarify expectations for such equipment in Leesburg. This language would be used as a foundation for related changes in the Zoning Ordinance.

e. ***How the amendment might adjust the Plan as a necessary result of a significant change in circumstance unforeseen by the Plan at the time of adoption.***

Analysis: The demand for wireless broadband services has increased exponentially in recent years requiring expansions to the telecommunication networks in Leesburg. These amendments seek to encourage that this expansion is done in a sensitive manner that respects the character of the town and is done in a way that will not have negative visual impacts.

2. TLZO SECTION 3.16.5.D.3. COMPLIANCE WITH OTHER ELEMENTS OF THE TOWN PLAN: The Zoning Ordinance requires an analysis of how the proposed amendment and subsequent development comply with the goals and objectives of the *Town Plan* specifically:

How the requested amendment and associated development will comply with elements of the Town Plan, as well as their associated goals and objectives. These include, but may not be limited to, natural resources, parks and recreation, heritage resources, community design, land use, housing, economic development, transportation, and community facilities and services.

Analysis: Expansion of the telecommunication network in Leesburg is a service to its residents, business community, and visitors. While the expansion of this network will advance goals in the Town plan such as economic development growth it must be done in a way that also respects heritage resources and the character of the Town. The proposed language seeks to strike a balance between the objectives of improving telecommunication service but not to sacrifice the visual quality of the community.

3. TLZO SECTION 3.16.5.D.4. FISCAL ANALYSIS: The Zoning Ordinance requires a fiscal analysis that compares general fund revenues, costs of services and capital facilities improvements generated by development associated with the requested amendment. The comparison also shall analyze the current Town Plan land designation, allowable development associated current designations, and Town Plan objectives related to residential and non-residential sources of general fund revenue.

Analysis: Currently, the Town has four (4) contracts with telecommunication companies to collocate telecommunication facilities on town-owned facilities, notably the Town's water tanks. These contracts total $161,731 in annual revenue that is credited to the Utility Fund. The majority of new DAS and small cell antenna - the facility type that is the subject of these Town Plan and Zoning Ordinance amendments - will be located on private utility poles and buildings. Those that are located on poles will be subject to lease agreements between the telecommunication company and the private utility company owning the pole and revenues from such lease arrangements will go to the private utility companies. If telecommunication equipment is located on Town-owned facilities we will see an increase in revenues but it is difficult to estimate what that revenue might be. With respect to costs, the Town does not incur any maintenance or capital facility costs associated with the collocation of telecommunication facilities on town facilities.

Another aspect of a fiscal analysis includes consideration of land development application fees. This Town Plan amendment will be consistent with new state legislation that does not require a Commission Permit for telecommunication facilitate that are by-right. However, for facilities that are not by-right, Commission Permit and Special Exception applications will be required. The Town fees for these applications combined are $8500. If this amendment and the associated Zoning Ordinance text amendment are approved, staff anticipates that the Town will see a slight uptick in these applications, but that most facilities will be by-right. As such, staff does not anticipate a large increase in land development application fee revenue from telecommunication applications.

It is difficult to estimate what the fiscal impact will be of these Town Plan and Zoning Ordinance amendments on residential neighborhoods and business areas in Leesburg. The Zoning Ordinance text amendment limits the by-right expansion of such telecommunication facilities to roads classified as local collectors or above. Staff believes that the expansion of the network will likely be in areas served by local collectors or larger roads. As such staff does not think there will be a proliferation of new telecommunication facilities in residential areas. That said, staff maintains that for expansion of telecommunication networks one goal is to minimize visual impacts associated with telecommunication facilities and assure that Leesburg's neighborhoods continue to be attractive, highly desirable places to live which will assure that real estate values are stable or enhanced over time. Another goal is to assure that residents have acceptable levels of broadband service to meet growing data needs. This Town Plan amendment and the Zoning text amendment seek to address both those goals. With respect to business development, the expansion of the telecommunication network will be positive for businesses in Leesburg who want to expand or for recruitment of new business looking to locate in Leesburg. It is difficult to quantify the fiscal impacts of these Plan and Zoning Ordinance amendments on residential and business real estate values, but staff generally believes that approval of these amendments will have a positive fiscal impact for Leesburg.

Lastly, the Town may require license agreements and right-of-way permits for location of private telecommunication facilities that are located on poles that are in the Town's public right of way. This has yet to be determined. So at this point in time, staff cannot assess what the fiscal impacts would be related to these agreements and permits.

4. **TLZO SECTION 3.16.5.D.5. TRANSPORTATION ANALYSIS:** The Zoning Ordinance requires a transportation analysis that shows how the amendment will address the objectives of the *Town Plan's* Transportation element.

   Analysis: Not applicable.

5. **STAFF FINDINGS:** Based on the discussion above, Staff is of the opinion that the interests of the Town and its citizens are best served by approval of the proposed *Town Plan* Amendment based on the following findings:

   A. The proposal further clarifies *Town Plan* Community Facilities and Services policies by providing additional locational and performance criteria for new types of telecommunication facilities.
   B. Necessary policy guidance is provided by this Amendment to clarify when commission permits are required.
   C. Administrative approval of some types of telecommunication facilities based on performance criteria generally provided in the Town Plan, and further refined in the Zoning Ordinance, will streamline the review process.

PRESENTED: September 27, 2016

RESOLUTION NO._____ ADOPTED: _____

A RESOLUTION: ADOPTING TOWN PLAN AMENDMENTS THROUGH TLTA-2016-0001, AMENDING TOWN PLAN POLICY LANGUAGE FOR CHAPTER 10, COMMUNITY FACILITIES AND SERVICES TO UPDATE TELECOMMUNICATION POLICIES.

WHEREAS, Chapter 10, Community Facilities and Services, currently addressees telecommunication policy through Objective 4d; and

WHEREAS, Town Council initiated an amendment of the Town Plan through Resolution 2016-062 to update the telecommunication policy to provide more guidance on locational and aesthetic guidance for telecommunication facilities and to provide more guidance on when commission permits are necessary for such facilities; and

WHEREAS, this amendment was advertised for a Planning Commission Public Hearing which was held on June 2, 2016; and

WHEREAS, at their meeting of September 1, 2016, the Planning Commission recommended approval of the amendment to the Town Council; and

WHEREAS, the Town Council held a duly advertised public hearing on this application on September 27, 2016; and

WHEREAS, staff recommends approval; and

WHEREAS, the Council has concluded that the approval of the application would be in the public interest and in accordance with sound zoning and planning principles; and

WHEREAS, Town Council has determined that the approval criteria of Zoning Ordinance Section 3.16.12 have been satisfied; and

A RESOLUTION: ADOPTING TOWN PLAN AMENDMENTS THROUGH TLTA-2016-0001, AMENDING TOWN PLAN POLICY LANGUAGE FOR CHAPTER 10, COMMUNITY FACILITIES AND SERVICES TO UPDATE TELECOMMUNICATION POLICIES.

WHEREAS, Town Council has determined that approval of the amendments proposed by TLTA 2016-0001 provides updated guidance for telecommunication facilities that will promote the health, safety, convenience, prosperity and general welfare for Leesburg.

THEREFORE, RESOLVED, by the Council of the Town of Leesburg in Virginia that TLTA-2016-0001, Telecommunication Policies is hereby approved and the Town Plan shall be amended as described:

Chapter 10: Community Facilities and Services

Objective 4. Locate and construct community facilities that are compatible with the Town character and which protect residential areas, natural areas and heritage resources. ~~in regard to other Plan policies, including compatibility with the Town character, and protection and enhancement of residential areas, natural resource, and heritage resources.~~

a. Continue to require new development to place power lines underground.
b. Consider undergrounding existing power lines with capital projects.
c. Design streets to include tree planning areas to help meet the Town goal to increase tree canopy.
d. ~~Encourage telecommunication facilities to be collocated on existing structures, and located outside of Town limits where possible.~~
e. Community facility design and construction standards should be ~~informed~~ influenced by the objective of the natural resources element of the Town Plan.
f. Encourage the State Corporate Commission to take into account the impacts on the Town when considering approval of electrical transmission lines.

NEW **Objective 15.** Mobile and land-based telecommunication services can include antenna, towers, monopoles, distributed antenna system (DAS), small cell or other miniaturization technology and communication devices as well as related equipment for transmitting, receiving, or relaying telecommunication signals and together form a wireless telecommunication network.

A RESOLUTION: ADOPTING TOWN PLAN AMENDMENTS THROUGH TLTA-2016-0001, AMENDING TOWN PLAN POLICY LANGUAGE FOR CHAPTER 10, COMMUNITY FACILITIES AND SERVICES TO UPDATE TELECOMMUNICATION POLICIES.

The Plan polices will ensure the siting of such facilities to provide adequate levels of service but also to reduce or eliminate the visual impacts of such facilities. Opportunities to co-locate telecommunication antenna on existing structures, buildings, poles, towers, and monopoles will be encouraged as a first preference. This will minimize the need for new monopoles and towers. If new telecommunication antenna cannot be located on existing structures, buildings or poles, the Town encourages the location of new monopoles or towers to be located within overhead transmission line right-of-way or in industrial or employment areas and will require commission permit and special exception approval.

a. To minimize the need for new towers and monopoles and to mitigate visual impacts, new telecommunication antennas should be collocated on existing buildings, towers, monopoles, water tanks, overhead utility transmission line structures and other structures when feasible and subject to performance standards. The collocation of any additional antenna or related equipment on an existing, telecommunication tower, monopole or structure upon which an approved antenna exists shall be deemed to be a feature already shown on the Comprehensive Plan that shall not require Planning Commission approval provided such collocation conforms to the applicable approved conditions and/or performance standards to mitigate visual impacts.

b. Distributed Antennal Systems (DAS) and small cell antenna or other antenna facilities are designed to extend or supplement the wireless network . These types of antennas area designed to provide more localized service and may address geographically challenging areas. They are smaller in size and shall be located at street level or below tree level to blend into the built environment. Service extensions of the wireless communications network shall be deemed a feature already shown on the Comprehensive Plan that shall not require Planning Commission approval provided such collocation is consistent with performance standards as determined below and in the Zoning Ordinance.

c. General performance standards for such telecommunication facilities shall include the following and are in addition to any specific performance standards in the Zoning Ordinance :

1. When collocating antenna on utility poles, the antenna and associated equipment cabinets should not increase the height or bulk of such host facilities to the extent that they would become structurally compromised or excessively cluttered.
2. Within the Route 15 Bypass, the height of new antenna will remain below the tree canopy levels.

A RESOLUTION: ADOPTING TOWN PLAN AMENDMENTS THROUGH TLTA-2016-0001, AMENDING TOWN PLAN POLICY LANGUAGE FOR CHAPTER 10, COMMUNITY FACILITIES AND SERVICES TO UPDATE TELECOMMUNICATION POLICIES.

3. Generally, the height of such telecommunication facilities will be commensurate with the height limitations in the residential or nonresidential districts in which they are located. Specific height limitations will be included as use standards in the Zoning Ordinance.
4. Equipment cabinets associated with telecommunication antenna shall be located on the ground or elevated on a structure or pole such that the positioning of such facility will not obscure site distance for motorists or impede pedestrian travel. For ground mounted cabinets, vegetative screening should be installed if practical.
5. Antenna and its mounting shall be of a color or finish that closely matches and blends with the surface to which they are attached.
6. No ground mounted facilities shall be located in residential areas.
7. Camouflaging techniques shall be considered to minimize visual impacts of telecommunication facilities. The type of camouflage technique used should be sensitive to the residential, non-residential, and/or environmental context of the location in which the facility is located. Camouflage housing such as church steeples, flagpoles, copula or other such encasements should be designed to be realistic and be of a size and scale that are appropriate for the context.

PASSED this 27th day of September, 2016.

_____
David S. Butler, Mayor
Town of Leesburg

ATTEST:

_____
Clerk of Council