



**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, January 23, 2020 at 2:00 p.m.**

Members  
Tyler Quynn, Chair  
Jeffrey Bannon, Vice Chair  
Deirdre Catterton  
Matthew McKinney  
Leeds Corbin

Meeting Location: Charles Town Library Conference Room, 200 East Washington Street, Charles Town, WV  
Unless otherwise noted, all requests are pursuant to the Zoning & Land Development Ordinance.

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### Election of Officers

### Approval of Minutes: December 12, 2019

**Presentation by Roger Goodwin, Director of Engineering, Planning and Zoning, providing an overview of the purpose a site plan.**

### Public Hearing – Administer Oath

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#### **ITEM #1 FILE #: 19-33-ZV – Postponed from November 14, 2019 and December 12, 2019**

**Request:** Variance from Section 5.4B.1 and Appendix A to reduce the rear setbacks from 20' to 15'; the front setbacks from 25' to 20'; and the side setback from 12' to 10' for the proposed Phase 3A, Lots 134-159.

**Parcel Info:** Beallair Homes LLC  
Unplatted section of Beallair Subdivision along Beallair Manor Drive, proposed Phase 3A, Lots 134-159, Parcel ID: 04010ARESA0000; Lot Sizes Average: 8,500-13,000 sf;  
Zoning District: Residential Growth

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#### **ITEM #2 FILE #: 19-37-ZV**

**Request:** Variance from Sections 4.11A, 5.8C.2 and Appendix B to eliminate the landscaping and buffer requirements and parking/drive aisle and building setbacks for internal lot lines only for the purpose of constructing the proposed ROCS gas station and convenience store. A Concept Plan for the proposed project was approved by the Planning Commission on 11-13-18 (File #S18-06).

**Owner:** SAB Real Estate 2

**Parcel Info:** Martinsburg Pike (WV45), Lots west of Sheetz, Shepherdstown, WV  
8272 Martinsburg Pike, Shepherdstown, WV (former address-currently vacant parcel)  
Parcel ID: 09008A00190000; 09008A00210000; 09008A00230000; Size: 3.56 acres combined;  
Zoning District: Residential- Light Industrial- Commercial

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#### **ITEM #3 FILE #: 19-38-ZV**

**Request:** Variance from Section 4B.7.J.2.a to increase the height restriction from 100' to 199' for a wireless telecommunications facility, in order to meet its coverage objectives.

**Owner:** Richard Childs

**Applicant:** New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, LLC Attn: Joseph Prieto

**Parcel Info:** Located on the corner of Leetown Road and South Childs Road in Summit Point  
Parcel ID: 07002500110002; Size: 17 acres; Zoning District: Rural

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### Zoning Administrator Report

- a. Monthly Zoning Certificate Activity Report

### Legal Update

- a. Possible executive session on the following pending lawsuits. None
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions

### Meeting: December 12, 2019

1. Variance from Sec. 10.4B.3. Owner: I & K Farms, LLC. Applicant: C. Haymaker. File: 19-35-ZV.
2. Variance from Sec. 5.7B and 9.6C. Owner: Joseph Costello. File: 19-36-ZV.



## Minutes

### Jefferson County Board of Zoning Appeals

- 1 Meeting Date: December 12, 2019  
2 Meeting Location: Charles Town Library Conference Room  
3 200 East Washington Street, Charles Town, West Virginia  
4 Board Members Present: Tyler Quynn, Chair; Jeffrey Bannon, Vice Chair; Matthew McKinney;  
5 Deirdre Catterton and Leeds Corbin  
6 Staff members present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, Assistant  
7 Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

8 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

9 Mr. McKinney moved to call the meeting to order at 2:00 pm. Mr. Quynn called for a vote, which  
10 carried unanimously. Mr. Quynn explained to the public how the meeting would be conducted.

#### 11 **Approval of Minutes: November 14, 2019**

12 Ms. Catterton moved to approve the minutes. Mr. Quynn called for a vote. Mr. Bannon abstained  
13 from voting as he was not in attendance at the November meeting. The motion carried four in  
14 support and one abstention.

#### 15 **Public Hearing – Administer Oath**

16 Ms. Hartman swore in members of the public who indicated they would be providing testimony.  
17 Mr. Quynn called for File #19-36-ZV as the applicant for File #19-33-ZV was not yet in attendance.

#### 18 ITEM #1      FILE #: 19-36-ZV

19 Request: Variance from Section 5.7B and 9.6C to reduce the front setback from 40' to 22' for a  
20 24' x 41' accessory structure.  
21 Owner: Joseph Costello  
22 Parcel Info: 115 Leyland Ln., Harpers Ferry, WV; Parcel ID: 09001800190003; Size: 2.81 ac;  
23 Zoning District: Rural

24 Mr. Joseph Costello was present to address the Board. Ms. Beaulieu presented her staff report to the  
25 Board noting that the subject property line was buffered by a tree line comprised of mature trees and  
26 that the applicant had submitted a letter of support from the neighbor. Mr. Costello explained the  
27 nature of the request stating that the purpose of the structure was to house large equipment used for  
28 his business. Mr. Costello confirmed that he had received a letter of support from his neighbor  
29 [Jennifer Wilkerson]. Mr. Costello noted that the structure would not be visible due to the dense tree  
30 line as shown in the application. Mr. Costello further argued that the location of the existing septic  
31 field prohibited him from placing the structure adjacent to the home and that any other location on  
32 the property would require a new driveway to be installed. Mr. Quynn opened the public hearing.  
33 There was no public comment. Mr. Quynn closed the public hearing.

34 Mr. Corbin moved to approve the variance as requested. Mr. Quynn called for a vote, which carried  
35 unanimously.

36 Mr. Quynn called for File #19-35-ZV as the applicant for File #19-33-ZV was not yet in attendance.

#### 37 ITEM #2      FILE #: 19-35-ZV

38 Request: Variance from Section 10.4B.3 to reduce the front setback from 25' to 5' along  
39 Route 480 and along Route 115 for a 20' tall Freestanding Sign with a 5' (W) x 8'  
40 (H) [sign face].  
41 Owner: I & K Farms, LLC

1 Applicant: Clarence Haymaker  
2 Parcel Info: 5437 Charles Town Rd., Kearneysville, WV; Parcel ID: 0703B00450000;  
3 Size: .70+ ac; Zoning District: Village

4 Mr. Clarence Haymaker was present to address the Board. Ms. Beaulieu presented her staff report  
5 to the Board noting that the Board had previously approved reestablishing the nonconforming gas  
6 station on the subject parcel. Ms. Beaulieu explained that the purpose of this request was to erect a  
7 sign in the same location as the previous sign. Ms. Beaulieu informed the Board that due to the  
8 existing power lines the Board may wish to note as a condition of approval that the applicant should  
9 confirm that the sign will be located outside of any utility easements. Mr. Haymaker explained the  
10 nature of the request to the Board confirming that the proposed sign would be erected in the same  
11 location as the old sign. Mr. Haymaker stated that the sign would not create traffic visibility issues  
12 and confirmed that they would consult with the power company to ensure that the sign would not  
13 be in any utility easements. Mr. Quynn opened the public hearing. There was no public comment.  
14 Mr. Quynn closed the public hearing.

15 Mr. McKinney moved to approve the variance as requested with the following conditions:

- 16 1. The applicant is bound by his testimony.
- 17 2. The sign shall comply with the zoning ordinance provisions.
- 18 3. The applicant shall confirm and comply with any existing utility easements.

19 Mr. Quynn called for a vote, which carried unanimously.

20 ITEM #1      FILE #: 19-33-ZV

21 Request: Variance from Section 5.4B.1 and Appendix A to reduce the rear setbacks from 20'  
22 to 15'; the front setbacks from 25' to 20'; and the side setback from 12' to 10' for  
23 the proposed Phase 3A, Lots 134-159.

24 Parcel Info: Beallair Homes LLC, Unplatted section of Beallair Subdivision along Beallair  
25 Manor Drive, proposed Phase 3A, Lots 134-159, Parcel ID: 04010ARESA0000;  
26 Lot Sizes Average: 8,500-13,000 sf; Zoning District: Residential Growth

27 Ms. Beaulieu informed the Board that she had received notice from Staff back in the Office that the  
28 applicant called after the start of the meeting and requested that their application be postponed until  
29 the January meeting. Mr. Bannon moved to postpone the public hearing until the January 23, 2020  
30 meeting. Mr. Quynn called for a vote, which carried unanimously.

### 31 **Zoning Administrator Report**

32 a. Monthly Zoning Certificate Activity Report. The Report was included in the mailed packet.

33 Ms. Beaulieu informed the Board of the following:

- 34 1. On 11/21/19 the County Commission adopted the revised text amendment (ZTA19-01)  
35 related to special events facilities.
- 36 2. On 12/10/19 the Planning Commission scheduled a work session on solar facilities for  
37 01/14/19.
- 38 3. On 12/10/19 the Planning Commission agreed to forward the Mass Event text amendment  
39 on to Greenway Engineering to incorporate into the ordinance rewrite work plan.
- 40 4. Ms. Beaulieu informed the Board that per their request, Mr. Goodwin would be  
41 attending their January meeting to provide an overview of the purpose of a site plan.
- 42 5. Ms. Beaulieu informed the Board that their next meeting would be January 23, 2020.

1 **Legal Update**

- 2 a. Possible executive session on the following pending lawsuits. None  
3 b. Discussion with possible deliberative session and signing of draft Findings/Decisions

4 **Meeting: October 24, 2019**

- 5 1. Variance from Sec. 9.6B. Owner: Preston Barger. Files: 19-26-ZV and 19-27-ZV.  
6 2. Conditional Use Permit for a Church. Owner: Burr Park, LLC. Applicant: Ascension  
7 Church. File: 19-2- CUP.  
8 3. Variance from Sec. 4.11A.2 & 4.11E.1 and App. B. Owner: JCDA. Applicant: McGee  
9 Civil Construction. File: 19-28-ZV.  
10 4. Variance from App. A. Owner: Keith Cranford. File: 19-29-ZV.  
11 5. Variance from Sec. 9.7. Owner: Thomas Custer. File: 19-30-ZV.  
12 6. Conditional Use Permit for a Restaurant. Owner: Wheatlands Property Management.  
13 Applicant: Jesse Morgan. File: 19-3-CUP.  
14 7. Variance from Sec. 4.10A. Owner: Wheatlands Property Management. Applicant:  
15 Jesse Morgan. File: 19-31-ZV.

16 Mr. Cochran provided the Findings for Mr. Bannon to review and sign.

17 **Meeting: November 14, 2019**

- 18 1. Variance from Sec. 4.11A.2, 4.11E and App. B. Owner: Seneca Crossing LLC.  
19 File: 19-32-ZV.

20 Mr. Cochran provided the Findings for Mr. Quynn to review and sign.

21 Mr. Bannon moved to adjourn the meeting at 2:33 pm, which carried unanimously.





Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 23, 2020 (Postponed from December 12, 2019)  
**Beallair Variance Request (#19-33-ZV)**

	<ul style="list-style-type: none"> <li>• Reduce one-way rear access drives from 50' to 20' to serve the garages.</li> </ul> <p>03/23/04: PC approved the following variances:</p> <ul style="list-style-type: none"> <li>• Min. finished road width from 24' to 15' for rear access drives;</li> <li>• No curbs included with the rear access drives;</li> <li>• No sidewalks on the one-way rear access drives;</li> <li>• A reduction from 3' to 2.5' for the back of the curb from the edge of the pavement;</li> <li>• No buffer screening between common areas &amp; adjoining single family lots.</li> </ul> <p>09/12/06: PC approved a variance to extend the 24-month provision for a period of 12 months to 09/12/07.</p> <p>08/26/08: PC approved a variance to extend the 24-month provision for a period of 12 months to 08/26/09.</p>
Zoning Variances:	<p>BZA approved the following variances:</p> <p>07-19-12: Reduce the rear setback from 20' to 17' for the construction of a 12' x 16' screened porch (ZV12-24).</p> <p>07-24-14: Reduce the rear setback from 20' to 3' to construct a deck.</p> <p>04-28-16: Reduce the rear setback from 20' to 10' to construct a deck (ZV16-09).</p> <p>07-28-16: Reduce rear setback from 20' to 12' for Lots 112, 127, and 128 (ZV16-12).</p> <p>07-28-16: Allow a staffed model home on Lot 111 (ZV16-13).</p> <p>10/27/16: Allow a staffed model townhome on Lot 51 (ZV16-21).</p> <p>03/23/17: Allow a staffed model townhome on Lots 50-67 (ZV17-02).</p> <p>09/28/17: Reduce front setback from 25' to 10' along Clover Lea Way for Lots 50-67 (ZV17-14).</p> <p>09/28/17: Reduce the 25' front setback to the following: to 10' along the S boundary for Lots 283-289; to 10' along the E boundary for Lot 283; to 10' along the N boundary for Lots 290-296; 10' along the E boundary for Lot 296; to 10' along the S boundary for Lots 297-304; to 18' along the E boundary for Lot 297 (ZV17-15).</p> <p>09/27/18: Reduce the rear setback from 20' to 18' to allow for a home (ZV18-14).</p> <p>04/25/19: Allow a staffed model home on Lot 68 (19-7-ZV).</p> <p>05/23/19: Reduce front setbacks from 25' to 20'; side setbacks from 12' to 10' and rear setbacks from 20' to 15' for Lots 68-72, 78, 106-108, 118, 121-124, and 129 (19-10-ZV)</p>
Approved Activity:	Single-Family Residence
Site Visit Conducted:	Yes, 12-03-19

**RELEVANT INFORMATION:**

**Previous Case History**

An overview of the Beallair Case History is as follows:

- Beallair Phase I, Lots 1-49 & Residue Parcels A, B, C, D & E. Recorded: 12/08/04 (Plat Bk: 21; Pg: 54)
- Beallair Phase II, Lots 50-133, Residue Parcel A. Recorded: 01/16/07 (Plat Bk: 23; Pg: 91)
  - A minor plat change to revise and update drainage areas, Recorded: 06/19/14 (Plat Bk: 25; Pg: 457)
- Final Plat of Commercial Parcel 1, Plantation Ln & Parcel A. Recorded: 01/25/10 (Plat Bk: 25; Pg: 184)
- Minor Plat Change to revise utility easements (Plat Bk: 25, Pg: 563)

Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 23, 2020 (Postponed from December 12, 2019)  
**Beallair Variance Request (#19-33-ZV)**

- Minor Plat Change to revise setbacks (Plat Bk: 25, Pg: 589)
- Minor Plat Change to revise setbacks (Plat Bk: 25, PG: 641)

The remaining lots to be platted from Beallair Subdivision and the Beallair West Subdivision are currently vested under the County Commission’s subdivision extension policy, which extends the vesting until July 1, 2020. At such time the developer of both sections of Beallair will be required to plat a portion of each section in order to keep the files valid.

**Beallair Subdivision Phasing**



**Summary of Request and Purpose of Ordinance Requirements**

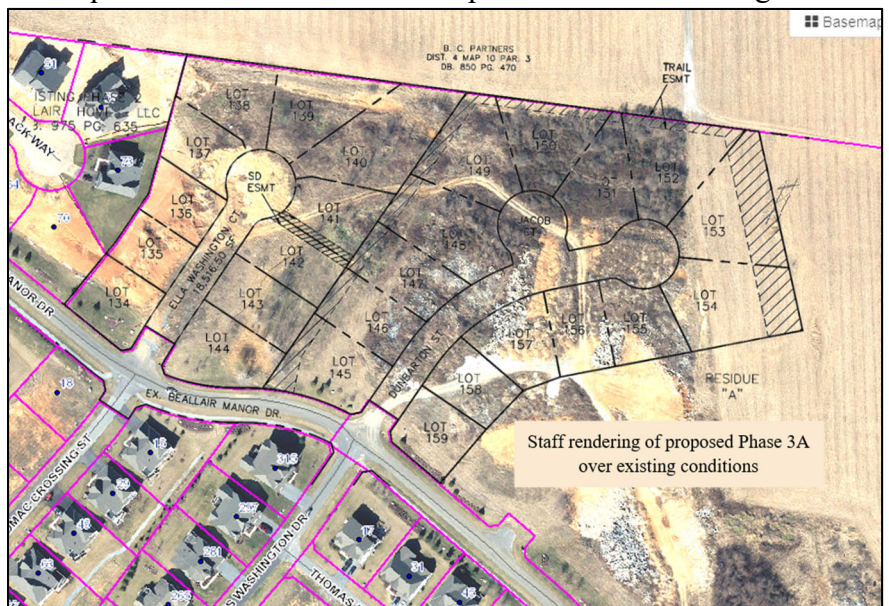
The applicant is requesting a variance from Section 5.4B.1 and Appendix A to reduce the front setback from 25' to 20'; the side setback from 12' to 10'; and the rear setback from 20' to 15' for the proposed Phase 3A, Lots 134-159.

A key purpose of front yard setback requirements is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that sight visibility is not impaired for drivers along the right-of-way.

The purpose of side and rear yard setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention purposes; and to allow room for utility easements.

**Staff Evaluation of Request**

The subject request is to reduce the setbacks for the proposed Phase 3A, which is currently under review for a Preliminary Plat. Reduced setbacks would allow the developer to construct the larger homes they have identified as being in demand with the current housing market.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 23, 2020 (Postponed from December 12, 2019)  
**Beallair Variance Request (#19-33-ZV)**

Impact on adjacent properties should be minimal because these lots are not yet platted and therefore, there are no existing houses within this next phase. If the variance is granted as requested, the lots will be sold to buyers in their approved configuration with reduced setbacks.

It may be difficult to situate the size and/or style of houses that are in demand for the current market with the proposed lot sizes; however, the subject lots have not yet be platted and therefore, it is feasible to comply with the Ordinance as it is written by either planning for units which comply with the setbacks or enlarging the parcel sizes. The latter option would likely result in lesser developable lots.

Conditions of Approval

Should the Board choose to approve this request, possible conditions of approval include:

1. No conditions of approval have been identified.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 5.4 Residential Growth (RG) District**

The Residential Growth District is intended to provide for a variety of residential uses and densities which can be supported by central or public water and sewer and adequate roadways and services. This district encourages areas of commercial growth proposed as an appropriate and compatible integrated part of a residential development in conformance with Section 5.4C of this Ordinance.<sup>32</sup>

The following regulations govern development within the Residential Growth District.

**A. Principal Permitted and Conditional Uses<sup>23,27, 32</sup>**

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.<sup>27, 32</sup>
2. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.<sup>27, 32</sup>

**B. Minimum Lot Area, Height, and Yard Requirements**

1. **Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance. The minimum lot area requirements are based on the availability of central or public water and sewer facilities and West Virginia Board of Health regulations.<sup>23, 27</sup>**

**APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE<sup>27, 32</sup>**

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks				Parking/ Drive Aisle Setbacks	Screened Buffers Sec. 4.11
							Front	Side	Street Side	Rear		
Residential Growth (RG)	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20	N/A	N/A
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"		
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"		
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20	12 side 15 front 15 rear	12 side 15 front 15 rear
	Duplex Dwelling Unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20		
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"		
	Townhouse Dwelling	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20	N/A	N/A
	Multi-Family Dwelling (See Section 4.12)	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30		
		Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	?		
			30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	?	12	
		Under 30,000 sq. ft.	N/A	N/A	N/A	40	20	8	?	12		



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 19-33-ZV  
 Staff Initials: GH  
 Meeting Date: 11/14/19  
 Fees Paid (\$100 or \$150): 100-

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Zoning Variance Request**

*Variations from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: Beallair Homes LLC  
 Mailing Address: 5283 Corporate Drive, Suite 300, Frederick, MD 21703  
 Phone Number: 301/695-6614-104 Email: mike.wiley@wormald.com

**Applicant Contact Information**

Name: Mike Wiley, P.E.  
 Mailing Address: Same as above  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)**

Name: Same as above  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: Phase 3A (Ela Washington Court, Dunbarton Street and Jacob Court (Lots 134-159), (26 Lots))  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: Harpers Ferry Map No: 10A Parcel No: see attached  
 Parcel Size: Approx 8500 -13,000 sq ft Deed Book: 975 Page No: 635

**Zoning District (please check one)**

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**RECEIVED**

OCT 21 2019

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Section 5.4B.1 and Appendix A

**Briefly describe the nature of the variance request:**

Rear Setbacks variances from 20 feet down to 15 feet. (Lot 153 and 154 will honor the 100' Power Esmt). (Lot 145 will be at Trail Esmt.)

Front Setback Variances ~~from 20' from each Street Side Front 25' to 20'~~(Culdesac front setbacks will provide 80' Lot width)

(Lot 134, 144, 145 and 159 will honor the 25' Landscape Esmt along Beallair Manor Drive.) Side Setback variances from 12' to 10'

If this request is for a setback variance, please check one of the following:

*(cont. See attached)*

Front Setback  Side Setback  Rear Setback  Reduction From see to above

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

See Attached

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

See Attached

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

See Attached

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

See Attached

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

 10/02/19  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

**Notification Requirements (to be completed by staff)**

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

11/14/19  
Date of Public Hearing

10/30/19  
Advertising Date

10/30/19  
Placard Posting Date

Beallair Phase 3A

BRL Variance Request

Justification Statements

October 02, 2019

Briefly describe the nature of the variance request:

(Cont.)

We are requesting the reduced setbacks become the "New" required setbacks to adhere with all other provisions.

Please explain why granting the variance will not adversely affect the public health, safety or welfare, or the rights of the adjacent property owners or residents:

The definition clarification will not impact the general public and will in-fact be a benefit to the overall unique and interesting design.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought, and which were not created by the person seeking the variance?

Relaxed setbacks will increase the flexibility needed to realize the high-quality community and also to provide the future home owners the flexibility with additional options now available.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

We respectfully submit that the variance requested represent reasonable accommodations asked of the subdivision ordinance due to an evolution of a development type, and are not the result of a self-imposed hardship.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

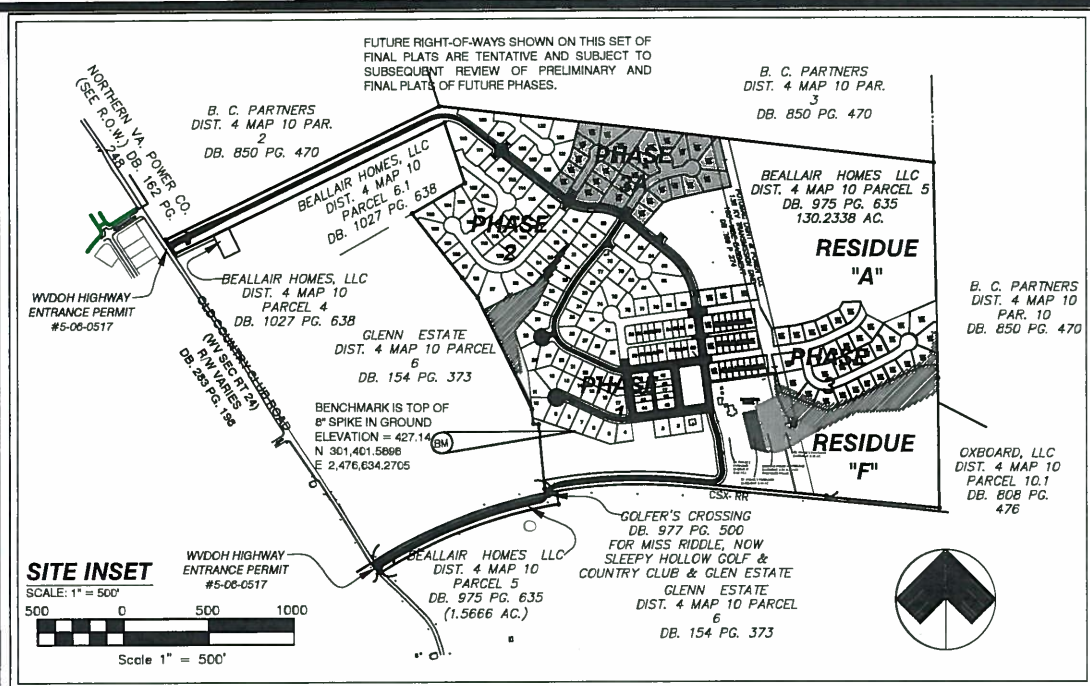
We submit that this request will uphold the basic intent of the ordinance and merely represent a reasonable accommodation for a development style currently found within the Community of Beallair in Jefferson County, West Virginia.

RECEIVED

OCT 21 2019

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

*Handwritten:* JW Wiley 10/02/19



**CONDITIONS:**

- EACH PARCEL SHOWN ON THIS PLAT SHALL BE RESTRICTED TO A SINGLE-FAMILY RESIDENCE, ONLY, UNLESS OTHERWISE APPROVED BY THE PLANNING COMMISSION IN CONFORMANCE WITH THE PREVAILING COUNTY LAND DEVELOPMENT LAWS. ALL LOTS WITHIN THIS SUBDIVISION ARE PROHIBITED FROM CONSTRUCTING PRIVATE ON-SITE SEWAGE DISPOSAL (SEPTIC SYSTEMS) AND PRIVATE ON-SITE WELLS. TYPICALLY, BUILDING SETBACKS ARE 25' FRONT, 20' REAR AND 12' SIDE. EXCEPTIONS TO THE 25' FRONT SETBACKS ARE: LOTS 138 - 141, 149, 150 AND 152 - 154 MODIFIED FRONT SETBACKS PROVIDE THE REQUIRED 80' LOT WIDTH. SEE JEFFERSON COUNTY ZONING ORDINANCE ART. 9 FOR OTHER SETBACK EXCEPTIONS.
- ALL INTERNAL SUBDIVISION ROADS, STORMWATER MANAGEMENT PARCELS, PARKS AND GREENSPACE PARCELS TO BE OWNED AND MAINTAINED BY A HOMEOWNERS ASSOCIATION (HOA). HOA MEMBERSHIP IS REQUIRED. HOA MUST BE ESTABLISHED AS SOON AS 50% OF THE LOTS ARE SOLD. THE HOA IS ALSO RESPONSIBLE FOR MAINTENANCE OF LANDSCAPE EASEMENTS.
- UPON ESTABLISHMENT OF THE HOA, THE JEFFERSON COUNTY COMMISSION SHALL BE PETITIONED BY THE HOA TO ADOPT AN ANIMAL LEASH LAW.
- THE DEVELOPED LOTS OF THIS PROJECT ARE NOT IN A 100-YR FLOOD PLAIN PER FIRM MAP 540065 0035C DATED 2 AUG. 1993. LOTS ARE IN ZONE C ON SAID MAP. FEMA 100-YR FLOOD PLAIN IS AS DELINEATED ON THIS PLAT.
- LOT DRIVEWAYS TO BE CONSTRUCTED PER JEFFERSON COUNTY DETAIL R-31. LOT 134 REQUIRE A 15'X21' CMP CULVERT AND LOTS 135 & 136 REQUIRE A 15' CMP (OR 13'X17' CMP) CULVERT.
- ALL PERMANENT LOT CORNER MARKERS (UNLESS SUSCEPTIBLE TO DESTRUCTION BY SUBDIVISION IMPROVEMENTS GRADING) AND PERMANENT MONUMENTS SHALL BE IN PLACE PRIOR TO THE CONVEYANCE OF INDIVIDUAL LOTS. ALL OTHER LOT CORNER MARKERS SHALL BE IN PLACE PRIOR TO THE FINAL RELEASE OF THE CONSTRUCTION BOND. LOT CORNERS WILL CONSIST OF 24" LONG X 3/8" DIAMETER SECTIONS OF STEEL ROD SUITABLE FOR MAGNETIC DETECTION. CERTIFICATION OF SUCH SHALL BE LONG BY 8 PROVIDED BY A WEST VIRGINIA LICENSED LAND SURVEYOR.
- A BLANKET EASEMENT SHALL BE GIVEN TO THE APPROPRIATE UTILITY COMPANIES IN ALL SUBDIVISION RIGHT-OF-WAYS FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING PUBLIC UTILITIES. ADDITIONALLY, EACH LOT IN PHASE 3A SHALL HAVE A 10'-WIDE DRAINAGE AND UTILITY EASEMENT ALONG ALL LOT LINES.
- MODEL HOME/SALES OFFICE (EITHER STAFFED OR UNSTAFFED) TO BE PLACED ON LOT #135, 144, 145 or 150 (LIMITED TO 1 AT ANY GIVEN TIME).
- WVDOH HIGHWAY ENTRANCE PERMIT 5-06-0517; WATER & SEWER WVDOH HEALTH DEPARTMENT PERMIT 15.896; WV NPDES PERMIT #
- LOT ACCESS IS LIMITED TO INTERIOR SUBDIVISION ROADS ONLY.
- MINIMUM LOT AREA (MLA) AND AREA PER DWELLING UNIT (ADU) REQUIREMENTS OF THE JEFFERSON COUNTY ZONING AND DEVELOPMENT REVIEW ORDINANCE HAVE BEEN ADHERED TO BY THIS SUBDIVISION PLAN. SEE SHEET 4 FOR COMPUTATION.

THE FOLLOWING VARIANCES AND OR REQUESTS HAVE BEEN APPROVED BY THE JEFFERSON COUNTY PLANNING AND ZONING COMMISSION. SEE JCPZC SUBDIVISION FILE FOR SPECIFIC VARIANCE REQUEST DETAILS.

SECTION	DESCRIPTION	DATE APPROVED
8.2.A.5	RIGHT-OF-WAY WIDTH	3-25-2003
8.2.A.7	PAVEMENT WIDTH	3-25-2003
8.2.A.11	INVERTED CROWN ON ONE-WAY DRIVES	3-25-2003
8.2.B.1	CURB AND GUTTER	3-25-2003
8.2.B.4	GUTTERS	3-25-2003
8.3.C.7.B	ON-SITE PARKING SPACES	3-25-2003
8.3.C.1.A	FINISHED ROAD WIDTH OF REAR ACCESS DRIVES SHALL BE 15'	3-23-2004
8.3.C.1.B	NO CURBS WILL BE PROVIDED ALONG REAR ACCESS DRIVES	3-23-2004
8.3.C.1.C	NO SIDEWALKS WILL BE PROVIDED ON THE ONE-WAY REAR ACCESS DRIVES.	3-23-2004
8.3.C.1.D	RIGHT-OF-WAY FOR REAR ALLEY FRONTAGE WHERE THERE ARE NO SIDEWALKS REQUIRED, WILL BE LOCATED 2.5' FROM THE EDGE OF PAVEMENT	3-23-2004
8.3.C.5.A	NO BUFFER SCREENING WILL BE PROVIDED BETWEEN COMMON AREAS AND ADJOINING PROPERTIES WITH SINGLE-FAMILY DETACHED RESIDENCES	3-23-2004
6.3	12-MONTH EXTENSION OF TIME TO PROCESS FINAL PLAT	9-12-2008
6.3	12-MONTH EXTENSION OF TIME TO PROCESS FINAL PLAT	8-26-2008

**BZA APPROVED THE FOLLOWING VARIANCES:**

- 07-19-12: REDUCE THE REAR SETBACK FROM 20' TO 17' FOR THE CONSTRUCTION OF A 12' X 16' SCREENED PORCH. (ZV12-24).
- 07-24-14: REDUCE THE REAR SETBACK FROM 20' TO 3' TO CONSTRUCT A DECK. 04-28-16: REDUCE THE REAR SETBACK FROM 20' TO 10' TO CONSTRUCT A DECK. (ZV16-09).
- 07-28-16: REDUCE REAR SETBACK FROM 20' TO 12' FOR LOTS 112, 127, AND 128 (ZV16-12).
- 07-28-16: ALLOW A STAFFED MODEL HOME ON LOT 111 (ZV16-13).
- 10/27/16: ALLOW A STAFFED MODEL TOWNHOME ON LOT 51 (ZV16-21).
- 03/23/17: ALLOW A STAFFED MODEL TOWNHOME ON LOTS 50-67 (ZV17-02); 09/28/17: REDUCE FRONT SETBACK FROM 25' TO 10' ALONG CLOVER LEA WAY FOR LOTS 50-67. (ZV17-14).
- 09/28/17: REDUCE THE FRONT SETBACK FROM 25' TO 10' ALONG THE SOUTHERN BOUNDARY FOR LOTS 283 THROUGH 289; TO REDUCE THE FRONT SETBACK FROM 25' TO 10' ALONG THE EASTERN BOUNDARY FOR LOT 283; TO REDUCE THE FRONT SETBACK FROM 25' TO 10' ALONG THE NORTHERN BOUNDARY FOR LOTS 290 THROUGH 296; TO REDUCE THE FRONT SETBACK FROM 25' TO 10' ALONG THE EASTERN BOUNDARY FOR LOT 296; TO REDUCE THE FRONT SETBACK DISTANCE FROM 25' TO 10' ALONG THE SOUTHERN BOUNDARY FOR LOTS 297 THROUGH 304; AND TO REDUCE THE FRONT SETBACK DISTANCE FROM 25' TO 18' ALONG THE EASTERN BOUNDARY FOR LOT 297. (ZV17-15)
- 09/27/18: REDUCE REAR SETBACK FROM 20' TO 18' TO ALLOW THE INADVERTENT ENCROACHMENT OF A HOME UNDER CONSTRUCTION ON PHASE 2 LOT 125. (ZV18-14)

**OWNER/DEVELOPER'S STATEMENT OF ACCEPTANCE**

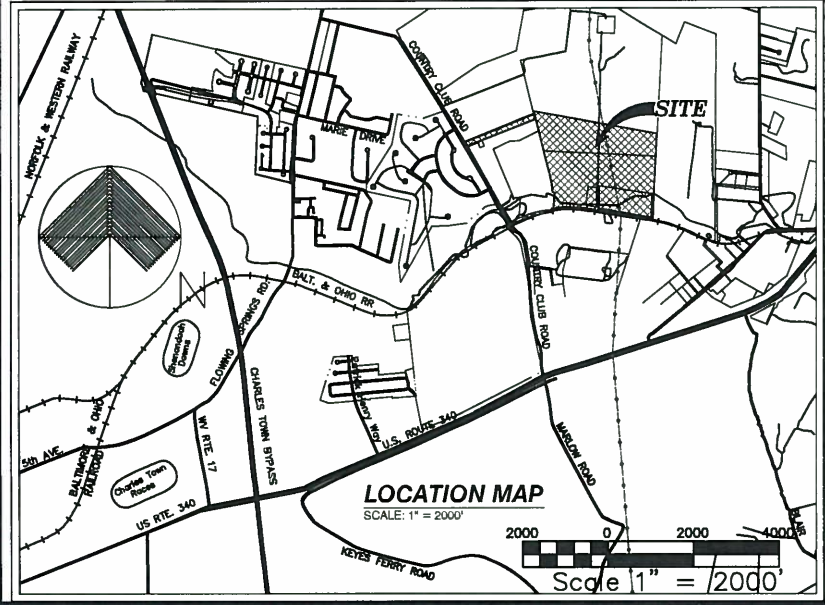
THE OWNER AND DEVELOPER, BY SIGNING THIS PLAT, AGREES TO ABIDE BY ALL CONDITIONS, TERMS AND SPECIFICATIONS PROVIDED HEREON.

**OWNER/DEVELOPER:**  
 BEALLAIR HOMES, LLC  
 5283 CORPORATE DRIVE, SUITE 300  
 FREDERICK, MARYLAND 21703  
 301-695-6814

**SURVEYOR:**  
 MICHAEL T. WILEY, PE, PS  
 WV PROFESSIONAL SURVEYOR NO. 1044  
 FOR BEALLAIR HOMES, LLC 5283  
 CORPORATE DRIVE, SUITE 300 FREDERICK, MARYLAND 21703  
 301-695-6814

EDWARD E. WORMALD  
 MANAGING PARTNER  
 BEALLAIR HOMES, LLC

DATE \_\_\_\_\_



**SURVEYOR'S CERTIFICATION**

I, MICHAEL T. WILEY, A WEST VIRGINIA PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THIS SEALED PLAT IS ACCURATE, COMPLETE AND REASONABLY MEETS OR EXCEEDS MINIMUM ACCEPTABLE SURVEYING STANDARDS AND THOSE STATE AND/OR COUNTY CODE PROVISIONS APPLICABLE ON THIS DATE. THIS SUBDIVISION COMPLIES WITH THE JEFFERSON COUNTY SUBDIVISION REGULATIONS, SECTION 8.1.B.8 FOR CLOSURE WITHIN 1:7500.

MICHAEL T. WILEY, PE, PS  
 WV SURVEYOR NO. 1044  
 FOR BEALLAIR HOMES, LLC  
 WV COA 9-5636

DATE \_\_\_\_\_

JEFFERSON COUNTY PLANNING COMMISSION

BY \_\_\_\_\_ DATE \_\_\_\_\_

**SHEET INDEX**

COVER	SHEET 1 OF 3
LOTS	SHEET 2 OF 3
PARKLAND, EASEMENT AND AREA CALCULATIONS	SHEET 3 OF 3

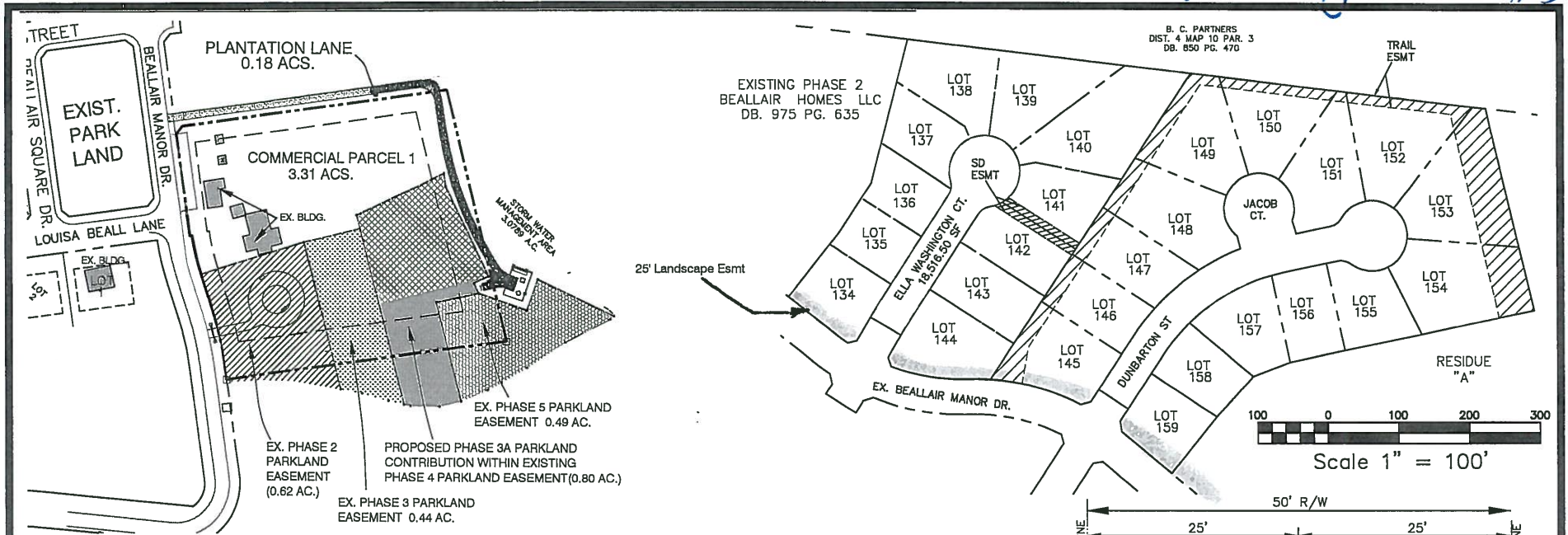
**REVISIONS**

DATE	DESCRIPTION

**FINAL PLAT**  
**SHOWING LOTS 134-159**  
**AND RESIDUE PARCEL A**  
**BEALLAIR - PHASE 3A**  
 HARPERS FERRY MAGISTERIAL DISTRICT  
 MAP 10 PARCELS 3.2-3.4  
 DEED BOOK 975 PAGE 635 AND DEED BOOK 977 PAGE 490 & 495  
 JEFFERSON COUNTY, WV  
 OCTOBER 2018  
 SHEET 1 OF 3

Plotted: Aug 29, 2019 at 12:11pm  
 C:\Work\BEALLAIR\Beallair Phase 3A\Final Plat\CGC\CGC.dwg

*J.W. Wiley 10/02/19*



PARKLAND REQUIREMENT	PARKLAND IS SHOWN SHADED
RESIDENTIAL LAND IN PHASE 3A: 7.8156 ACRES	
PARKLAND REQUIRED = 4% OF RES. LAND IN PHASE 3A = 0.3126 ACS.	
PARKLAND PROVIDED IN PHASE 3A: 13,617,985 SF or 0.3126 ACS.	
PHASE 3A IS CREATED FROM A PORTION OF FUTURE PHASE 4. PHASE 4 PARKLAND EASEMENT REQUIREMENTS (0.80 ACRES) WERE PREVIOUSLY RECORDED IN BK-25, Pg-184. PHASE 3A PARKLAND REQUIREMENTS ARE SATISFIED WITHIN EXISTING PHASE 4 PARKLAND.	

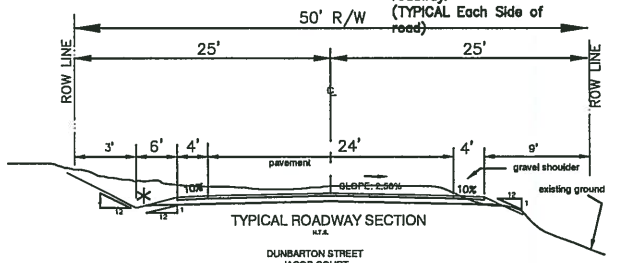
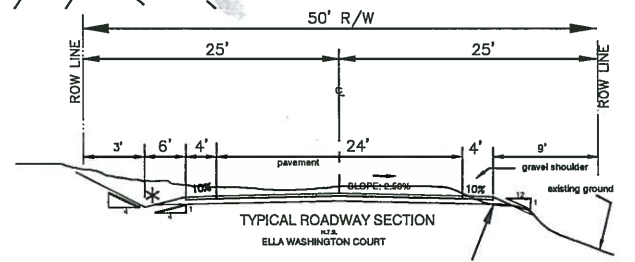
**SYMBOL KEY**

UNLESS LABELED OTHERWISE, ALL POINTS SHOWN AS:  
 TO BE SET 5/8" REBARS PER "CONDITIONS" NOTE #6 ON SHEET 1. — ○

5/8" REBARS TO BE SET UNDER PHASE 1 PLAT — ⊙

COMPUTED POINT, (NO MARKERS TO BE SET) — ●

CONCRETE MONUMENTS — ⊗



**COMPUTATION FOR MLA/ADU FOR THE SINGLE-FAMILY DETACHED AREA OF THE PHASE 3 DEVELOPMENT.**

COMPUTATION OF DETACHED SINGLE-FAMILY AREA REQUIREMENTS PER ZONING ORDINANCE SECTION 5.4B:  
 MLA REQUIRED - 6,000 SQ. FT. MINIMUM LOT AREA  
 MLA PROVIDED - ALL SINGLE FAMILY DETACHED LOT AREAS EXCEED 6,000 S.F.

ADU REQUIRED - 10,000 SQ. FT.  
 ADU PROVIDED:  
 Total Phase 3A Residential Lot Area = 340,449.4 SQ. FT.  
 Divided by 25 lots = 13,617.98 SQ. FT. per lot which exceeds the minimum ADU required.

**LEGEND**

Subdivision Boundary Line ————

Lot Boundary Line ————

Adjoiner Boundary Line ————

Easement Boundary Line ————

Centerline ————

Fence Line — x — x —

Sanitary Sewer Manhole — ○ —

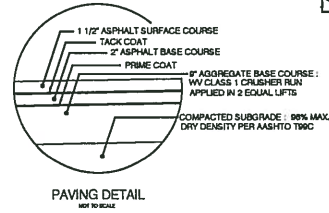
Sanitary Sewer Cleanout — ⊕ —

Water Fitting — P, b, φ —

Exist. Overhead Utility Lines ————

Existing Utility Pole ————

Building Setback Limit Line ————



Original Tract & Previous Development		Current Development (Phase 3A)				Remaining after Phase 3A			
PARCEL DESIGNATIONS	TOTAL IN ACRES	PARCEL DESIGNATIONS	ACRES IN ROW PHASE 3	ACRES IN LOTS	TOTAL IN SQUARE FEET	TOTAL IN ACRES	PARCEL DESIGNATIONS	TOTAL IN SQUARE FEET	TOTAL IN ACRES
TOTAL AREA	130.2336	BEGINNING TOTAL - RESIDUE A			1,725,561.56	39.6134	RESIDUE A (Remaining)	1,330,141	30.6368
PHASE 1 LOTS	10.6170	RESIDUE A (Phase 3A Contribution)	1.2619	7.8156	345,419.83	9.0776	RESIDUE B (Remaining)	283,271	6.8143
RIGHTS-OF-WAY: PH 1	13.0596	RESIDUE A (REMAINDER)			1,330,141.73	30.5358	RESIDUE F (Remaining)	874,441	18.4831
PARKLAND: PHASE 1	0.4219	TOTAL (Remaining)					TOTAL (Remaining)	2,297,854	51.6332
TOTAL (Remaining)	106.2363	NOTE: NOT INCLUDED IN THE ABOVE COMPUTATIONS OF THE BEALLAIR DEVELOPMENT, IS THE SEPARATE RIGHT-OF-WAY PARCEL THAT EXISTS SOUTH OF THE CSX RAILROAD TRACKS. IT HAS BEEN DEDICATED, IN ENTIRETY, TO ROAD RIGHT-OF-WAY. NO CHANGES TO SAID PARCEL ARE PLANNED FOR BEALLAIR PHASE 3A.							
PHASE 2 LOTS	21.0013								
RIGHTS-OF-WAY: PH 2	4.3633								
PARKLAND: PHASE 2	0.2856								
SMW (RESIDUE C)	2.0444								
TOTAL (Remaining)	78.9217								
COMMERCIAL LOT	3.3143								
PLANTATION LANE	0.1808								
TOTAL (Remaining)	75.0286								
PHASE 3 LOTS	10.8547								
PLANTATION PHASE 3	3.2809								
TOTAL (Remaining)	80.9110								

Area Tabulation

JEFFERSON COUNTY PLANNING COMMISSION		SHEET INDEX		REVISIONS	
COVER	DATE	LOT	SHEET 1 OF 3	DATE	DESCRIPTION
PARKLAND, EASEMENT AND AREA CALCULATIONS			SHEET 2 OF 3		
			SHEET 3 OF 3		

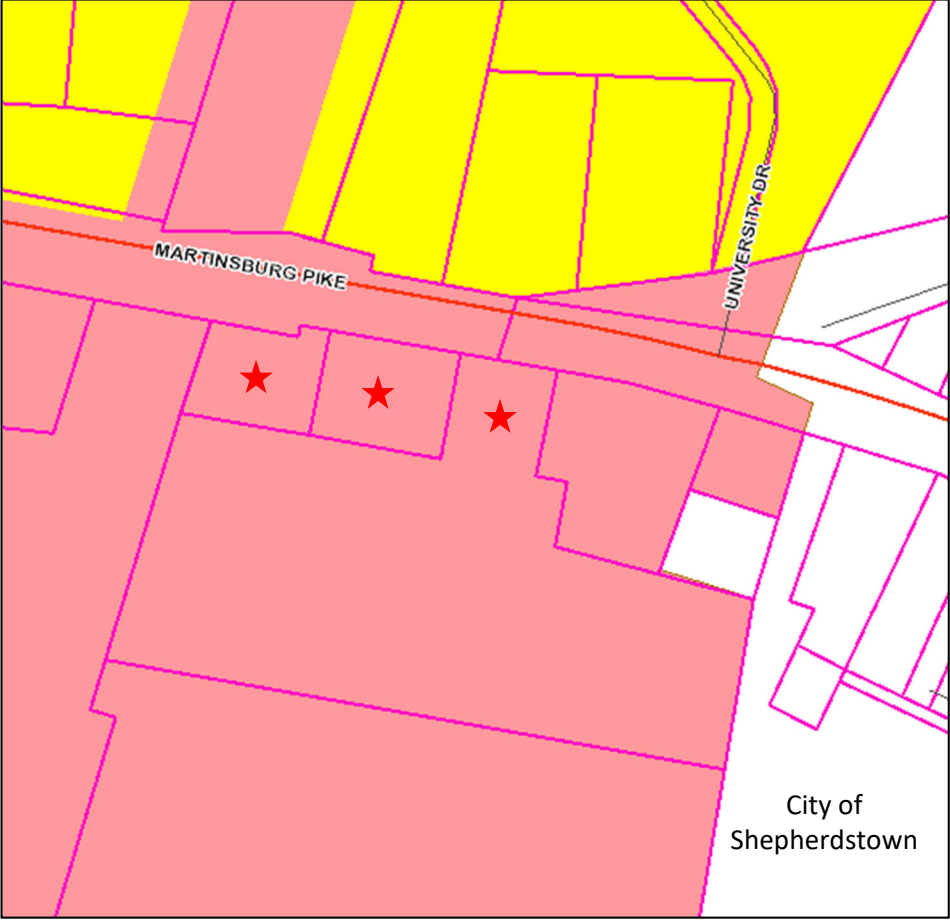
**FINAL PLAT**  
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 MAP 10 PARCELS 3.2-3.4  
 DEED BOOK 975 PAGE 635 AND DEED BOOK 977 PAGE 490 & 495  
 JEFFERSON COUNTY, WV  
 OCTOBER 2018  
 SHEET 3 OF 3



Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 23, 2020  
**Martinsburg ROCS Variance Request (#19-37-ZV)**

Item #2 Variance from Sections 4.11A, 5.8C.2 and Appendix B to eliminate the landscaping and buffer requirements and parking/drive aisle and building setbacks for internal lot lines only for the purpose of constructing the proposed ROCS gas station and convenience store.

Applicant:	SAB Real Estate 2, LLC
Owner:	Same
Developer:	N/A
Consultant:	GORDON
Parcel Information and Zoning District:	<p style="text-align: center;">Martinsburg Pike (WV Route 45), Shepherdstown, WV          Parcel ID: 09008A00190000; 09008A00210000; 09008A00230000          Size: 3.56 acres combined; Zoned: Residential-Light Industrial-Commercial</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:  <i>North:</i> Residential Growth    <i>South:</i> Residential-Light Industrial-Commercial  <i>East:</i> Residential-Light Industrial-Commercial / City of Shepherdstown  <i>West:</i> Residential-Light Industrial-Commercial</p>
Waivers/Variations:	<p>07/25/19: Variance to reduce the front setback from 25' to 5' for a sign (19-14-ZV).          09/10/19: To allow early grading of the site prior to site plan approval (19-15-PCW).</p>
Proposed Activity:	S18-06: Construction of a gas station with a 5,600 sq. ft. convenience store and 5 fuel islands, with a total of 10 pumps.
Site Visit Conducted:	Yes. 01-13-2020

Staff Report  
Jefferson County Board of Zoning Appeals  
January 23, 2020  
**Martinsburg ROCS Variance Request (#19-37-ZV)**

**Summary of Request and Purpose of Ordinance Requirements**

The applicant is requesting a variance from Article 4, Section 4.11A to eliminate the required 10' landscape buffer between two commercial uses on the interior lot lines of the three lots for the ROCS site **and** a variance from Article 5, Section 5.8.C.2 to eliminate the 10' parking and drive aisle setbacks and the 25' building setbacks on the interior lot lines of the three lots for the propose ROCS site. All Non-Residential Site Development Standards referenced in these sections are found in Appendix B of the Zoning Ordinance.

The purpose of landscape buffer requirements is typically to lessen the impact between adjacent land uses, including the visual impact of parking, truck loading area, etc. Landscape buffers contribute by reducing the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise.

The purpose for building setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention purposes; and to allow room for utility easements.

The purpose of parking and drive aisle setbacks is to reduce negative interactions between vehicles, as well as pedestrians, traveling on the roadway and using the parking area. Parking setbacks also serve to reduce the impact that a land use might have on an adjacent property, such as the bright lights from headlights and engine noise.

Applying setbacks to individual lots within a multi-lot development under the same ownership may appear redundant; however, the purpose of this requirement is to protect future lot owners in the event that an individual lot is sold or foreclosed on in the future.



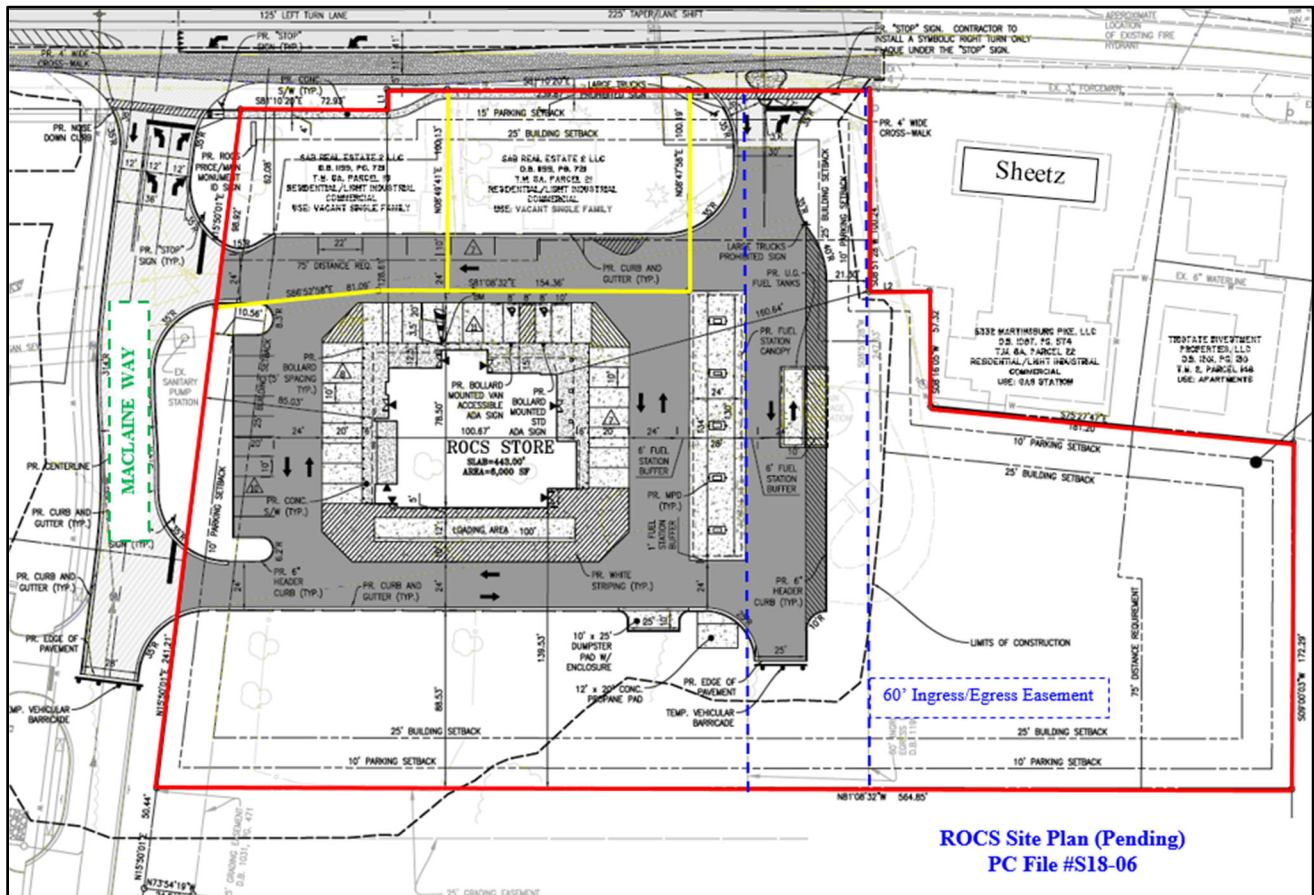
Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 23, 2020  
**Martinsburg ROCS Variance Request (#19-37-ZV)**

**Staff Evaluation of Request**

The property owner is currently processing to establish a ROCS gas station and convenience store on the subject parcels. There are a total of three parcels included in the proposed project, all of which are under the same ownership. The property owner has been advised by their consultant to not merge the three lots; therefore, in order to proceed with the proposed site development, a variance is required to eliminate setbacks and buffer requirements for internal lot lines.

Due to the fact that the three parcels are under the same ownership and that they are all part of the proposed project, it appears that there will be no significant impact on adjoining properties. It is feasible to comply with the Ordinance by processing a merger; however, as previously noted, the applicant has been advised to keep the lots separate.

Below is the pending site plan for ROCS. The yellow lines are subject to the variance request. The red lines are the exterior boundary lines, which are not subject to the variance.



**ROCS Site Plan (Pending)  
 PC File #S18-06**

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. No buildings shall cross lot lines.
2. A note should be added to the site plan stating, "The owner/developer agrees that if any of the individual lots are conveyed to an outside party, all appropriate or necessary road and/or parking easements will be conveyed to the grantee if appropriate at the time of such transfer."

Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 23, 2020  
**Martinsburg ROCS Variance Request (#19-37-ZV)**

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 4.11 Landscaping, Screening and Buffer Yard Requirements**

Buffer yard requirements are as shown in Appendix A and B of this Ordinance, and are summarized in this section.<sup>27</sup>

- A. Commercial Development<sup>27</sup>
  - 2. All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.<sup>5</sup>

**Section 5.8 Residential-Light Industrial-Commercial (R-LI-C) District<sup>1</sup>**

The purpose of this district is to guide high intensity growth into the designated growth area. Light industrial uses are defined in Section 2.2. All other perceived light industrial uses shall be referred to the Jefferson County Development Authority for a recommendation on whether a use is a light industrial or heavy industrial use. The final decision on use classification shall be made by the Zoning Administrator.<sup>23</sup>

**C. Site Development Standards<sup>23, 27</sup>**

- 1. All sections of this Ordinance applying to the Residential Growth District with the exception of Section 5.4A will apply to residential uses in this District.<sup>27</sup>
- 2. **Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards,** except as provided elsewhere in this Ordinance. All commercial or industrial uses must be in compliance the requirements for such use in Article 8. In addition, a site plan, if required, must demonstrate that traffic patterns created by Commercial or Light Industrial uses (1) will not use adjacent residential roads for through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.<sup>5, 7, 23, 27</sup>
- 3. Restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores shall be subject to the review and approval of the Board of Zoning Appeals as a Conditional Use in accordance with Section 6.3 of this Ordinance. This requirement shall not apply to a building located within a shopping center shown on an approved site plan.<sup>23, 26, 32</sup>
- 4. Proposed uses in this zone are exempt from the distance requirements in Sections 4.6A-B if part of a master planned community. This provision shall only apply to the internal use of land under the same ownership.<sup>7, 27</sup>

**APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE<sup>27, 32, 35</sup>**

Zoning District	Development Type <sup>9</sup>	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imperious Surface Limit	Building Setbacks		Parking/ Drive Aisle Setbacks			Buffers (Sec. 4.11) (Screened / Unscreened) Adjacent Use							
						Front	Side	Rear	Front	Side	Rear	A Residential district, or any lot with a residence, school, church, or institution of human care (Distance per Sec. 4.6)			Commercial Use		Industrial Use	
												Distance Front Side Rear	Street Trees	Side & Rear	Front	Side & Rear	Front	Side & Rear
Industrial – Commercial (IC)**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25	15	4	4	75	Street Trees	Narrow Buffer Detail No. M-54	N/A	10(S)	N/A	10(S)		
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25	15	10	10	75	Street Trees	Medium Buffer Detail No M-53	N/A	10(S)	N/A	10(S)		
	Industrial	3 ac ***	N/A	75	90%	50 or 25 if adjacent to Industrial Use	25 or 20 if adjacent to Industrial Use			200	Street Trees	Wide Buffer Detail No. M-52	25(S)	20(S)	N/A	20(S)		
Residential-Light Industrial-Commercial (RLIC)	Commercial or Industrial	N/A	N/A	75	80%	See IC District												



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 19-37-ZV  
 Staff Initials: JH  
 Meeting Date: 01/23/20  
 Fees Paid (\$100 or \$150): 100-

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Zoning Variance Request**

*Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: SAB Real Estate 2 LLC  
 Mailing Address: 300 East John Street, Martinsburg, WV 25401  
 Phone Number: 304-362-9618 Email: jbunton@rmroach.com

**Applicant Contact Information**

Name: Same as Property Owner  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

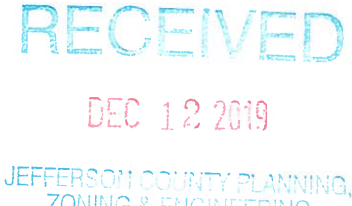
**Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)**

Name: GORDON  
 Mailing Address: 148 S. Queen Street, Suite 201, Martinsburg, WV 25401  
 Phone Number: 307-725-8456 Email: rperks@gordon.us.com

**Physical Property Details**

Physical Address: Martinsburg Pike (WV 45)  
 City: Shepherdstown State: WV Zip Code: 25443  
 Tax District: Shepherdstown Map No: 8A Parcel No: 19,21,23  
 Parcel Size: 3.56 acres Deed Book: 1199 Page No: 687

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input type="checkbox"/>	Residential- Light Industrial- Commercial (R-LI-C) <input checked="" type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Section 4.11.A, Appendix B

*Briefly describe the nature of the variance request:*

As the three lots comprising the project site will remain unmerged, request is to eliminate landscape buffer requirements for internal lot lines only.

*If this request is for a setback variance, please check one of the following:*

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ to \_\_\_\_\_

*Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:*

Request is for internal lot lines only and will have no affect on public health, safety or welfare, or the rights of adjacent property owners or residents.

*In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?*

Lots were created by previous property owner.

*How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?*

Providing landscaping buffers for interior lot lines of commonly owned properties that will contain a single use is unnecessary and would result in the land not being used efficiently for the desired purpose.

*How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?*

The intent of the landscaping buffer provisions of the Zoning Ordinance is to buffer between adjacent uses. As the internal lot lines do not separate adjacent uses, there is no need for buffering, thus, the intent of the Ordinance is observed and substantial justice will be done in granting the variance.

*Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.*

*By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.*

 member 12/9/19  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

*Notification Requirements (to be completed by staff)*

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

01/23/20

Date of Public Hearing

01/08/20

Advertising Date

01/08/20

Placard Posting Date

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Section 5.8.C.2, Appendix B

*Briefly describe the nature of the variance request:*

As the three lots comprising the project site will remain unmerged, request is to eliminate building setbacks for internal lot lines only.

*If this request is for a setback variance, please check one of the following:*

Front Setback  Side Setback  Rear Setback  Reduction From 25' to 0'

*Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:*

Request is for internal lot lines only and will have no affect on public health, safety or welfare, or the rights of adjacent property owners or residents.

*In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?*

Lots were created by previous property owner.

*How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?*

Providing building setbacks for interior lot lines of commonly owned properties that will contain a single use is unnecessary and would result in the land not being used efficiently for the desired purpose.

*How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?*

The intent of the building setback provisions of the Zoning Ordinance is to provide adequate yard space between adjacent uses. As the internal lot lines do not separate adjacent uses, there is no need for yards, thus, the intent of the Ordinance is observed and substantial justice will be done in granting the variance.

*Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.*

*By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.*

 member 12/9/19  
Signature of Property Owner Date

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Signature of Property Owner Date

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01/23/20

Date of Public Hearing

01/08/20

Advertising Date

01/08/20

Placard Posting Date

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Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Section 5.8.C.2, Appendix B

*Briefly describe the nature of the variance request:*

As the three lots comprising the project site will remain unmerged, request is to eliminate parking/drive aisle setbacks for internal lot lines only.

*If this request is for a setback variance, please check one of the following:*

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ to \_\_\_\_\_

*Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:*

Request is for internal lot lines only and will have no affect on public health, safety or welfare, or the rights of adjacent property owners or residents.

*In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?*

Lots were created by previous property owner.

*How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?*

Providing parking setbacks for interior lot lines of commonly owned properties that will contain a single use is unnecessary and would result in the land not being used efficiently for the desired purpose.

*How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?*

The intent of the parking setback provisions of the Zoning Ordinance is to provide adequate yard space between adjacent uses. As the internal lot lines do not separate adjacent uses, there is no need for yards, thus, the intent of the Ordinance is observed and substantial justice will be done in granting the variance.

*Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.*

*By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.*

 12/9/19  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

*Notification Requirements (to be completed by staff)*

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

01/23/20  
Date of Public Hearing

01/08/20  
Advertising Date

01/08/20  
Placard Posting Date

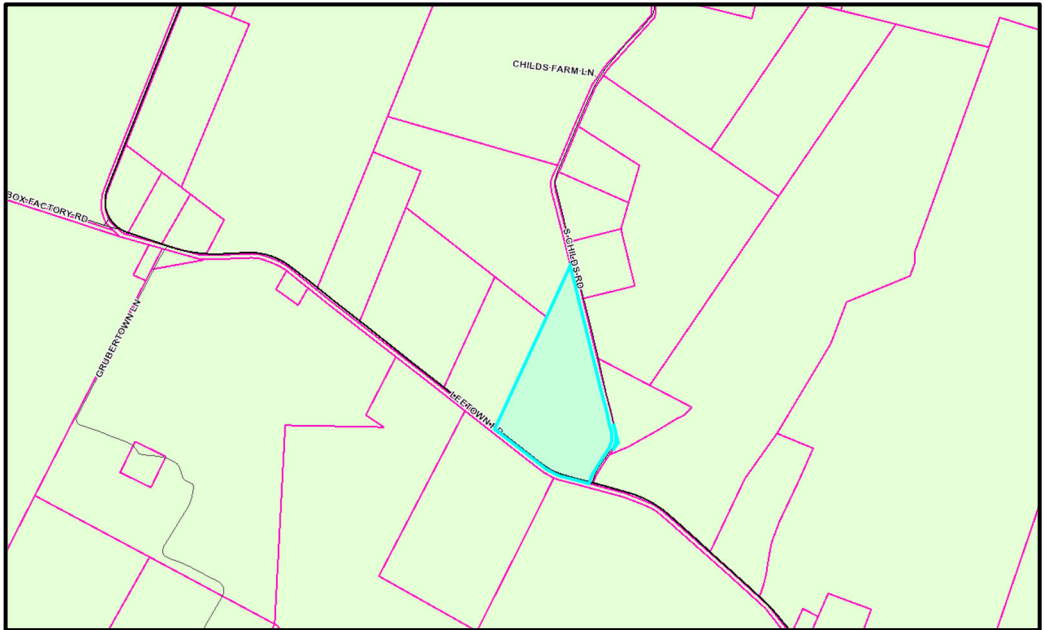




Staff Report  
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**Richard Childs / SmartLink, LLC Variance Request (#19-38-ZV)**

Item #3 Variance from Section 4B.7.J.2.a to increase the height restriction from 100’ to 199’ for a wireless telecommunications facility, in order to meet its coverage objectives.

Applicant:	New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, LLC
Owner:	Richard Childs
Developer:	N/A
Consultant:	AJ Desantis
Parcel Information and Zoning District:	<p style="text-align: center;">Corner of Leetown Road and South Childs Road, Summit Point, WV          Parcel ID: 07002500110002; Size: 17 acres;</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:  <i>North, South, East, West: Rural</i></p>
History:	None
Waivers/Variations:	None
Proposed Activity:	Telecommunications Tower
Site Visit Conducted:	Yes. 01-13-2020

**Summary of Request and Purpose of Ordinance Requirements**

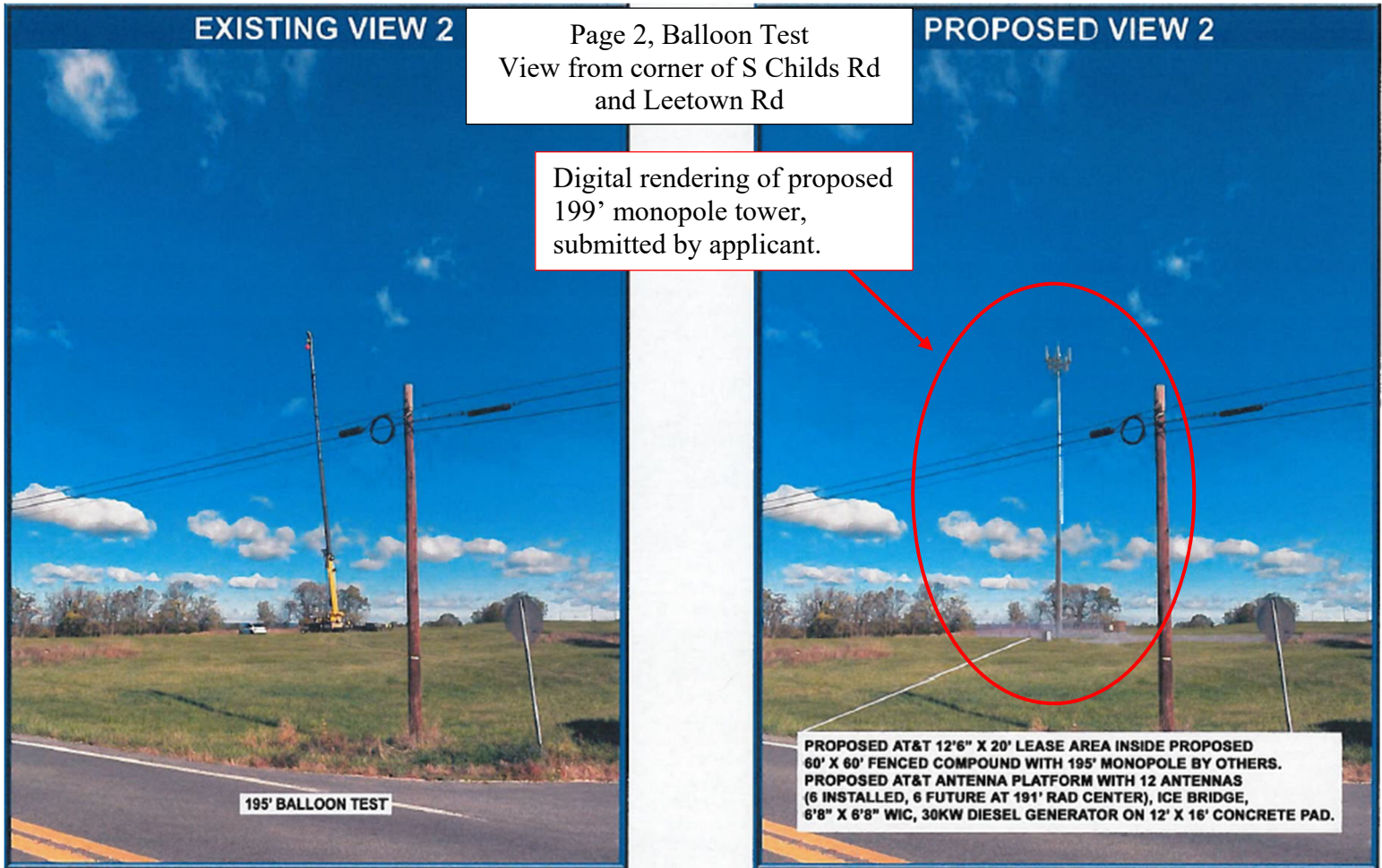
The applicant is requesting a variance from Section 4B.7.J.2a to increase the height restriction from 100’ to 199’ for a wireless telecommunications facility in the Rural Zoning District, in order to meet its coverage objectives.

The intent of the height restriction is to encourage new facilities to be located in the Industrial-Commercial zone by allowing them to reach a height of 199’ in that zone. While new towers are restricted to 100’ in all other zones, the Ordinance provides an applicant the ability to increase the height of a new facility to 120’ if the facility is designed to use a silo as the supporting structure.

**Richard Childs / SmartLink, LLC Variance Request (#19-38-ZV)**

**Staff Evaluation of Request**

The applicant is proposing to construct a 199' monopole facility in the Rural zoning district, in an area which is primarily agricultural (see Exhibits A & B on page 3 of this report). The applicant has represented that the requested height increase would allow AT&T to meet its coverage objectives.



The Zoning Ordinance has a Preferred Structures and Locations Policy (**Section 4B.7H**), which reads:

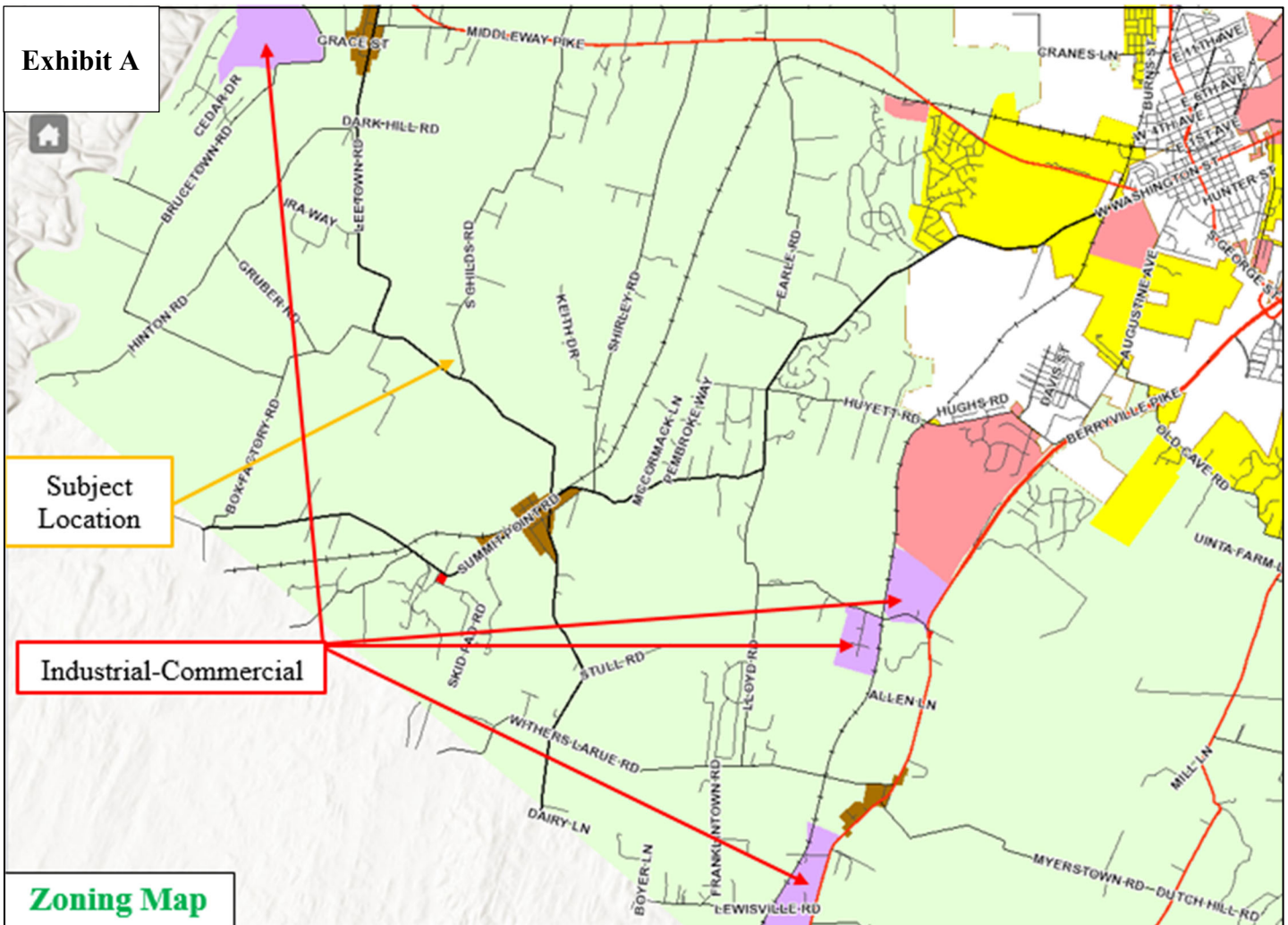
1. Co-location Encouraged. Prior to the approval of the construction of a new Tower, it is the policy of Jefferson County to encourage co-location of wireless facilities in the following locations:
  - a. Co-location of antennas on existing electric transmission towers.
  - b. Co-location and the use of existing or approved towers, buildings or alternative structures such as buildings, water towers, silos, church steeples, and utility poles more than fifty (50) feet in height within a one-quarter mile radius of a proposed Tower, where appropriate.
2. Preferred Support Structures. In light of Jefferson County's agricultural, and increasingly residential character, it is the policy of Jefferson County that for Facilities located outside the Industrial-Commercial zoning district, support structures for antennas are desired in the following descending order of preference:
  - a. Silos
  - b. Other Alternative Structures

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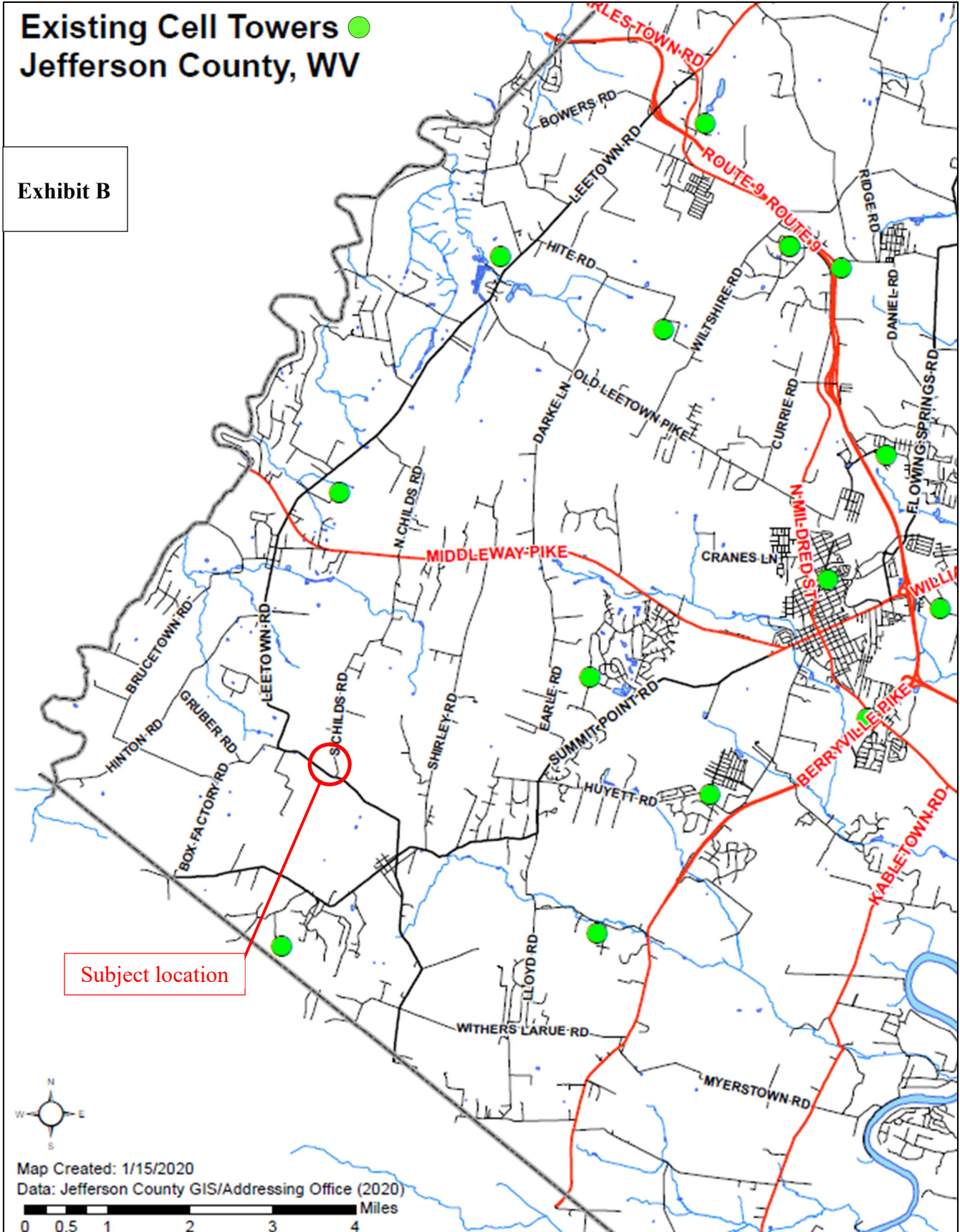
**Richard Childs / SmartLink, LLC Variance Request (#19-38-ZV)**

- c. Monopoles
- d. Lattice Towers
- 3. Preferred Locations. For new Towers, it is the policy of Jefferson County to encourage use of the following facilities or locations, in descending order of priority:
  - a. The Industrial-Commercial District
  - b. Non-residential areas screened by existing vegetation and located outside of the Industrial-Commercial District.

Below is a map reflecting the zoning districts located in the south-western portion of the County to provide a reference as to where there are parcels zoned Industrial Commercial (Exhibit A). On page 4 of the Staff report is a map identifying where existing telecommunications towers are located in this same part of the county (Exhibit B). Finally, on page 5 of the Staff report is an aerial map to provide an overview of the character of the area (Exhibit C).

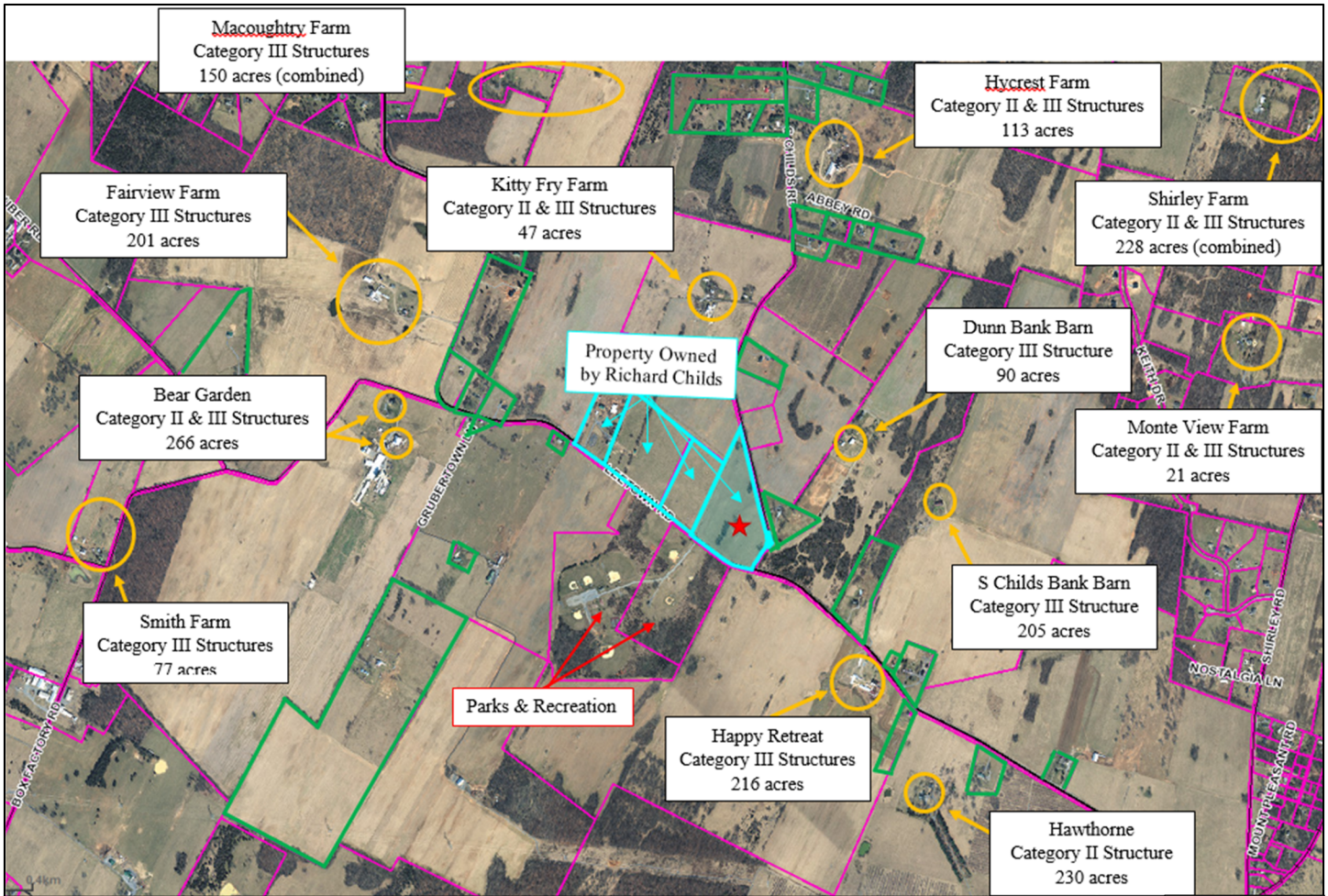


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- Blue outline = properties owned by the property owner of the subject parcel.
  - Green outlines = existing residential homes
  - Red arrows = Jefferson County Parks and Recreation land (71 acres ±)
  - Yellow circles = Category II & III historic structures, as classified by the Historic Landmarks Commission.
- Note:** The Zoning Ordinance does not require any buffers/protections for Category II or III structures

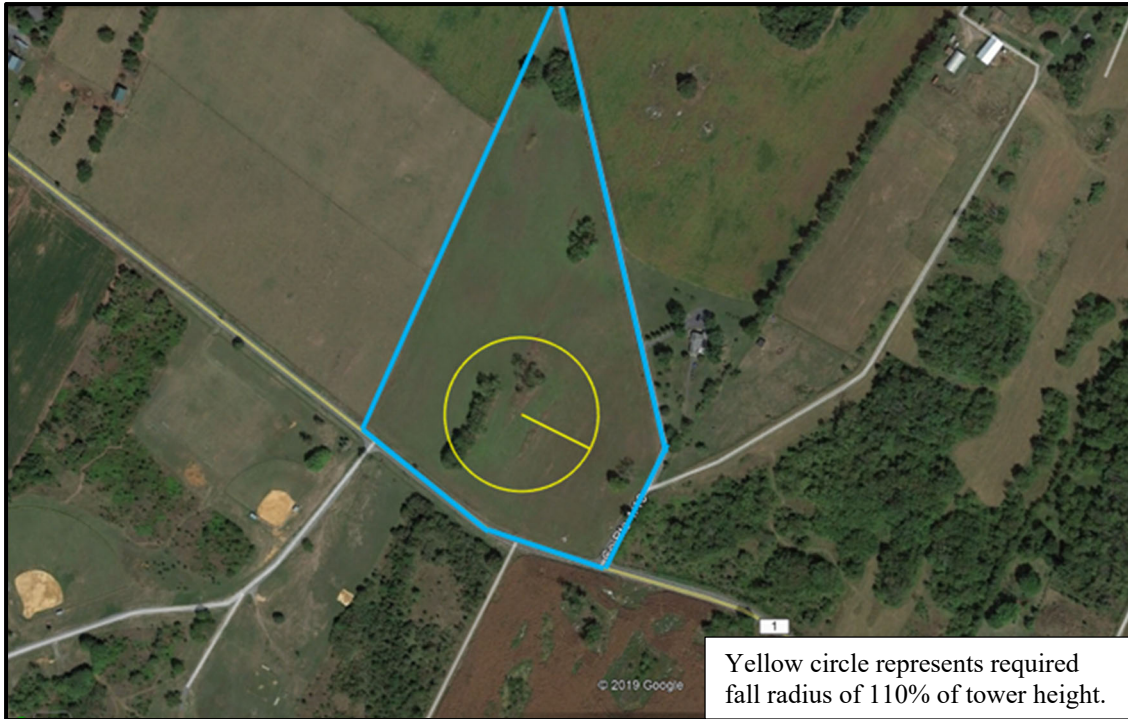
**Exhibit C**

The subject variance is the first step in the process for a new telecommunications tower. Following the variance, the applicant will be required to submit a Concept Plan, which is subject to a Public Hearing before the Planning Commission, and then a Site Plan. As part of the approval process, the applicant will be required to submit propagation maps demonstrating a technical need for the proposed tower, with a justification for the height of the antennas on the structure.

Additionally, a balloon test is required, to simulate the maximum height of the proposed tower. The applicant conducted a balloon test for the requested height of 199' on October 17<sup>th</sup>, 2019 in order to provide a visual aid to the Board for consideration as part of the subject request.

The aerial below reflects the fall radius for a 199' tower, which is required to be 110% of the tower height (Section 4B.7J.3a). The Ordinance allows for easements to be acquired on adjacent properties to meet the fall zone requirement; however, it appears that the fall zone will fit within the property boundaries of the proposed site.

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Fencing and buffering will be considered by the Planning Commission during the Concept Plan phase. Generally, fencing and buffers provide a visual barrier from the ground equipment, such as generators. The Planning Commission may or may not require fencing or buffers.

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. No conditions of approval were identified.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 4B.7 Wireless Telecommunication Towers**

J. Design Criteria

Wireless Telecommunication Towers shall comply with the following design criteria:

2. Height Restrictions
  - a. Towers in the Industrial-Commercial zoning district shall not exceed 199 feet. **Towers in all other zoning districts shall not exceed 100 feet.** If a silo is used for a support structure for antennas, the height of the silo shall not exceed 120 feet.
  - b. Antennas may extend up to twenty (20) feet above the height of existing electric transmission towers if such height extensions are preferable to placement of a new Tower.

**Richard Childs / SmartLink, LLC Variance Request (#19-38-ZV)**

**Section 4B.7 Wireless Telecommunication Towers<sup>35</sup>**

Wireless Telecommunication Towers (hereafter “Tower” or “Towers”) are permitted in all zoning districts subject to the provisions of this section. The provisions of this section apply to an application for a new Tower, as well as for a major modification to an existing Facility or Support Structure that results in a substantial change to the facility or structure, including but not limited to a height extension of more than twenty (20) feet or ten percent (10%) of the current height of a facility or structure, whichever is greater, and/or replacement of the structure.

This section is not applicable to co-location of a new antenna array on an existing structure.

**A. Site Plan Required**

A minor site plan shall be required for all new Towers, as well as for Major Modifications to an existing Facility or Support Structure resulting in a substantial change to the Facility or Structure. In addition to the site plan review requirements of the Subdivision and Land Development Regulations, the site plan shall include all elements of a Concept Plan as established in Subsection B, and shall address conditions established by the Planning Commission in its review of the Concept Plan.

**B. Concept Plan Submittal and Public Hearing Required**

In addition to the requirements for a minor site plan, a proposed Tower shall require the submittal of a Concept Plan, subject to the following requirements:

1. Required elements for a Wireless Telecommunications Tower Concept Plan shall be the same as for a site plan as established in the Subdivision and Land Development Regulations, Appendix A, Section 1.3A, with the exception of Subsections 1.3A.20-22, 24-29, 31-35.
2. The following additional elements must be submitted:
  - a. Outside dimensions, use, and setbacks of all existing and proposed buildings, structures, towers, antennas, utility lines, driveways, and parking areas.
  - b. Height of the proposed tower measured from ground level at the center of the proposed structure, and height comparison to any nearby buildings or trees, or other applicable structures and natural landforms part of the site’s background and foreground landscape.
  - c. Elevations and Cross-Section: Display topography with all proposed facilities including tower, equipment shelter and existing buildings.
  - d. Number, size and location of proposed and existing antennas; number of co-locations possible.
  - e. Method of camouflage (if any).
  - f. Locations of known historic structures.
  - g. A description of the anticipated construction and installation schedule.
  - h. Documentation verifying compliance with applicable Federal Communications Commission (FCC) standards and requirements to provide the proposed services.
  - i. Narrative addressing the design criteria of this section.
  - j. Dates, address list, and notice for Balloon Test.
  - k. Balloon Test exhibits as required in Subsection G of this Section.
  - l. Propagation maps as required in Subsection F of this Section.
  - m. Any other relevant information.
  - n. Additional application requirements of Subsection H of this Section.

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3. Submittal and review of a Concept Plan shall follow the review process and timeline established in Section 24.119 – 24.122 of the Subdivision and Land Development Regulations, with the following exceptions:
  - a. The application shall be exempt from Section 24.120A, Agency Reviews, and Section 24.120D, WVDOH, except as otherwise provided in this Subsection.
  - b. Following Staff's determination of the sufficiency of a Concept Plan application:
    - i. Staff shall notify the Jefferson County Historic Landmarks Commission of an application filing.
    - ii. The Applicant shall provide a copy of the completed Concept Plan application to the Appalachian Trail Conservancy and the National Park Service, if required by the Cultural and Historic Sites Review standards of this Section.
  - c. The Concept Plan shall be reviewed at a public hearing conducted at a scheduled Planning Commission meeting. The scope of this public hearing shall include a demonstration of need as required under this Article, neighborhood compatibility, impact on cultural and historic sites, visual mitigation, the submittal and design criteria of this Article, and the compatibility of the facility proposal with the Comprehensive Plan, as well as any relevant information presented by any person that addresses the purpose and intent of this Article. The Planning Commission shall review the proposed Tower for compliance with the standards in this Article and, if applicable, provide conditions relevant to the scope of the public hearing and/or unique characteristics of the proposed development site, to be addressed in Staff's approval of the site plan.
  - d. Before Staff may approve a site plan for a Tower, the Planning Commission must find, by a majority vote, that the Concept Plan application complies with this Article, and that the application is consistent with the Comprehensive Plan.

C. Retention of Consultants

Staff may elect to retain outside consultants or professional services to review a Concept Plan or site plan application for a Tower and to make recommendations on relevant issues including, but not limited to, verification of the applicant's compliance with the provisions of this Article, analysis of alternatives, conditions of approval, and compliance with State and Federal rules and regulations at the applicant's expense. Fees charged to the applicant shall not exceed the actual cost of services rendered.

D. Applicant's Burden of Proof

The applicant for a site plan for any Tower bears the burden of demonstrating by substantial evidence in a written record that a *bona fide* need exists for the proposed structure at its proposed height and location-as required in Subsection F, "Demonstration of Need", and that it has met all submittal and design criteria in this Article.

E. Proof of Eligibility

Speculative Towers are prohibited. Before an application for a Tower can be processed, a copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the Tower within six (6) months of issuance of a certificate of occupancy for the Tower. Such demonstration shall include submittal of an affidavit by the FCC licensee(s), and a copy of each wireless provider's FCC license. If such FCC licenses have been provided to Staff in conjunction with previous tower applications, the applicant may certify that such licenses remain in full force and effect.

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F. Demonstration of Need

As part of its application submission for a Concept Plan and for a site plan the applicant shall be required to submit propagation maps demonstrating a technical need for its proposed Tower and justifying the height of its antennas on the structure. One propagation map shall depict existing coverage without the proposed site and another depicting coverage with the proposed site. Such maps shall identify all adjacent sites whether existing, approved or proposed, and each map shall be accompanied by an engineer's affidavit attesting to the parameters or variables used to create the map.

Such propagation studies shall be submitted in both hard copy and in electronic format to facilitate information sharing, inclusion on the county's web site and to otherwise maximize public awareness.

G. Balloon Test

1. An applicant shall conduct a balloon or crane test to simulate the maximum height of the proposed Tower. Following the test, the applicant shall submit color photo simulations showing the proposed structure as it would appear viewed from the closest residential property or properties and from adjacent roadways. Photographs should be taken from appropriate locations on abutting properties, along each publicly used road from which the balloon is visible, and from up to five significant structures or locations identified by Staff. A map shall be supplied identifying the location of each photo. Before and after photo exhibits will be presented.
2. Notice of the dates and times of such tests shall be mailed to all property owners within a one-quarter mile (1320 feet radius) from the proposed location, in addition to the Historic Landmarks Commission at least ten (10) days prior to such tests. The applicant shall utilize address and owner information on file at the Jefferson County Assessor's Office. Such notices shall designate a primary date and an alternate date in case of inclement weather. Notices shall state that there is an application to the Planning Commission for a Wireless Telecommunication Tower on the property and provide the file number. Staff shall review and approve the sufficiency of the notice and the list of addresses prior to mailing. An affidavit of mailing accompanied by a list of recipients and addresses shall be included in the application file.
3. Such notice shall also be published in the legal advertisements section of a newspaper of general circulation in Jefferson County at least ten (10) days prior to such tests. Such notices shall designate a primary date and an alternate date in case of inclement weather. The newspaper's affidavit of publication shall be submitted as part of the application file.
4. In the event the applicant seeks to increase the height of the proposed Tower, or move its location more than one hundred (100) feet laterally, from that stated in its original notices, additional notice shall be required to be given consistent with the above requirements.

H. Preferred Structures and Locations Policy

1. Co-location Encouraged. Prior to the approval of the construction of a new Tower, it is the policy of Jefferson County to encourage co-location of wireless facilities in the following locations:
  - a. Co-location of antennas on existing electric transmission towers.

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- b. Co-location and the use of existing or approved towers, buildings or alternative structures such as buildings, water towers, silos, church steeples, and utility poles more than fifty (50) feet in height within a one-quarter mile radius of a proposed Tower, where appropriate.
2. Preferred Support Structures. In light of Jefferson County’s agricultural, and increasingly residential character, it is the policy of Jefferson County that for Facilities located outside the Industrial-Commercial zoning district, support structures for antennas are desired in the following descending order of preference:
  - a. Silos
  - b. Other Alternative Structures
  - c. Monopoles
  - d. Lattice Towers
3. Preferred Locations. For new Towers, it is the policy of Jefferson County to encourage use of the following facilities or locations, in descending order of priority:
  - a. The Industrial - Commercial District
  - b. Non-residential areas screened by existing vegetation and located outside of the Industrial-Commercial District
4. Application Requirements. In furtherance of the Preferred Structures and Locations Policy in this Article, the following provisions shall apply to an application for a site plan for a Tower:
  - a. The application must demonstrate that the proposed Tower is designed structurally, electrically, mechanically and in all other respects to accommodate additional wireless users unless the applicant demonstrates that structure height, topography, or other factors render this requirement unfeasible. An application must include an affidavit from the tower owner affirming that, subject to exceptions for structure height, topography, or other factors which make co-location unfeasible, the Tower is available for co-location.
  - b. A site plan for a Tower shall not be approved if an electric transmission tower with capacity of 230 kV or less is located above, or within twenty-five (25) feet below, the ground elevation of, and within a one quarter mile radius laterally, of a proposed Tower, unless the applicant can demonstrate that:
    - i. Sufficient easements or other interests in real property cannot be obtained to accommodate the Facility on the electric transmission tower;
    - ii. The electric utility owning the electric transmission tower is unwilling to allow its use for wireless facilities;
    - iii. Reasonable terms, rates, or conditions cannot be negotiated with the electric utility;
    - iv. The location of the Tower will not allow the applicant to meet coverage or capacity requirements; or
    - v. Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon existing or approved towers.
  - c. Where suitable electric transmission towers are not available for co-location of antennas, a site plan for a Tower located outside the Industrial-Commercial zoning district shall not be approved unless the applicant demonstrates that the equipment planned for the proposed Tower cannot be accommodated on existing or approved towers, buildings,

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silos or other alternative structures more than fifty (50) feet in height within a one-quarter mile radius of the proposed Tower due to one or more of the following reasons:

- i. The planned equipment would exceed the structural capacity of the existing or approved tower, building or alternative structures, as documented by a qualified and licensed professional engineer, and the existing or approved tower, building or structure cannot be reinforced modified or replaced to accommodate planned or functionally equivalent equipment at a reasonable cost;
  - ii. Existing and approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably, as documented by a qualified and licensed professional engineer;
  - iii. Reasonable terms, rates, or conditions cannot be negotiated with the owner of the structure and/or property;
  - iv. The location of the structure will not allow the applicant to meet coverage or capacity requirements; or
  - v. Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon existing or approved towers, buildings or alternative structures.
- d. Antennas associated with an application for a Facility may not be co-located on a tower or other support structure developed as an Exempt Facility pursuant to this Article for the use of an amateur radio operator.

I. Cultural and Historic Sites Review

1. In addition to the notification requirements of this Section, an application for a Tower shall comply with the following:
  - a. An application for a proposed Tower within the Harpers Ferry Overlay District shall be provided, by the applicant, to the National Park Service for review and comment, and the applicant will provide Staff an affidavit certifying delivery.
  - b. An application for a proposed Tower located within one mile of the Appalachian Trail shall be provided, by the applicant, to the Appalachian Trail Conservancy and the National Park Service for review and comment, and the applicant will provide Staff an affidavit certifying delivery.

J. Design Criteria

Wireless Telecommunication Towers shall comply with the following design criteria:

1. Antenna Mounting Preferences

Antennas associated with a Tower shall, where practical, be mounted so as to present the smallest possible silhouette, profile or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:

- a. Antennas within a cylindrical radome matching the diameter of a monopole.
- b. Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the Tower.
- c. Antennas mounted as an array arranged around a platform extending from the monopole.

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2. Height Restrictions

- a. Towers in the Industrial-Commercial zoning district shall not exceed 199 feet. Towers in all other zoning districts shall not exceed 100 feet. If a silo is used for a support structure for antennas, the height of the silo shall not exceed 120 feet.
- b. Antennas may extend up to twenty (20) feet above the height of existing electric transmission towers if such height extensions are preferable to placement of a new Tower.

3. Fall Zone

- a. With the exception of silos, Towers shall be set back from all property lines a distance equal to 110% of tower height measured from the base of the structure to its highest point. Additional easements may be acquired on adjacent properties to meet the fall zone requirement.
- b. No residential dwellings may be located in the fall zone on either the primary parcel or in any easement area on adjacent parcels.

4. Signage

Signage at any ground-based portion of a Facility site shall conform to FCC and FAA standards. No commercial signage is permitted.

5. Lighting & Marking

Towers shall not be lighted or marked unless required by the FCC or by the FAA.

6. Electrical Supply

Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance of a generator shall only take place on weekdays between the hours of 8:00 a.m. and 7:00 p.m.

7. Fencing

Towers, equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight (8) feet in height. The Planning Commission may require as a condition of approval that the fencing be screened by a landscaped buffer of at least 10 feet in width planted along the entire exterior perimeter of the fence. Such a buffer must contain at least one row of native vegetation and form a continuous screen at least 6 feet in height at planting. All buffer yards shall be maintained by the property owner. It will be the responsibility of the property owner to maintain the buffer yard and to replace any trees or shrubs that die.

The Planning Commission may waive or modify the fencing requirement upon a determination that doing so will enhance the overall appearance of the facility without any compromise in safety or security.

8. Tower Color

Towers shall have a flat gray or galvanized finish unless the Planning Commission determines that another color scheme would be a preferable alternative to address visual mitigation and such scheme is consistent with FCC and FAA standards for antenna structure marking.



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 19-38-ZV  
 Staff Initials: AR  
 Meeting Date: 01-23-20  
 Fees Paid (\$100 or \$150): \$100

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Zoning Variance Request**

*Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: Richard Childs  
 Mailing Address: 4360 Leetown Road, Summit Point, West Virginia 25446  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Contact Information**

Name: New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC  
 Mailing Address: 7150 Standard Drive, Hanover, Maryland 21076  
 Phone Number: 410-570-3714; 410-332-8681 Email: Joseph.Prieto@smartlinkllc.com; Christopher.Burns@saul.com

**Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)**

Name: AJ Desantis  
 Mailing Address: 1033 Waterviet Shaker Road Albany New York  
 Phone Number: 518-690-0790 Email: adesantis@infinigy.com

**Physical Property Details**

Physical Address: 4360 Leetown Road  
 City: Summit Point State: West Virginia Zip Code: 25446  
 Tax District: 07 - Middleway Dist. Map No: 25 Parcel No: 001100020000  
 Parcel Size: 575376 sq.ft. Deed Book: WB18 Page No: 136

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" type="checkbox"/>	Residential- Light Industrial- Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
<p align="center"><b>RECEIVED</b></p> <p align="center"><b>JAN 03 2020</b></p> <p align="center"><b>JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</b></p>			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: ~~Section 6.2~~ Section 4B.7.J.2a

Briefly describe the nature of the variance request:

Monopole towers in the Rural zoning district shall not exceed 100 feet. In order for AT&T to meet its coverage objectives the height of its monopole must be 199'. Therefore, a variance of up to 99' is requested.

If this request is for a setback variance, please check one of the following:

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ to \_\_\_\_\_

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

Additional details are included in the attachment to this application. Further, AT&T can provide additional information or clarification, as may be necessary, prior to or during the upcoming public hearing.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

Additional details are included in the attachment to this application. Further, AT&T can provide additional information or clarification, as may be necessary, prior to or during the upcoming public hearing.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

Additional details are included in the attachment to this application. Further, AT&T can provide additional information or clarification, as may be necessary, prior to or during the upcoming public hearing.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

Additional details are included in the attachment to this application. Further, AT&T can provide additional information or clarification, as may be necessary, prior to or during the upcoming public hearing.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

Richard O Childs 11-19-2019  
Signature of Property Owner Date

Signature of Property Owner Date

Notification Requirements (to be completed by staff)

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

01-23-2020  
Date of Public Hearing

01-08-2020  
Advertising Date

01-08-2020  
Placard Posting Date

**Attachment to Jefferson County  
Application for Variance**

**Applicant:** New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC  
7150 Standard Drive  
Hanover, Maryland 21076

**Representatives:** Gregory E. Rapisarda  
Christopher C. Burns  
Saul Ewing Arnstein & Lehr, LLP  
500 East Pratt Street, Suite 900  
Baltimore, MD 21202  
(410) 332-8963  
Greg.Rapisarda@saul.com  
Christopher.Burns@saul.com

**RECEIVED**

DEC 30 2019

**JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING**

New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC (“AT&T”), in accordance with Jefferson County Code § 6.2, by and through its agent/counsel, Saul Ewing Arnstein & Lehr LLP, hereby request approval for a variance to support a new telecommunications facility that includes a 199’ (195’ plus a 4’ lighting rod) tall monopole on a portion of the owner’s property located at 4360 Leetown Road, Summit Point, West Virginia.

**I. Exhibits Attached**

Exhibit A	Existing Coverage Radio Frequency Propagation Map
Exhibit B	Proposed Coverage Radio Frequency Propagation Map at 191’
Exhibit C	Construction Drawings (18 Pages)
Exhibit D	Aerial View of Property
Exhibit E	AT&T Notification of Visual Impact Study Letter; List of Recipients and Addresses of Property Owners within One-Quarter Mile; Affidavit of Notice Letters Sent; Local Newspaper Affidavit of Publication.
Exhibit F	Photo Simulations of Proposed Monopole
Exhibit G	Availability of Other Structures Over 50’ Within a One Mile Radius

**II. Introduction**

AT&T is licensed by the Federal Communications Commission (“FCC”) to provide wireless telecommunications services in Jefferson County, West Virginia. AT&T needs a new facility and monopole in order to provide and improve wireless services to residents of Jefferson County and to emergency services providers in the area. (**See Existing Coverage Radio Frequency Propagation Maps attached as Exhibit A**). AT&T’s proposed telecommunications facility will add and improve wireless services and ensure adequate overlapping coverage between and among existing coverage areas. (**See Proposed Coverage Radio Frequency Propagation Map at 191’ attached as Exhibit B**). The improved wireless services in Jefferson County represent more than improved ability to conduct business or call family and friends, the improved services will also help emergency responders in Jefferson County. According to the

FCC, more than half of the families in the United States have only cellular phones, with no “landline” in their home. More than 80% of 9-1-1 calls are made from mobile phones. Inadequate cellular coverage represents an inability to call for help in an emergency situation. Ultimately, the proposed site will allow residents to have emergency and non-emergency coverage and experience better quality and diminished dropped calls.

### **III. Description of Proposed Use**

AT&T seeks to build a Wireless Telecommunication Tower (the “Facility”) on a portion of the property at 4360 Leetown Road, Summit Point, West Virginia (the “Property”) (**See Construction Drawings, Site Plan on C1, at Exhibit C**). The Property is a 17 Acre parcel owned by Richard Childs located in the Rural (R) District in Jefferson County, West Virginia. (**See Aerial View of Property attached as Exhibit D**). The Facility will provide additional wireless communications coverage for Jefferson County residents as well as increase the reliability of Jefferson County’s emergency services communications network. There will be space for at least three additional wireless service providers to install equipment to deliver emergency and non-emergency wireless service, including voice, data, internet, streaming, etc. to this area of Jefferson County. This Facility will allow AT&T to locate its antennas at a RAD center of 191’ above ground level (AGL) and three future carriers to locate antennas at 181’, 171’, and 161’ AGL respectively.

### **IV. Visual Impact Study**

Pursuant to Jefferson County’s request, on September 30, 2019, AT&T sent notice to all property owners within one-quarter mile (1320 feet radius) of the Property that AT&T would conduct a visual impact study. (**See AT&T Notification of Visual Impact Study Letter, List of Recipients and Addresses of Property Owners Within One-Quarter Mile, Affidavit of Notice Letters Sent, and Local Newspaper Affidavit of Publication attached as Exhibit E**). On October 18, 2019, AT&T conducted a visual impact study, using a crane to raise a balloon five feet in diameter to a height of 195 feet at the location of the proposed Facility. AT&T created Photo simulations of the proposed tower from the crane test. (**See Photo Simulations for a Proposed Monopole attached as Exhibit F**).

### **V. Compliance with Wireless Telecommunication Facility Codes and Regulations**

#### **A. § 4B.7 Wireless Telecommunication Towers**

Section 4B.7 of the Jefferson County Zoning and Land Development Ordinance outlines the specific application criteria applicable to telecommunication facilities. The criteria applicable to this variance requests are as follows:

#### **1. § 4B.7.J.2. Height Restrictions**

- a. Towers in the Industrial-Commercial zoning district shall not exceed 199 feet. Towers in all other zoning districts shall not exceed 100 feet. If a silo is used for a support structure for antennas, the height of the silo shall not exceed 120 feet.

- **AT&T Response:** For AT&T to meet its coverage objectives the height of the monopole must be 199'. Therefore, a variance of up to 99' is requested.

## VI. § 6.2 Variances

Under section 6.2 of the Jefferson County Code, the Board of Zoning Appeals shall approve a variance request if the Board finds that a variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
  2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
  3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
  4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.
- **AT&T Response:** AT&T is required, under its FCC licenses, to provide wireless services throughout its network area and is responsible for identifying areas of coverage deficiencies and remedying those deficiencies. AT&T identified a coverage gap along Leetown Road west of Charles Town in the south west area of Jefferson County. (**See RF Propagation Map of Existing AT&T Coverage at Ex. A**). The only way to fill in the coverage gap is to place new antennas within a finite area that is limited by numerous factors including but not limited to AT&T's existing sites, geography, topography, existing land uses, existing zoning designations, and land owner interest and cooperation. This finite search area is also unique in and of itself because it provides a limited area on which AT&T can utilize its system architecture (i.e. above ground antennas on towers and/or other structures) to provide wireless service as required under its FCC licenses.

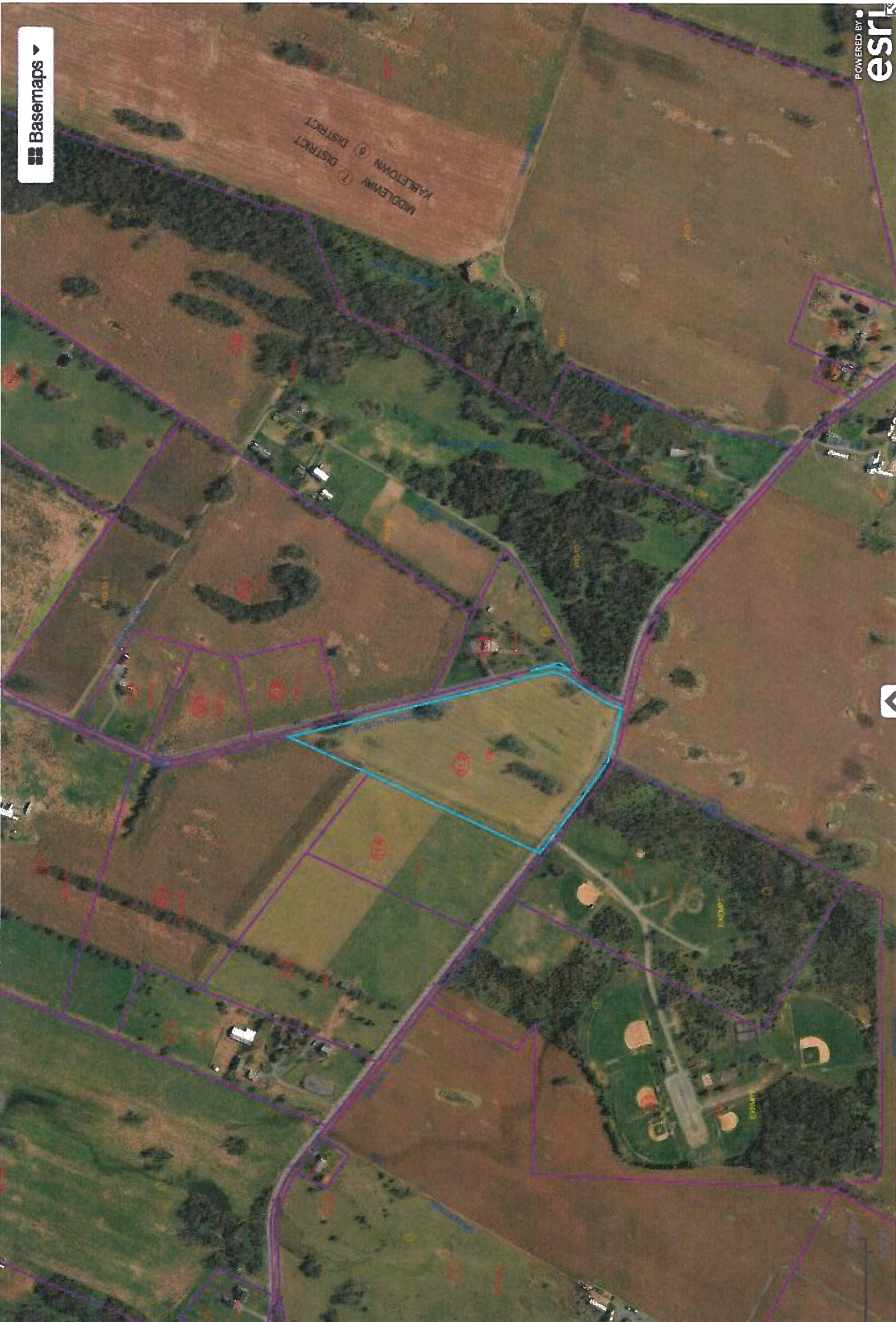
AT&T was limited to certain geographic locations for the construction of the proposed Facility. AT&T conducted a feasibility study for possible locations for the Facility in the proposed area and narrowed the possible site location to an area that would allow AT&T to meet its required coverage needs. The unique search area in this particular case is limited by existing sites and towers where AT&T could potentially co-locate. Due to the coverage goals of AT&T's site, AT&T must place a telecommunications facility within a half mile out of the proposed location, and all structures outside of the half mile radius were ruled out. A number of buildings and structures over 50' tall were identified as potential sites. (**See Availability of Other Structures over 50' Within a One Mile Radius attached as Exhibit G**). However, given AT&T's required height of 190' to meet its coverage goals, no structures were eligible as potential sites to co-locate AT&T's equipment. Ultimately, there are no other properties where AT&T either (1) could meet the necessary Jefferson County Zoning and Land Development Ordinance requirements, (2) met a willing landlord, and (3) accomplish the primary objective to add and enhance emergency and non-emergency wireless coverage in the area. The Property chosen was the only feasible and available property in the footprint of the feasibility study.

The proposed Facility will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice to be done. The variance would further the intent of the Jefferson County Zoning Ordinance and be the least injurious option to the area because the Facility is located to minimally impact the environment, wildlife, communities, and neighborhoods in the surrounding area. Moreover, the Facility will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents. In fact, the Facility will benefit the surrounding area by providing and improving emergency and non-emergency wireless coverage.

## **VII. Conclusion**

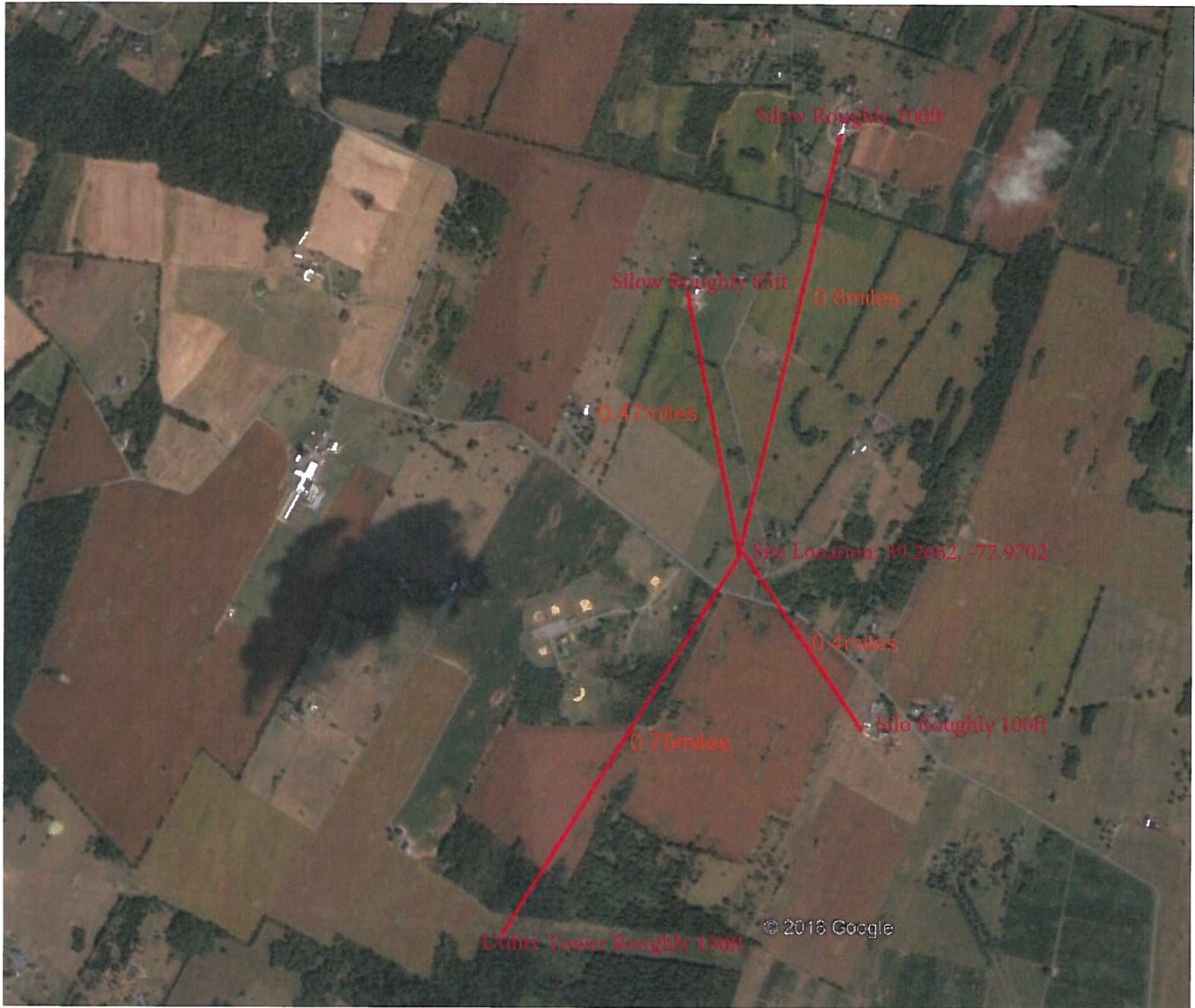
AT&T respectfully requests that Jefferson County grant the requested variance relief. If you need further information, please contact our zoning attorneys Gregory Rapisarda at 410-332-8963 or Christopher Burns at 410-332-8661.

Basemaps ▾



POWERED BY  
**esri**







1362 Mellon Road, Suite 140  
Hanover, MD 21076

**SITE NAME: SUMMIT POINT**

**SITE ID: 2230 / FA #: 14537154**

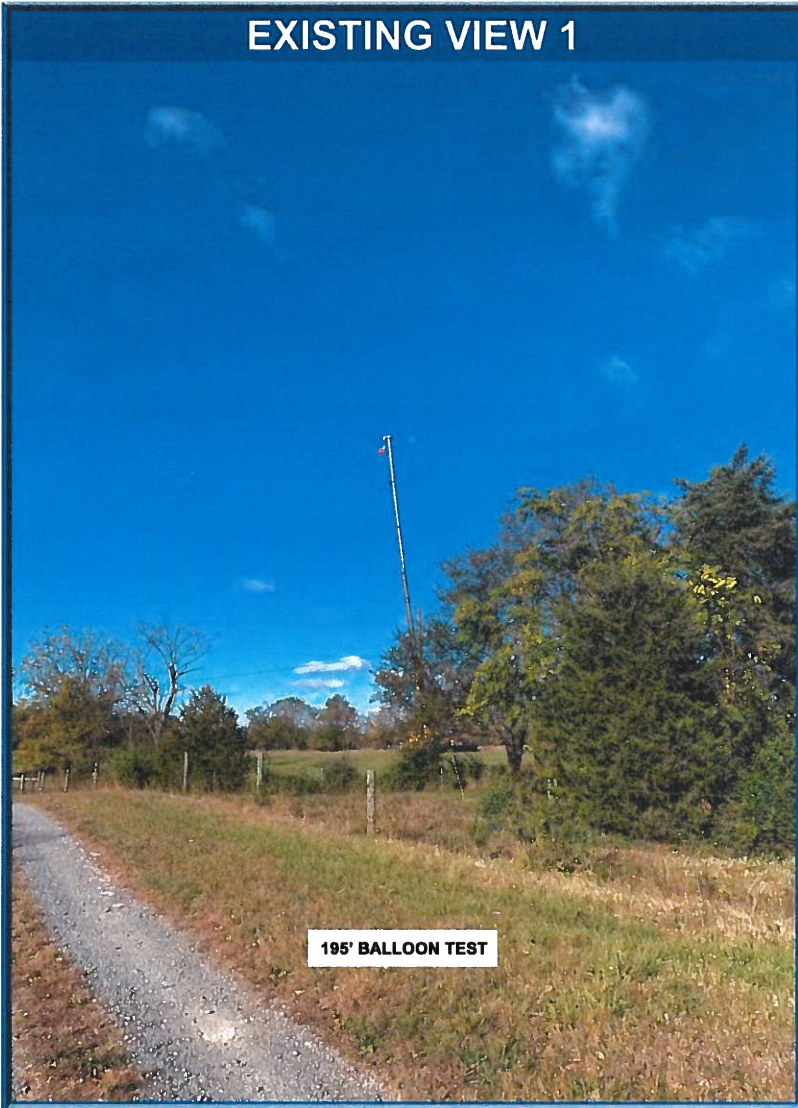
**4360 LEETOWN ROAD  
SUMMIT POINT, WV 25446**



**at&t  
Mobility**

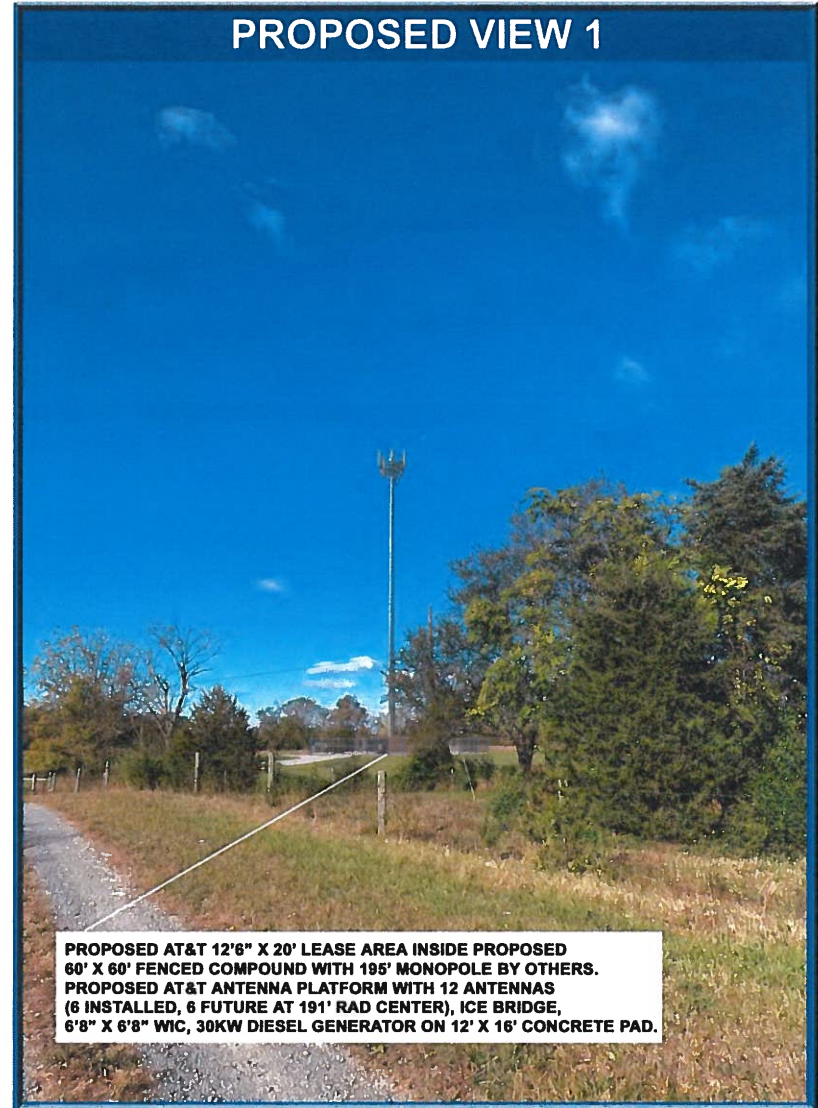
Prepared for:  
AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076

**EXISTING VIEW 1**



**195' BALLOON TEST**

**PROPOSED VIEW 1**



**PROPOSED AT&T 12'6" X 20' LEASE AREA INSIDE PROPOSED 60' X 60' FENCED COMPOUND WITH 195' MONOPOLE BY OTHERS. PROPOSED AT&T ANTENNA PLATFORM WITH 12 ANTENNAS (6 INSTALLED, 6 FUTURE AT 191' RAD CENTER), ICE BRIDGE, 6'8" X 6'8" WIC, 30KW DIESEL GENERATOR ON 12' X 16' CONCRETE PAD.**



1362 Mellon Road, Suite 140  
Hanover, MD 21076

**SITE NAME: SUMMIT POINT**

**SITE ID: 2230 / FA #: 14537154**

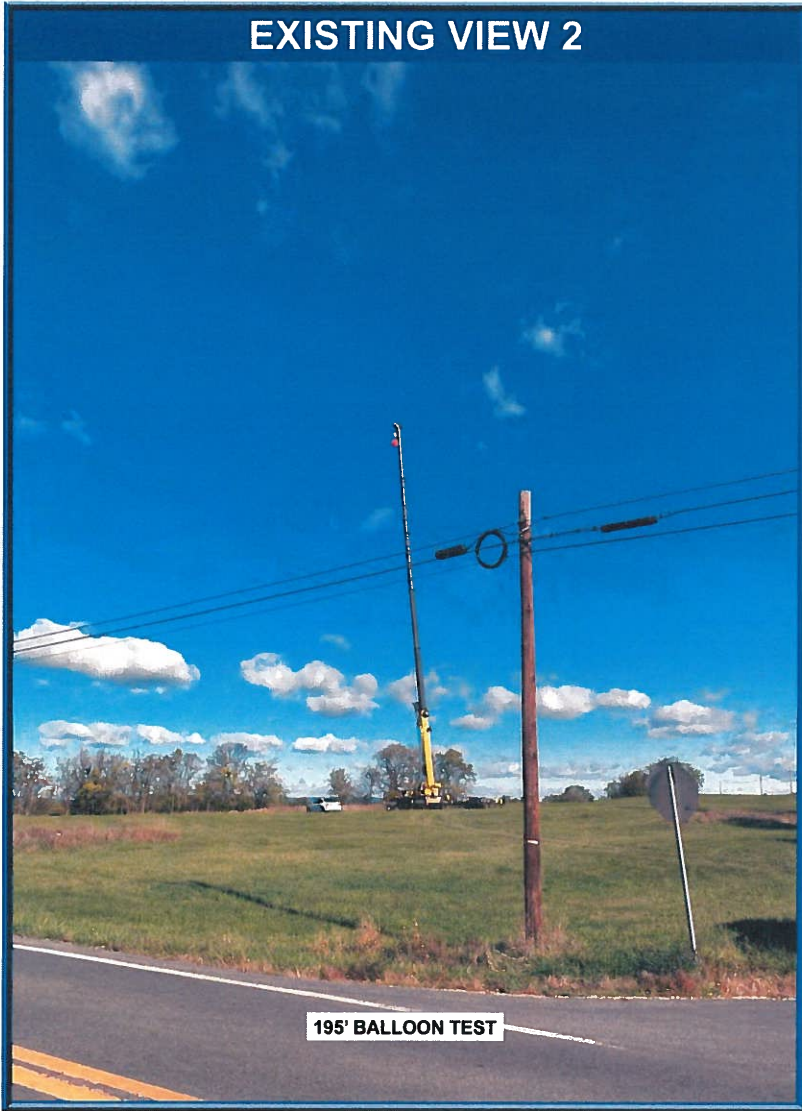
**4360 LEETOWN ROAD  
SUMMIT POINT, WV 25446**



**at&t  
Mobility**

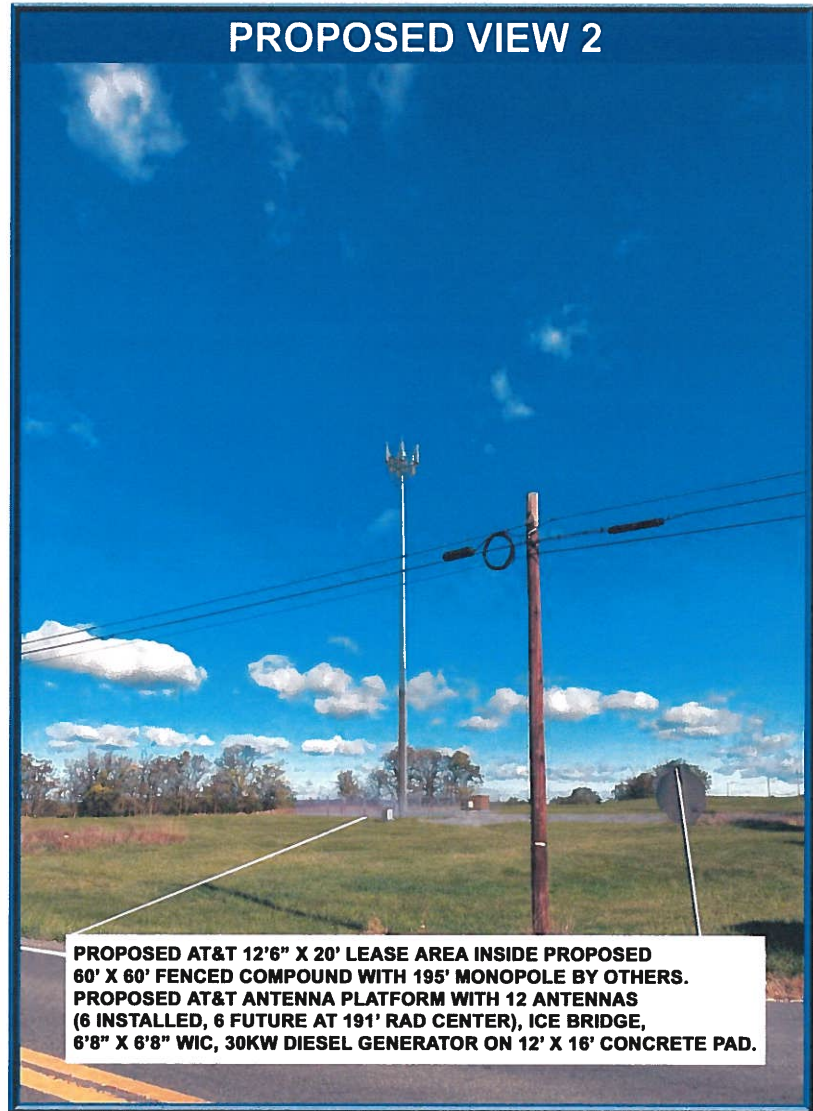
Prepared for:  
AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076

**EXISTING VIEW 2**



**195' BALLOON TEST**

**PROPOSED VIEW 2**



**PROPOSED AT&T 12'6" X 20' LEASE AREA INSIDE PROPOSED 60' X 60' FENCED COMPOUND WITH 195' MONOPOLE BY OTHERS. PROPOSED AT&T ANTENNA PLATFORM WITH 12 ANTENNAS (6 INSTALLED, 6 FUTURE AT 191' RAD CENTER), ICE BRIDGE, 6'8" X 6'8" WIC, 30KW DIESEL GENERATOR ON 12' X 16' CONCRETE PAD.**



1362 Mellon Road, Suite 140  
Hanover, MD 21076

**SITE NAME: SUMMIT POINT**

**SITE ID: 2230 / FA #: 14537154**

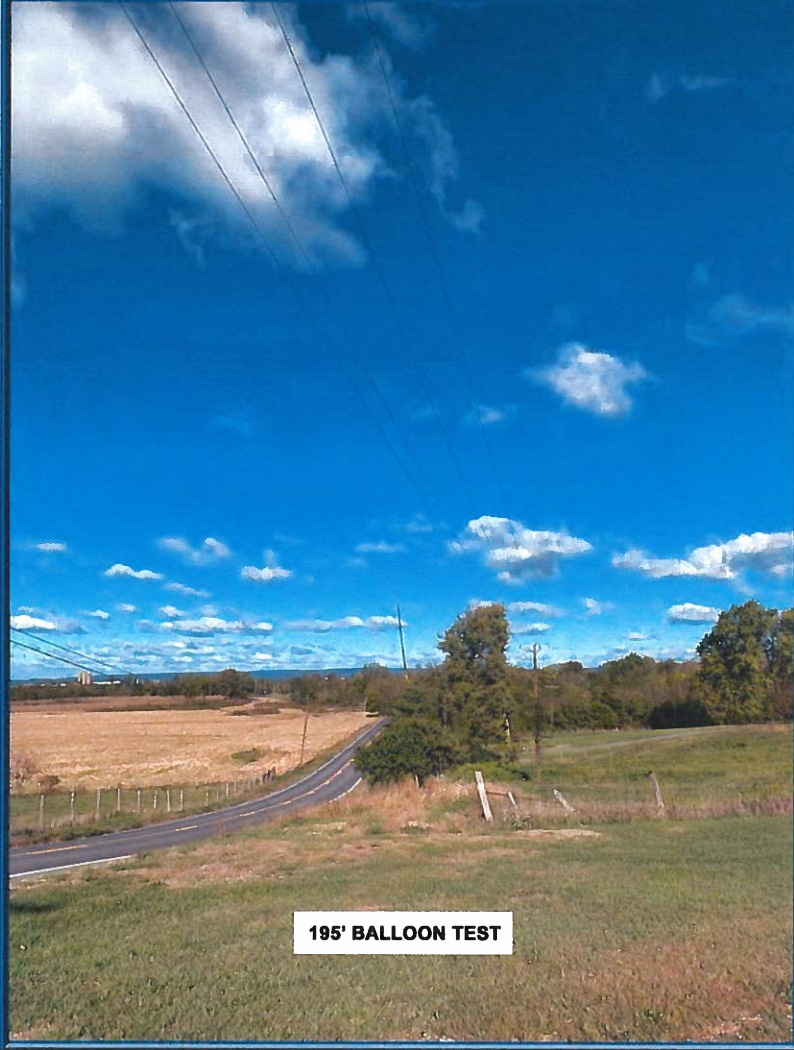
**4360 LEETOWN ROAD  
SUMMIT POINT, WV 25446**



**at&t  
Mobility**

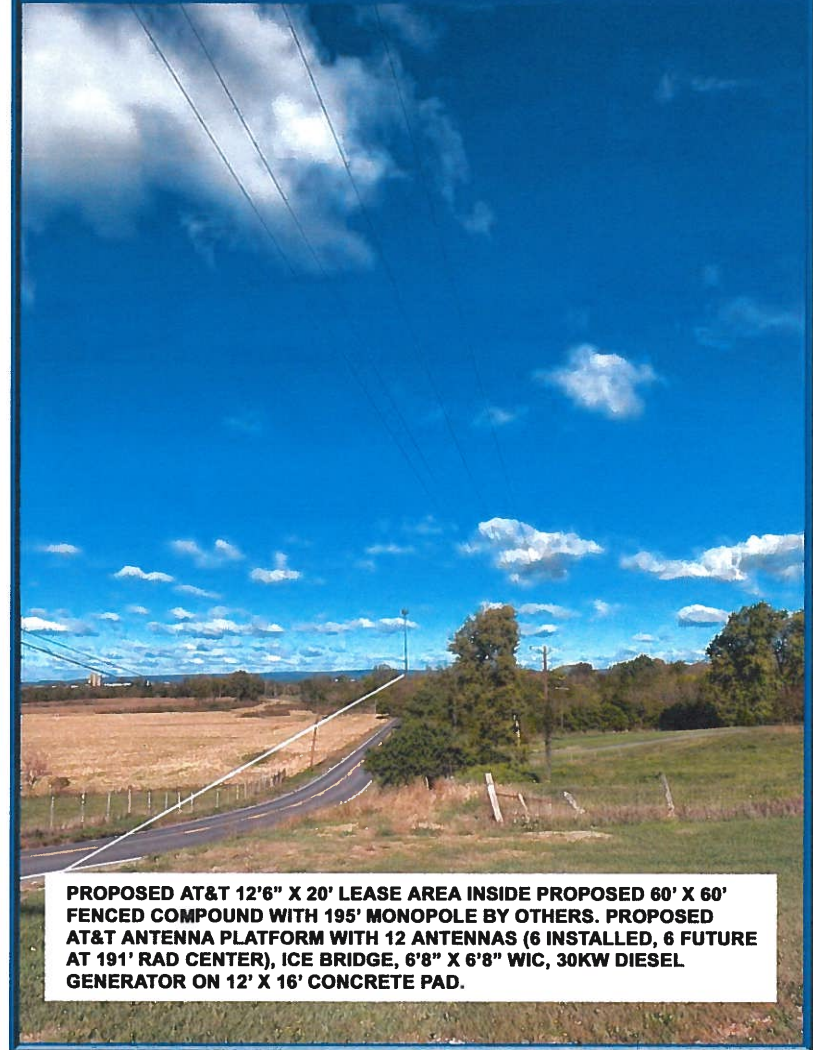
Prepared for:  
AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076

**EXISTING VIEW 3**



**195' BALLOON TEST**

**PROPOSED VIEW 3**



**PROPOSED AT&T 12'6" X 20' LEASE AREA INSIDE PROPOSED 60' X 60' FENCED COMPOUND WITH 195' MONOPOLE BY OTHERS. PROPOSED AT&T ANTENNA PLATFORM WITH 12 ANTENNAS (6 INSTALLED, 6 FUTURE AT 191' RAD CENTER), ICE BRIDGE, 6'8" X 6'8" WIC, 30KW DIESEL GENERATOR ON 12' X 16' CONCRETE PAD.**



1362 Mellon Road, Suite 140  
Hanover, MD 21076

**SITE NAME: SUMMIT POINT**

**SITE ID: 2230 / FA #: 14537154**

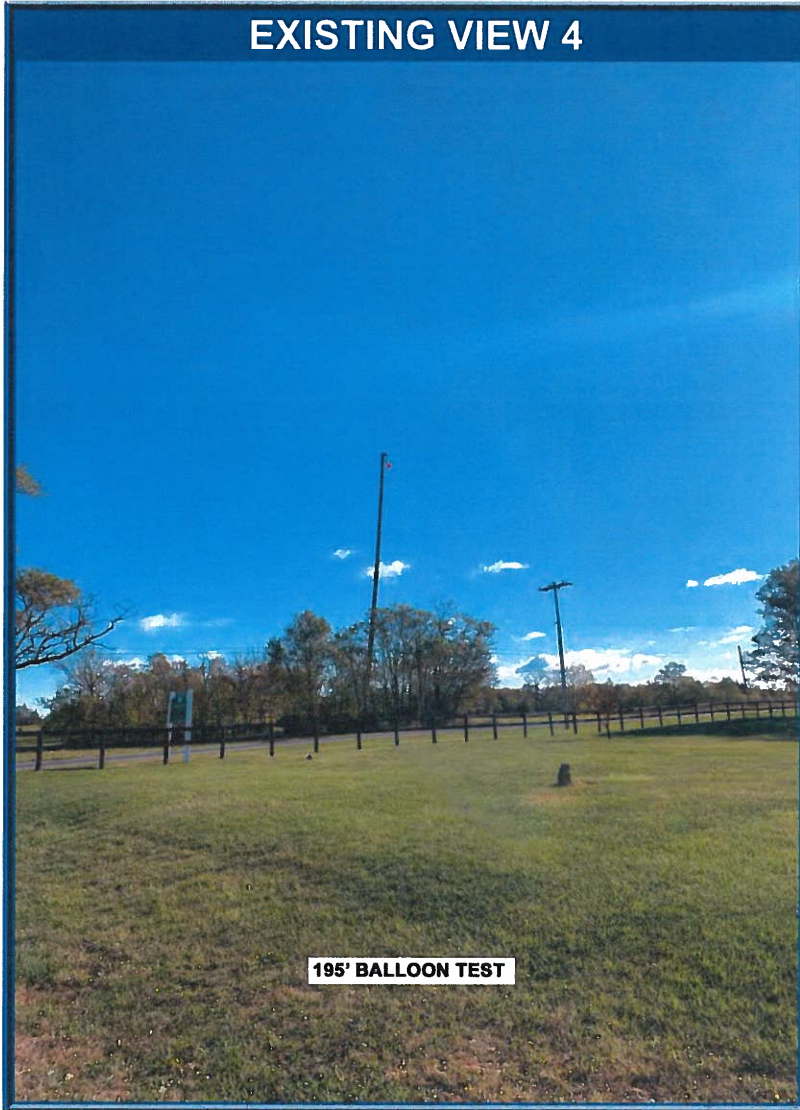
**4360 LEETOWN ROAD  
SUMMIT POINT, WV 25446**



**at&t  
Mobility**

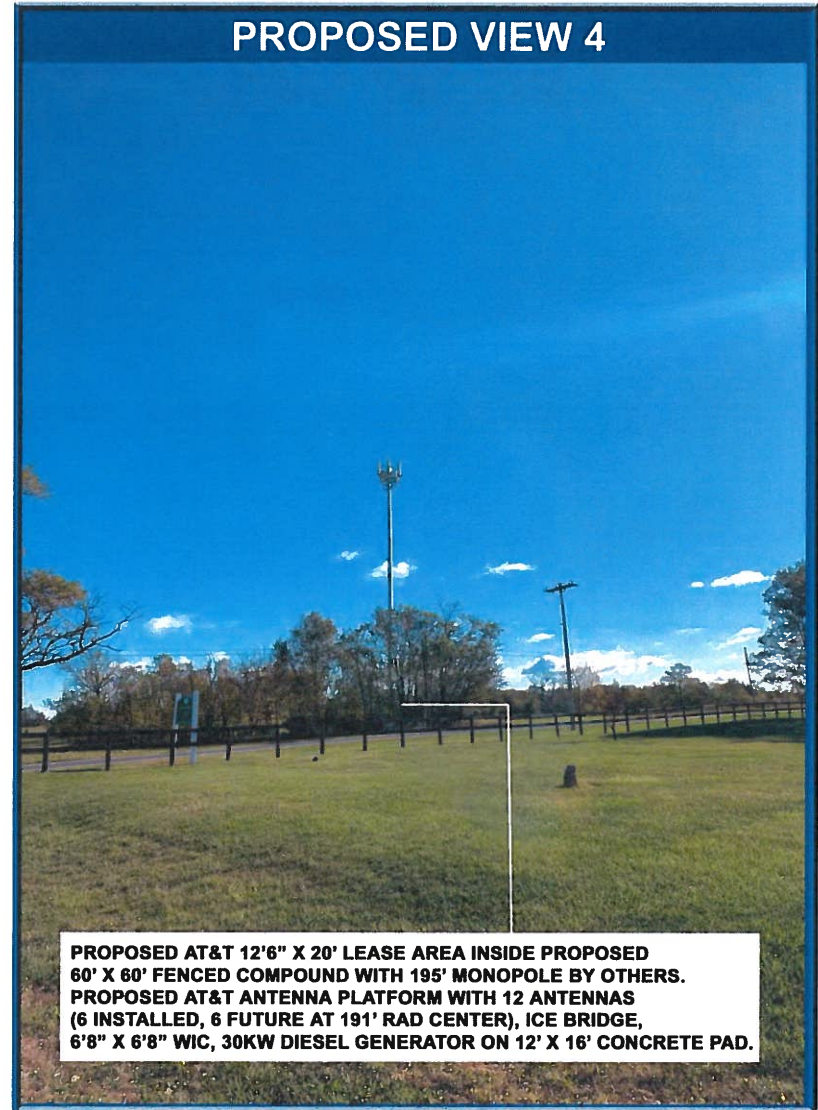
Prepared for:  
AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076

**EXISTING VIEW 4**



**195' BALLOON TEST**

**PROPOSED VIEW 4**



**PROPOSED AT&T 12'6" X 20' LEASE AREA INSIDE PROPOSED  
60' X 60' FENCED COMPOUND WITH 195' MONOPOLE BY OTHERS.  
PROPOSED AT&T ANTENNA PLATFORM WITH 12 ANTENNAS  
(6 INSTALLED, 6 FUTURE AT 191' RAD CENTER), ICE BRIDGE,  
6'8" X 6'8" WIC, 30KW DIESEL GENERATOR ON 12' X 16' CONCRETE PAD.**



1362 Mellon Road, Suite 140  
Hanover, MD 21076

**SITE NAME: SUMMIT POINT**

**SITE ID: 2230 / FA #: 14537154**

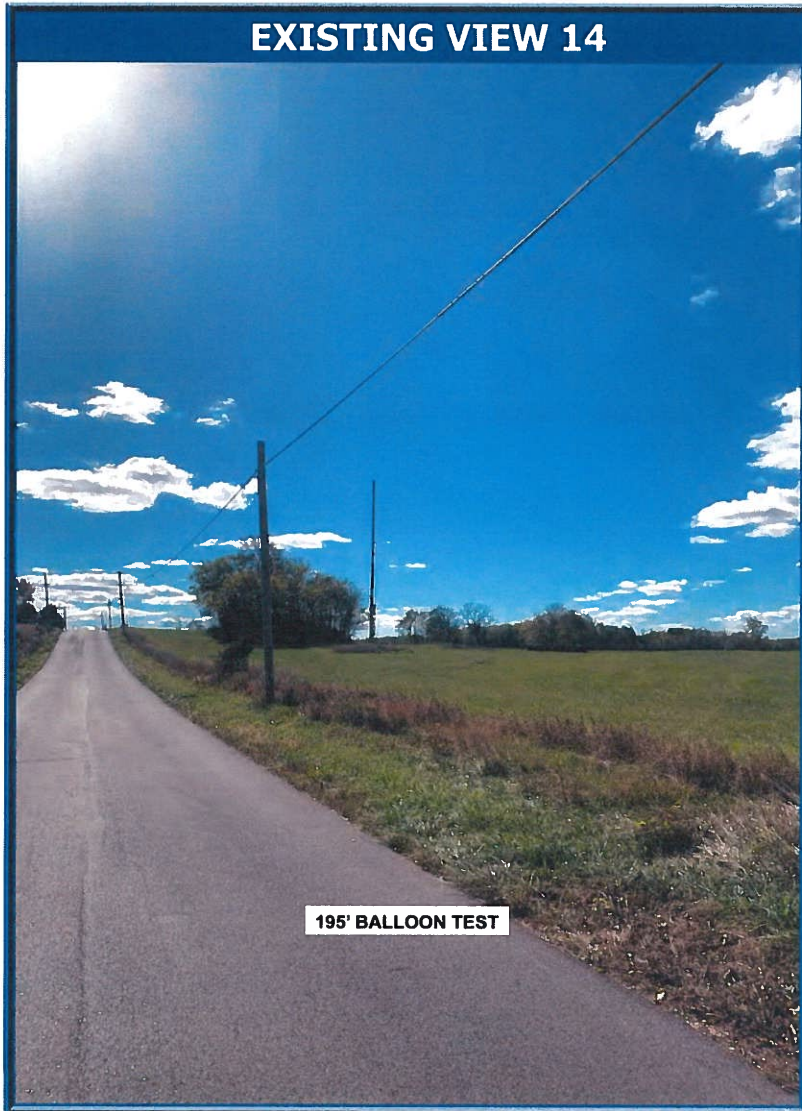
**4360 LEETOWN ROAD  
SUMMIT POINT, WV 25446**



**at&t  
Mobility**

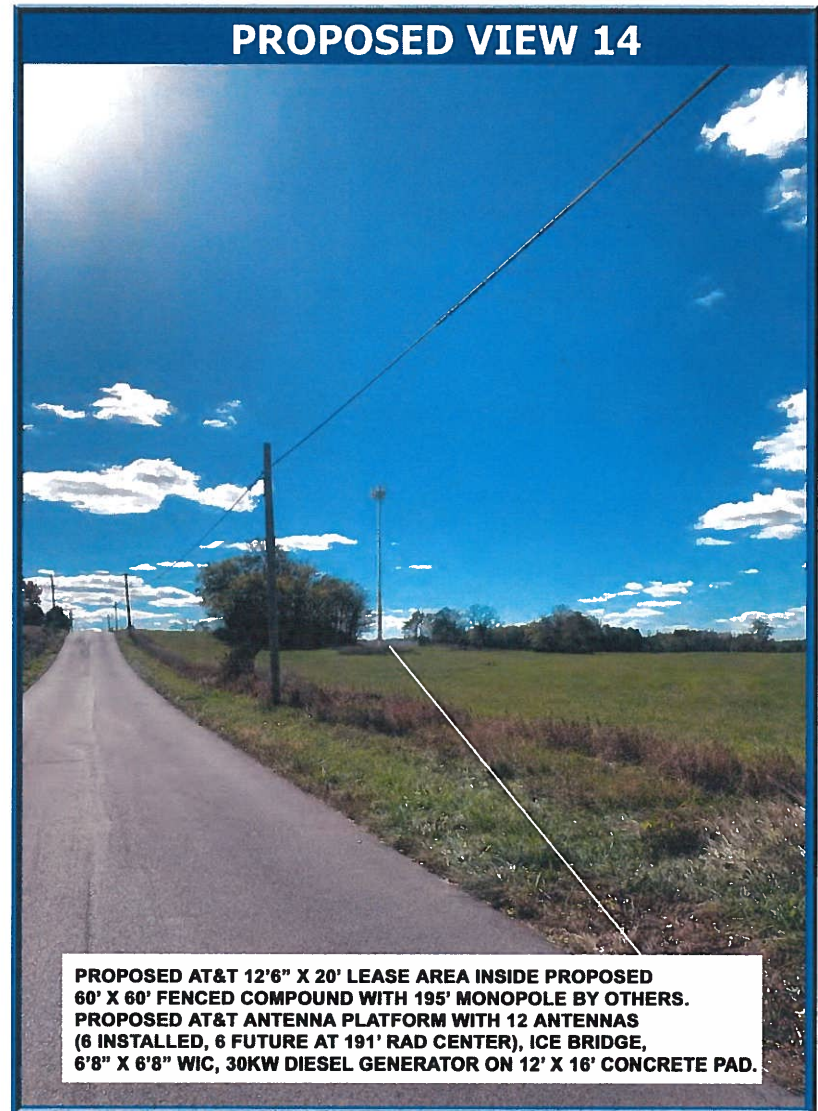
Prepared for:  
AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076

**EXISTING VIEW 14**



195' BALLOON TEST

**PROPOSED VIEW 14**



**PROPOSED AT&T 12'6" X 20' LEASE AREA INSIDE PROPOSED 60' X 60' FENCED COMPOUND WITH 195' MONOPOLE BY OTHERS. PROPOSED AT&T ANTENNA PLATFORM WITH 12 ANTENNAS (6 INSTALLED, 6 FUTURE AT 191' RAD CENTER), ICE BRIDGE, 6'8" X 6'8" WIC, 30KW DIESEL GENERATOR ON 12' X 16' CONCRETE PAD.**

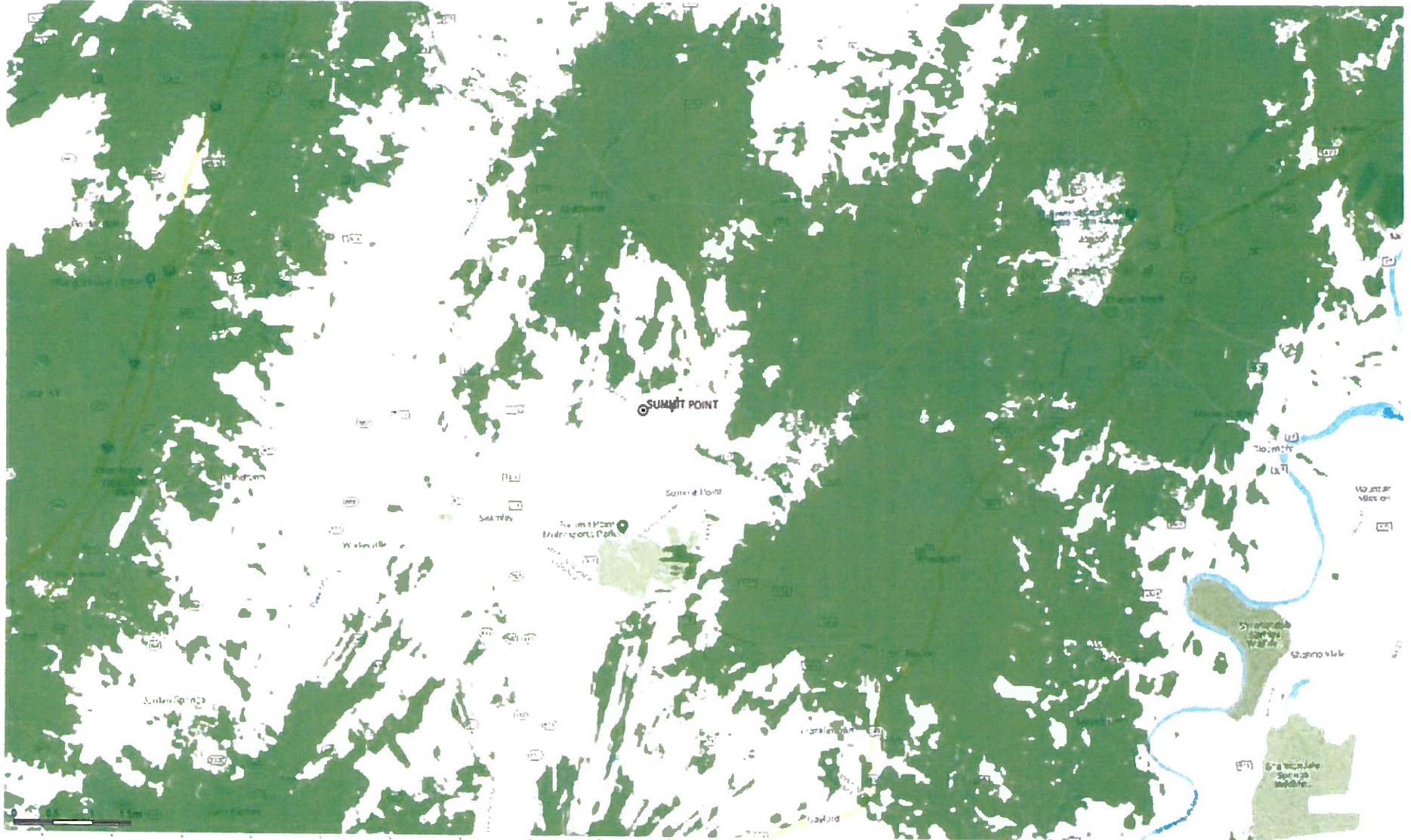
August 2019

# Summit Point FA# 14537154

## Zoning Plots



## Existing AT&T Coverage without Summit Point



August 2019

# Summit Point FA# 14537154

## Zoning Plots





# Proposed AT&T Coverage with Summit Point @ 191' (Proposed Rad Center)



**AFFIDAVIT OF JOSEPH PRIETO**

I, Joseph Prieto, am above the age of majority and submit this affidavit pursuant to Jefferson County's balloon test policy:

1. I am a site acquisitions coordinator with Smartlink, LLC, an agent for New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC ("AT&T").

2. I have overseen or been involved with the planning of telecommunications towers and facilities and I am familiar with the zoning and other requirements in Jefferson County, West Virginia.

4. On September 30, 2019, as required by the Jefferson County Zoning and Land Development Ordinance, I hereby certify that the appropriate parties were notified of a balloon test to take place at 4360 Leetown Road, Summit Point, West Virginia on October 16, 2019, or in the alternative, October 18, 2019.

**I SOLEMNLY AFFIRM** under penalties of perjury and upon personal knowledge that the content of the foregoing paper is true.

12/20/19  
Date

  
\_\_\_\_\_  
Joseph Prieto

<b><u>Property Owner</u></b>	<b><u>Address</u></b>	<b><u>City</u></b>	<b><u>State</u></b>	<b><u>Zip</u></b>
Hyre, Ann W.	1599 Nottingham Road	Charleston	West Virginia	25314
Laycock, Daisy C.	122S Childs Road	Kearneysville	West Virginia	25430
Macoughtry, William O.	6705 Brooklin Bridge Drive	Laurel	MD	20707
Wolfe, Charles G & Wanda J.	4628 Leetown Road	Summit Point	West Virginia	25446
Gruber, Robert A. & George J.	382 Grubertown Lane	Summit Point	West Virginia	25446
Bane R. Z. Inc.	2244 Box Factory Road	Summit Point	West Virginia	25446
Dunn, Donald D. & Trina L.	50S Childs Road	Kearneysville	West Virginia	25430
Marrone, Catherine M.	PO Box 51	Ranson	West Virginia	25438
Childs, David B.	PO Box 240	Summit Point	West Virginia	25446
Hansell, Holly & Shannon	500S Childs Rd.	Kearneysville	West Virginia	25430
Dahal, yaksha & Mana M.	5800 Channing Road	Springfield	Virginia	22150
Shelton, Jason W.	612S Childs Road	Kearneysville	West Virginia	25430



612S Childs Road  
Kearneysville, West Virginia 25430

September 25<sup>th</sup>, 2019

RE: Notice of Visual Impact Survey with Crane Test on **October 17th, 2019** regarding AT&T's proposed wireless telecommunications facility on a parcel located at the corner of South Childs Road and Leetown Road in Summit Point, WV (Parcel ID 07002500110002)

Dear Resident or Interested Person:

AT&T has scheduled a visual impact survey for **October 17<sup>th</sup>, 2019 and an alternative date for inclement weather on October 18<sup>th</sup>, 2019**. AT&T will erect a crane to the proposed height of 199' (195' monopole with a 4' lighting rod) and survey the visibility of the crane, taking photos, from numerous vantage points in the surrounding area. AT&T will use those photos to analyze and evaluate the visual impact from the proposed monopole.

Please be advised, upon completion of the scheduled visual impact survey, a variance application will process with the Board of Zoning Appeals to request the proposed height of 199' for a new telecommunications facility. Upon submission of said variance, the applicant will be required to post a placard on the subject property notifying the date of the public hearing before the Board of Zoning Appeals. In addition to posting the placard, a legal ad will run in the Spirit of Jefferson. Members of the public are encouraged to contact the Office of Planning and Zoning with questions pertaining to local rules and regulations as well as information pertaining to meeting dates. The Office of Planning and Zoning may be reached by phone: 304-728-3228 or by email: [zoning@jffersoncountywv.org](mailto:zoning@jffersoncountywv.org).

We look forward to adding and improving wireless services in the area. If you have any questions, want to provide feedback, or obtain information, please contact me, Joey Prieto, by email at [joseph.prieto@smartlinkllc.com](mailto:joseph.prieto@smartlinkllc.com)

Thank you again and have a wonderful day.

Sincerely,

Joey Prieto  
Smartlink for AT&T

Cc: Gregory Rapisarda, Esq., Saul Ewing Arnstein & Lehr LLP  
Christopher Burns, Esq., Saul Ewing Arnstein & Lehr LLP

# Certificate of Publication

JEFFERSON PUBLISHING COMPANY, INC., Publisher  
SPIRIT OF JEFFERSON ADVOCATE

Charles Town, W. Va. October 2 2019

I hereby certify that the annexed Notice of visual impact survey

in the case of October 17, 2019 - AT&T will erect a crane to the

proposed height of 199'...

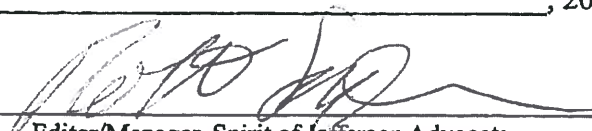
has been published once a week for one successive weeks, in the Spirit of Jefferson

Advocate, a newspaper published in Charles Town, Jefferson County, West Virginia, in the issues of

October 2

, 2019,

as required by law.



Editor/Manager, Spirit of Jefferson Advocate

State of West Virginia  
County of Jefferson

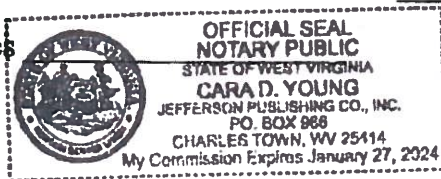
Personally appeared before me, Robert Snyder, Editor/Manager

of the Spirit of Jefferson Advocate, and made oath that the above certificate is true and correct.



Notary Public

Commission expires



## NOTICE OF VISUAL IMPACT SURVEY

Dear Resident or Interested Person:

AT&T has scheduled a visual impact survey for **October 17th, 2019 and an alternative date for inclement weather on October 18th, 2019**. AT&T will erect a crane to the proposed height of 199' (195' monopole with a 4' lighting rod) and survey the visibility of the crane, taking photos from numerous vantage points in the surrounding area. AT&T will use those photos to analyze and evaluate the visual impact from the proposed monopole. Please be advised, upon completion of the scheduled visual impact survey, a variance application will process with the Board of Zoning Appeals to request the proposed height of 199' for a new telecommunications facility.

We look forward to adding and improving wireless services in the area. If you have any questions, want to provide feedback, or obtain information, please contact Joey Prieto, by email at [joseph.prieto@smart-linkllc.com](mailto:joseph.prieto@smart-linkllc.com)  
10/2/19





# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor

P.O. Box 716

Charles Town, WV 25414

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

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## Zoning Administrator's Report Board of Zoning Appeals Meeting January 23, 2020

### 1) Text Amendments:

- ZTA19-03 – proposes to create provisions to allow large scale Solar Energy Facilities to process. The petition was accepted by the Planning Commission at their December 12, 2019 meeting and a work session is scheduled for their February 11, 2020 meeting. The purpose of the work session is to provide information to the Planning Commission on Solar Energy Facilities before they hold a Public Hearing. The work session will be open to the public, but will not be a public hearing (no public comment).
- Greenway Engineering continues to work on the reorganization of the Subdivision Regulations and Zoning Ordinance. The revised documents will be presented to the Planning Commission and County Commission during a joint work session at 6:00 PM on February 11, 2020. The Planning Commission will hold a Public Hearing February 25, 2020 to receive input on the proposed reorganization of the Zoning Ordinance and Subdivision Regulations, which includes splitting the Subdivision Regulations into two Ordinances – a Subdivision Ordinance and a Land Development Ordinance - and incorporating the Improvement Location Permit (ILP) Ordinance into the Subdivision Ordinance. This is Phase I of Greenway Engineering's project and does not propose any substantive changes to existing text. The second phase will include amendments to existing text.

### 2) Upcoming BZA meeting

- The next regular meeting is scheduled for **February 27, 2020** (deadline for submission is Monday, February 3, 2020).



Jefferson County, West Virginia  
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**January 2020**  
**Zoning Certificate Activity Report**

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File #	19-36-ZC
Request:	Attached Business Sign for Shepherdstown Subway: 80 sq. ft. replacement sign
Property Owner:	S&T Group, LLC, c/o Apex Rentals
Applicant:	City Neon, Crystal Miller
Parcel Info:	7670 Martinsburg Pike, Shepherdstown, WV 25443 Parcel ID: 09000800050000; Size: 1.89 acres; Zoning District: Residential Growth;
Issuance Date:	01/08/2020

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