

Law Office of  
F. Samuel Byrer, PLLC

202 West Liberty Street  
P.O. Box 597  
Charles Town, WV 25414

Telephone: (304) 724-7228  
Facsimile: (304) 724-7278

F. Samuel Byrer

Writer's email:  
fsamuelbyrer@frontiernet.net

September 22, 2023

Nathan Cochran, Esq.  
124 E. Washington Street  
2nd Floor  
Charles Town, WV 25414  
ncochran@jcpawv.org

Via E-Mail

**SETTLEMENT COMMUNICATION  
NOT FOR USE IN COURT**

**Re: Settlement Proposal for Cellular tower at 1329 Lakeside Drive, Harpers Ferry, WV 25425**

I write on behalf of my client, VB BTS, LLC ("Vertical Bridge"). As you are aware, Vertical Bridge has been in a dispute with Jefferson County and the Planning Commission (collectively, the "County") regarding Vertical Bridge's application to build a wireless communications tower at 1329 Lakeside Drive, Harpers Ferry, WV 25425 and has filed a lawsuit, *VB BTS, LLC v. Jefferson County, et al.*, Northern District of West Virginia, Case No. 3:23-cv-171 regarding the same (the "Dispute").

**SETTLEMENT TERMS (NOT FOR USE IN COURT)**

I write to respond to settlement terms raised by the County at the August 29, 2023 hearing and in your email dated August 31, 2023. Please note that these terms are provided for purposes of settlement of the Dispute and may not be used in court. Each of the below terms is contingent upon the County's prompt approval of Vertical Bridge's application.

**I. Vertical Bridge will use a painted monopole tower design.**

County's proposed term (from email): "Agree to place a monopole without faux tree branches (i.e., the one originally proposed): and "Explore painting the proposed monopole for additional camouflage."

Vertical Bridge's response: Vertical Bridge will use a painted monopole design. Vertical Bridge will be responsible for painting the tower, and the County may choose the paint color in consultation with Vertical Bridge and the landowner. Painting the tower will minimize aesthetic concerns.

**II. Vertical Bridge will use evergreen landscaping to visually screen the equipment compound.**

County's proposed term (from email): "Add buffering where there are few or no existing trees (ie, you are not requested to remove mature trees to add buffering, only to agree to fill in mostly open areas)."

Vertical Bridge's response: Vertical Bridge will use natural landscaping (i.e., evergreen trees) that will grow together so as to hide the equipment compound. Vertical Bridge shall be responsible for planting the trees. Below, please find a photograph depicting an example of evergreen screening. (Please note that the other features of this photograph, such as the pink fence, are not part of Vertical Bridge's proposed design.)

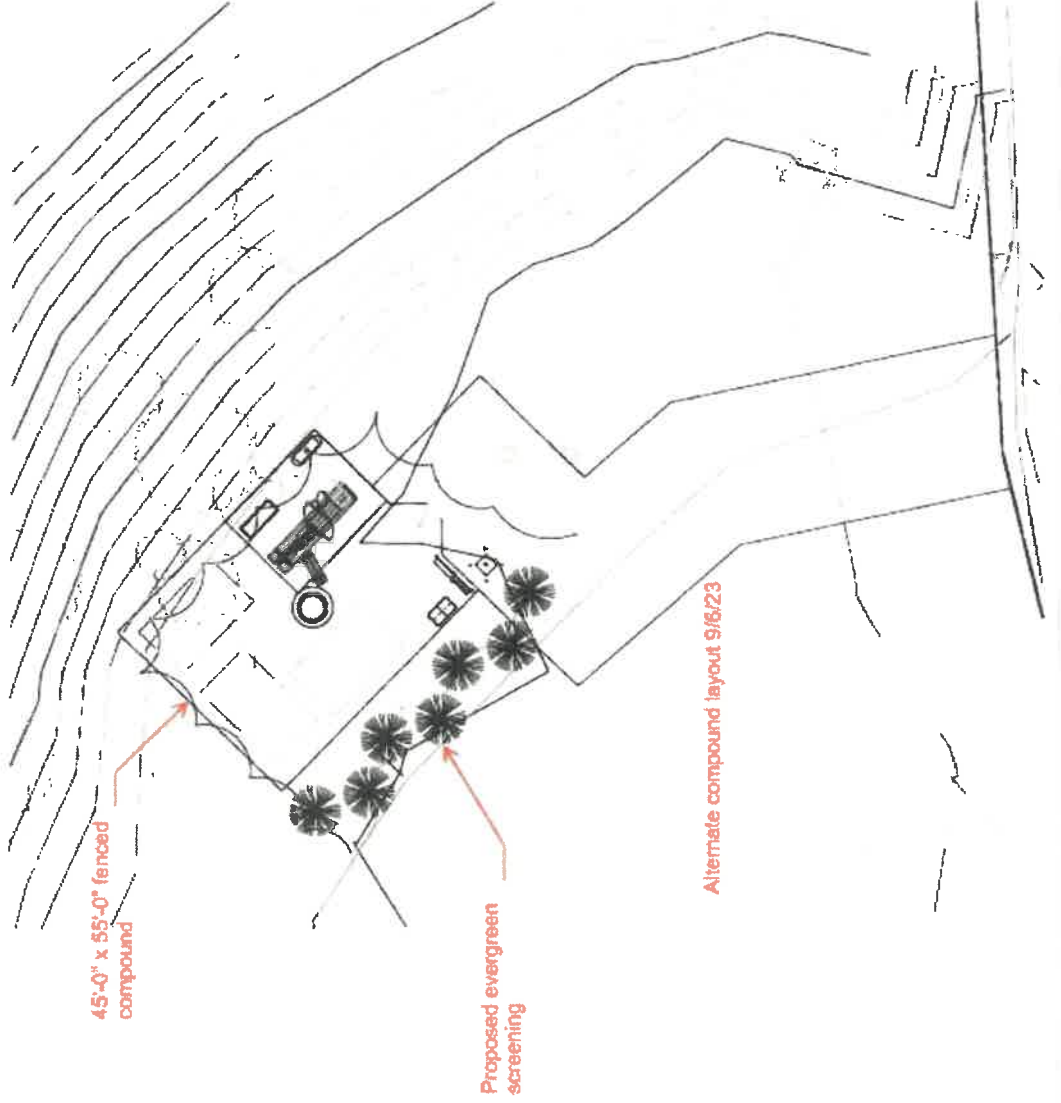


Please note that the trees will need to mature and grow together in order to fully screen the fence and pole compound. Using evergreen screening will soften the design and aesthetics of the compound.

- III. Vertical Bridge will move the fence and tower compound to a new location farther back in the leased site.**

County's proposed term (from email): "Explore moving the monopole farther away from the purported helipad."

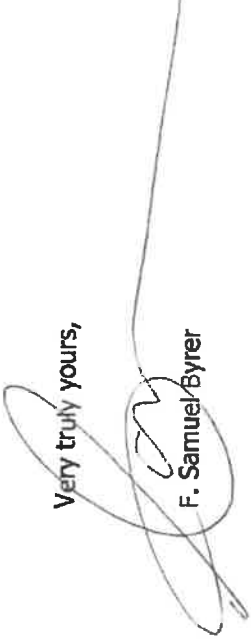
Vertical Bridge's response: We understand that the County has requested Vertical Bridge move the fence and tower compound as far back as possible into the lease site. It is important to note that the location of the compound is limited by the tree line and the steep terrain towards the back of the site. The below proposed location is as far back as Vertical Bridge is able to locate the compound:



Please note the location of the compound relative to the topographical lines in this drawing. Under this proposed design, the compound will abut the steep terrain (i.e., where the topographical lines are close together). The tower cannot feasibly be built upon the steep terrain.

**CONCLUSION**

Please note that settlement on the above settlement terms is contingent upon the parties' agreement to a written, formal settlement. Please let me know if the County is agreeable to the proposed terms.

Very truly yours,  
  
F. Samuel Byrer