

Tom Clemens
Edith Wallace
Gary Rohrer



Washington County

M A R Y L A N D

Vernell Doyle
Ann Aldrich
Jeffrey A. Cline, BOCC Rep

HISTORIC DISTRICT COMMISSION OF WASHINGTON COUNTY, MARYLAND

AGENDA

SPECIAL MEETING

January 6, 2021, 7:00 p.m.

VIRTUAL MEETING ONLY

CALL TO ORDER AND ROLL CALL

MINUTES

1. Minutes of the December 2, 2020 meeting *

OTHER BUSINESS

1. **11676 Hopewell Road** – Section 106 Filing Notice – Proposed construction of a 195 foot monopole extended to 199 feet on property located at the approximate vicinity of 11676 Hopewell Road *
2. **Certified Local Government Response Draft** – For review and comment *
3. **Staff Report**

ADJOURNMENT

UPCOMING MEETING

1. Wednesday, February 3, 2021, 7:00 p.m.

*attachments

The Historic District Commission reserves the right to vary the order in which the cases are called. Individuals requiring special accommodations are requested to contact the Washington County Planning Department at 240-313-2430 to make arrangements no later than ten (10) days prior to the meeting. Notice is given that the agenda may be amended at any time up to and including the meeting.

**MINUTES OF THE
HISTORIC DISTRICT COMMISSION
FOR WASHINGTON COUNTY**

December 2, 2020

Due to current social meeting restrictions put in place by the Governor of Maryland because of the COVID-19 pandemic, the Washington County Historic District Commission held its regular monthly meeting on Wednesday, December 2, 2020 at 7:00 p.m. virtually using Zoom software. No physical meeting took place.

CALL TO ORDER AND ROLL CALL

The Chairman called the meeting to order at 7:00 p.m.

Commission members present were: Tom Clemens, Ann Aldrich, Vernell Doyle, Edie Wallace, Michael Lushbaugh, Greg Smith, and Gary Rohrer. Staff members present were: Washington County Department of Planning & Zoning: Jill Baker, Director; Jennifer Kinzer, Deputy Director; Meghan Jenkins, GIS Coordinator; and Debra Eckard, Administrative Assistant. Also present at the meeting Lloyd Yavener.

MINUTES

Ms. Doyle made a correction to the October 5, 2020 minutes. Ms. Aldrich made a motion to approve the minutes of the October 5, 2020 meeting as amended. The motion was seconded by Ms. Wallace and unanimously approved.

NEW BUSINESS

Permit #2020-04285 – 4425 Main Street, Rohrsersville

Ms. Jenkins presented for review a permit for a porch addition to the house located at 4425 Main Street in Rohrsersville.

Discussion and Comments: Ms. Doyle asked if the property is located in a flood plain. Ms. Jenkins stated it is not located in a flood plain.

Ms. Wallace noted that the porch will be constructed of pressure treated lumber and asked if the porch would be painted. Mr. Yavener, property owner, stated the pressure treated lumber will be used only for the porch decking. The rails will be made from pine or mahogany and painted white to match the trim on the house. The owners have not decided if they will paint the decking.

Ms. Doyle noted that the proposed porch does not match the shadow depicted on photographs of the house. Mr. Yavener stated that the old porch was constructed with a cinder block foundation and was not original to the house. Ms. Doyle asked if the railings would be behind the columns. Mr. Yavener stated that the railings would attach to the sides of the columns.

Mr. Rohrer asked what the pilasters would be constructed of. Mr. Yavener stated the pilasters will have a concrete core faced with brick on all sides and painted to match the house.

Ms. Jenkins noted that the porch was not referenced in the historic inventory as an architectural feature of the house. Mr. Yavener believes the porch was probably constructed in the 1940s or 1950s. Ms. Wallace expressed her opinion that originally the house likely had just a “landing” rather than a porch due to architectural detailing present.

Motion and Vote: Mr. Rohrer made a motion to approve the permit as presented. The motion was seconded by Ms. Doyle and unanimously approved with Mr. Clemens abstaining from the vote.

OTHER BUSINESS

Staff Report

- Ms. Jenkins noted that staff reviewed the following applications in November: 1 ag certificate in the Antietam Overlay zone.
- Ms. Jenkins reported that she attended the MAHDC annual meeting. New trainings will be offered soon.
- Ms. Jenkins attended the first Battle of Falling Waters listening session hosted by Preservation Maryland. They are currently exploring the obstacles that are preventing the Battlefield from being recognized. A lot of good discussion between property owners and interested parties was held.
- The MAHDC training for members was held on November 20th. The power point presentation will be made available and distributed to members soon.
- Ms. Baker attended the Heart of the Civil War Heritage Area meeting. This was a video presentation which is available on YouTube. There was a financial study regarding tourism completed that included the entire Heart of the Civil War Heritage Area and all other Heritage Areas across the State of Maryland. This data will be extremely useful in the future for preservation in the County.
- Proposed changes to the Demolition Permit Policy is scheduled to be heard by the Board of County Commissioners on Tuesday, December 8th. Ms. Linda Irvin-Craig and Mr. Ralph Young of the HAC, and Mr. Clemens will be presenting this information to the Commissioners.

ADJOURNMENT

Ms. Aldrich made a motion to adjourn the meeting at 7:45 p.m. The motion was seconded by Mr. Lushbaugh and so ordered by the Chairman.

Respectfully submitted,

Jill L. Baker, Director
Washington County Department of Planning
& Zoning



**Federal Communications Commission
Washington, DC 20554**

Informational Notice of Section 106 Filings

Date: 12/09/2020
Reference Number: 1126238

To Whom It May Concern
Washington County Maryland Historic District Commission
100 West Washington Street
Hagerstown, MD 21740

The following new Section 106 filing has been submitted:

FILE NUMBER: 0009318122
TCNS Number: 222553
Purpose: New Tower Submission Packet

Notification Date: 7AM EST 12/04/2020

Applicant: Diamond Towers V LLC (22008041)
Consultant: Trileaf Corporation
Positive Train Control Filing Subject to Expedited Treatment Under Program Comment: No
Site Name: Halfway Substation
Site Address: 11676 Hopewell Road
Detailed Description of Project: Our client proposes the construction of a 195 ft monopole, extended to 199 ft located at the approximate vicinity of 11676 Hopewell Road, Hagerstown, Washington County, Maryland 21740.
Site Coordinates: 39-38-10.7 N, 077-46-49.3 W
City: Hagerstown
County: WASHINGTON
State: MD
Lead SHPO/THPO: Maryland Historical Trust

Consultant Contact Information:

Name: Scott Emory
Title:
PO Box: 21286
Address: 8600 Lasalle Road Suite 301
City: Towson
State: MD
Zip: 21286
Phone: (410) 853-7128
Fax:
Email: r.rhoads@trileaf.com

NOTICE OF FRAUDULENT USE OF SYSTEM, ABUSE OF PASSWORD AND RELATED MISUSE

Use of the Section 106 system is intended to facilitate consultation under Section 106 of the National Historic Preservation Act and may contain information that is confidential, privileged or otherwise protected from disclosure under applicable laws. Any person having access to Section 106 information shall use it only for its intended purpose. Appropriate action will be taken with respect to any misuse of the system.



WASHINGTON COUNTY BOARD OF ZONING APPEALS

80 West Baltimore Street | Hagerstown, MD 21740-6003 | P: 240.313.2460 | F: 240.313.2461 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Potomac Edison Co
Tax Dept
800 Cabin Hill Drive
Greensburg PA 15601

Appellant: Diamond Communications LLC
820 Morris Turnpike
Suite 104
Short Hills NJ 07078

Property Location: 11676 Hopewell Road
Hagerstown, MD 21740

Description Of Appeal: Special exception to construct a 199 ft. monopole commercial communication tower with equipment shelter, variance from minimum 199 ft. setback from the base of the tower to 57 foot 9 inches from northeast property line and 121 foot 9 inches from northwest property line and a variance from required 398 ft. setback from overhead transmission lines to 64 foot 1 inch

Docket No: AP2020-029
Tax ID No: 24009718

Zoning: HI
RB Overlay: No

Zoning Overlay:

Filed Date: 09/23/2020
Hearing Date: 10/14/2020

Appellant's Legal Interest In Above Property: **Owner:** No **Contract to Rent/Lease:** No
Lessee: Yes **Contract to Purchase:** No
Other:

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance 19.3 (i), 4.22 A.1, 4.22 A.3

Reason For Hardship: Strict compliance would unreasonably prevent the use of the property for proposed use and render conformation unnecessarily burdensome.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Power Substation **Proposed Use:** Power Substation with Communications Tower

Previous Use Ceased For At Least 6 Months: **Date Ceased:**

Area Devoted To Non-Conforming Use - **Existing:**
Proposed:

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.



Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 23 day of September, 2020.



WASHINGTON COUNTY BOARD OF ZONING APPEALS

80 West Baltimore Street | Hagerstown, MD 21740-6003 | P: 240.313.2460 | F: 240.313.2461 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2020-029

State of Maryland Washington County, To Wit:

On 9/23/2020, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Miller, Miller & Canby and made oath in due form of law as follows:

Miller, Miller & Canby will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 10/14/2020, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 09/29/2020 and will remain until after the above hearing date.

Miller, Miller & Canby

Sworn and subscribed before me the day and year first above written.

KATHRYN B. RATHVON
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOV. 7, 2021

Notary Public

Seal

My Commission Expires

Law Offices Of
MILLER, MILLER & CANBY
MM&C
CLIENT FOCUSED. RESULTS DRIVEN.

200-B MONROE STREET, ROCKVILLE, MARYLAND 20850 P: 301.762.5212 F: 301.762.6044 WWW.MILLERMILLERCANBY.COM

All attorneys admitted in Maryland and where indicated.

PATRICK C. MCKEEVER
JAMES L. THOMPSON
LEWIS R. SCHUMANN
JODY S. KLINE
JOSEPH P. SUNTUM
ROBERT E. GOUGH

DONNA E. MCBRIDE (DC)
GLENN M. ANDERSON (FL)
SEAN P. HUGHES (DC)
CATHY G. BORTEN (DC)
MICHAEL G. CAMPBELL (DC, VA)

SOO LEE-CHO (CA)
DAVID A. LUCAS (DC)
DIANE E. FEUERHERD
CHRISTOPHER L. YOUNG (VA)
CALLIE CARNEMARK (VA)
JAMES T. ROTH

sphughes@mmcanby.com

September 23, 2020

Washington County Board of Zoning Appeals
80 West Baltimore Street
Hagerstown, MD 21740

RE: Diamond Communications LLC –Commercial Communications Tower facility-11676
Hopewell Road, Hagerstown, MD 21740

Dear Ms. Rathvon:

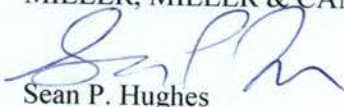
Please find the attached Special Exception and Variance Application submission package on behalf our client, Diamond Communications, related to its partnership with Potomac Edison (a First Energy company). Included in the package please find the following items:

1. County Special Exception and Variance Applications- (9) copies
2. Supplemental materials for the application- nine (9) copies
3. Filing fee checks of \$500 and 300, made payable to Washington County Treasurer

Thank you in advance for your assistance on this matter. Should you have any questions or need additional information, please do not hesitate to contact me.

Sincerely yours,

MILLER, MILLER & CANBY


Sean P. Hughes

Cc: Scott Von Rein, Diamond Communications

Law Offices Of
MILLER, MILLER & CANBY
MM&C
CLIENT FOCUSED. RESULTS DRIVEN.

200-B MONROE STREET, ROCKVILLE, MARYLAND 20850 P: 301.762.5212 F: 301.762.6044 WWW.MILLERMILLERCANBY.COM

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sphughes@mmcanby.com

September 15, 2020

Washington County Board of Zoning Appeals
80 West Baltimore Street
Hagerstown, MD 21740

RE: Diamond Communications LLC –Commercial Communications Tower facility-11676
Hopewell Road, Hagerstown, MD 21740

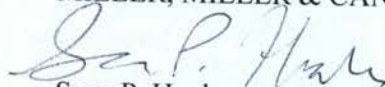
Dear Board of Zoning Appeals/County Staff:

Please enter the appearance of the Miller, Miller & Canby and myself as attorneys in the Diamond Communications Special Exception and Variance applications for a Commercial Communications Tower facility at an existing Potomac Edison (a First Energy company) substation facility, 11676 Hopewell Road, Hagerstown, MD 21740. We will be assisting our client, Diamond Communications, which is an agent of and has a master agreement with Potomac Edison (First Energy) to assist with these sort of uses at the power company's properties.

Thank you for your attention to this matter.

Sincerely yours,

MILLER, MILLER & CANBY


Sean P. Hughes

Cc: Scott Von Rein, Diamond Communications

Ex. 1
COMPLETED AND SIGNED
APPLICATIONS (SPECIAL
EXCEPTION AND VARIANCE)



Washington County
MARYLAND

BOARD OF ZONING APPEALS

80 West Baltimore Street | Hagerstown, MD 21740 | 240.313.2460 | 240.313.2461 Hearing Impaired 7-1-1
WWW.WASHCO-MD.NET

Appeal for Special Exception

Appeal is hereby made for a special exception under the Washington County Zoning Ordinance as follows:

Location 11676 Hopewell Road, Hagerstown, MD 21740

Appellant's present legal interest in above property: (Check One)

☐ Owner (Including Joint Ownership) ☒ Lessee ☐ Contract to rent/lease

☐ Contract to Purchase ☐ Other

Use Proposed: Commercial Communications Tower

Zoning Ordinance section and subsection(s) providing for proposed use: 19.3.(i), 4.22, 4.22 A & B

If filing functionally similar to a principal permitted use or special exception use, please list the use and describe the use similarities:

Provide Detailed Explanation on Separate Sheet

Has any previous petition or appeal involving this property been made to the Board?

☐ Yes ☒ No

If yes, give docket number(s):

Additional comments, if any: This is a Potomac Edison (First Energy Company) substation.

Applicant/Lessee has not been involved in or aware of any prior petitions or appeals for property to the Board.

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

Melissa Coplee
Signature of Appellant

OFFICE: 820 MORRIS TPKE, STE 104
MAIL: 30 CHATHAM RD, UNIT 606
BOTH IN SHORT HILLS, NJ 07078
Address of Appellant

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.



Washington County
MARYLAND

BOARD OF ZONING APPEALS

80 West Baltimore Street | Hagerstown, MD 21740 | P: 240.313.2460 | F: 240.313.2461 | Hearing Impaired 7-1-1

WWW.WASHCO-MD.NET

Appeal for Variance

Appeal is hereby made for a variance from a requirement of the Washington County Zoning Ordinance as follows:

Location 11676 Hopewell Road, Hagerstown, MD 21740

Appellant's present legal interest in above property: (Check One)

☐ Owner (Including Joint Ownership) ☒ Lessee ☐ Contract to rent/lease

☐ Contract to Purchase ☐ Other

Specify the Ordinance section and subsection from which the variance is desired:
4.22 A.1 & 3

Specify the particular requirement(s) from which a variance is desired in that section or subsection:
Please see attached detailed explanation on separate page.

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:
Please see attached detailed explanation on separate page.

Describe reason(s) why the Ordinance requirement(s) in question would result in peculiar and/or unusual practical difficulties to or would impose exceptional or undue hardship upon the owner of the property if the requested variance were not granted:

Provide Detailed Explanation on Separate Sheet

Has any previous petition or appeal involving this property been made to the Board?
☐ Yes ☒ No

If yes, list docket number(s): However, this is accompanying a Special Exception request for a commercial communications tower tied to this variance request.

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

Alessia Colee

Signature of Appellant

OFFICE: 820 MORRIS TPKE, STE 104
MAIL: 30 CHATHAM RD, UNIT 606
BOTH IN SHORT HILLS NJ 07078

Address of Appellant

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.

Ex. 2

**STATEMENT OF JUSTIFICATION
EVALUATING REQUIRED CODE
STANDARDS**

Statement of Justification- Special Exception Application

For Communication Tower

I. Introduction

Diamond Communications, LLC (dba as "Diamond") with support of the property owner Potomac Edison (a First Energy company) and anchor tenant AT&T Wireless proposes to erect a 195' monopole with a lightning rod tip height of 199'. The facility will be located at the existing Potomac Edison substation property, 11676 Hopewell Road, Hagerstown, MD in the HI zone. The monopole and the related equipment will be housed at the substation within an unmanned 50' by 50' screened, fenced, locked and secure ground compound. The facility is designed with capacity to hold antennas, associated ancillary equipment and cables of at least four (4) communications providers, including the equipment of anchor tenant AT&T at the top and space for Washington County Government too.

This application submission is the result of forged partnerships between First Energy, Diamond and AT&T wireless, along with AT&T's nationwide partnership to help the Federal government build out the FirstNet communications network. FirstNet is first shared interoperable public safety radio system from coast to coast. While building out FirstNet around the United States, AT&T is also looking to help with FirstNet public safety coverage in the greater Hagerstown area, including in the area of the existing Potomac Edison substation on Hopewell Road. The site will also provide enhanced connectivity to AT&T's direct customer base. As is well known and established, Maryland, Washington County and the greater Hagerstown area often faces severe natural disaster/weather situations as well as general health and safety emergencies

Based on the simple but crucial premise of providing essential public safety needs AT&T is committed as the anchor tenant at the site. As noted above, the site will also serve all of AT&T's customers who live, work and travel in this area of Washington County. This stellar industrial/substation location will fill an existing AT&T coverage gap by providing enhanced wireless connectivity to the area for essential, non-essential and emergency communications.

II. Application

Exhibits:

1. Completed and Signed Applications (Special Exception and Variance)
2. Statement of Justification evaluating required code standards
3. Application fees (\$500 for Special Exception and \$300 for Variances)
4. Radio Frequency (RF) Propagation Coverage Maps, Co-Location Rule Out report and Stotler Neighboring AT&T Sites document
5. Notarized affidavit from property owner authorizing application
6. Affidavit reserving 10 foot space on tower for County use and other co-location
7. Name and mailing addresses of owners of land adjoining the subject property.
8. Civil engineering letter certifying structural integrity design of the tower/pole
9. Visuals- Photo Simulations and Aerial Maps of property/area
10. FAA Consultant's Report
11. A scaled plot plan (concept plan)- 9 copies

III. Statement of Applicant

The applicant's application, supporting materials, and projected testimony to be shared at the County's Special Exception and Variance hearing will demonstrate that the request is reasonable, appropriate, meets all Zoning code and other requirements. Not only will the application meet all applicable laws, but also the communications tower will provide a positive impact in the County via enhanced wireless communications. This positive impact will include filling multiple needs in this area of Hagerstown, including AT&T's and First Net's wireless coverage gap, as well as reserving a future spot on the tower for Washington County's communications needs. By filling this wireless communications coverage gap the residents, visitors, and businesses will have enhanced wireless connectivity for essential, non-essential and emergency communications. It will also assist by continuing to shrink the digital divide that exists in many areas of our Country and State by providing state of the art wireless broadband services to the area. Additionally, it will provide essential FirstNet wireless services to the first responder agencies that support the businesses, visitors and residents in this area of the County.

Applicable Code Sections for Review

Section 19.3. Special Exception Uses (Requiring Board Authorization after Public Hearing)

(i) Commercial Communications Towers, subject to the requirements of Section 4.22.

Reply: The proposed Commercial Communications Tower is permitted by Special Exception per above sections.

*Section 25.6 Limitations, Guides and Standards*193

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a permit may be issued, or the Board is called upon to decide certain issues, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted, and shall hear any person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

- (a) The number of people residing or working in the immediate area concerned.*
- (b) The orderly growth of a community.*
- (c) Traffic conditions and facilities.*
- (d) The effect of such use upon the peaceful enjoyment of people in their homes.*
- (e) The conservation of property values.*
- (f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.*
- (g) The most appropriate use of land and structure.*
- (h) Decision of the courts.*

(i) The purpose of these regulations as set forth herein.

(j) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches and the like.

Reply: As provided in this Statement and supporting materials attached, as well as expected testimony to come at the public hearing, this application would not adversely affect the public health, safety, security, morals or general welfare, or result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood.

The application and use (Communication Tower) will be in harmony with the general character of the neighborhood, considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions. The subject property is a long established power substation (Potomac Edison, A First Energy Company) that is located in a HI (Highway, Interchange) zone. A communication tower is quite common and often located upon substation and other power company/utility properties. The subject property and surrounding area have the existing utility right of way with long standing power company towers/poles and high tension lines that provide power to the local businesses and residences. As a result, the proposed commercial communications tower (monopole in this case, like the current Potomac Edison infrastructure in the area) will blend in nicely with the existing vertical Potomac Edison infrastructure in the vicinity as well as tall lights in this heavily industrial/commercial, due to its location, size and color. Please see the attached photo simulation and aerial photos as reference (Ex. # 9).

The Use will not produce any material odors, dust, gas, smoke, fumes, vibrations, glare or noise. The facility, upon completion of construction, is quiet, unmanned and passive. It

generates nearly no additional traffic, as it typically requires general maintenance visits by each wireless provider to the site about every two months. One to two workers in an SUV type vehicle generally perform the service. Any emergency outages at the facility would also result in a service visits in order to rectify the outage.

The property is surrounded by other similar industrial and/or commercial uses and is quite a distance from the nearest residential dwelling units. (Please see attached Aerial Map and Photo Simulations as reference- Ex. # 9) and has some good existing tree and vegetative screening in most directions from the substation property. Thus, it will not have a negative impact on the peaceful enjoyment of residents in their homes. Instead, this communication tower will provide a positive impact by providing enhanced, stellar wireless connectivity onsite for the power company's needs and the public who work, drive and live around the facility to conduct essential, non-essential and emergency communications. Statistics show that over eighty percent of 911¹ calls are made from wireless devices versus landline telephones. Thus, the Use will provide enhanced wireless communications to this area of Hagerstown.

Section 4.22 Commercial Communication Towers

The purpose of this section is to regulate the placement, construction, and modification of commercial communications towers as defined in Article 28A (hereinafter "towers") and commercial communications equipment as defined in Article 28A (hereinafter "equipment"). It is the intent of these regulations to minimize the visual impact of towers and equipment, to minimize the number of towers through shared use

¹ See the 9-1-1 Association webpage at <https://www.nena.org/page/911Statistics>

and co-location, to encourage utilization of technological designs *that* will either eliminate

or reduce the need for new towers to support equipment and to *ensure* that all towers and equipment are compatible with surrounding land uses while *assuring* wireless communications service to the citizens of Washington County.

Equipment proposed to be located on an existing tower or antenna *support* structure as defined in Article 28A shall be allowed in any district *provided* that the height from grade of the equipment shall not exceed the height from *grade* of the antenna support structure by more than twenty (20) feet.

No permit to construct a tower may be issued unless the applicant *demonstrates* to the Planning Commission, or where applicable, to the Board of *Zoning* Appeals, need for the tower and that the applicant has exhausted all alternatives to *constructing* a tower. Applicants are required to prove need by:

a. demonstrating via statement or other evidence that, in terms of *location* and construction, there are no existing towers, buildings, elevated tanks *or other* structures able to provide the antenna platform required.

b. providing evidence, including coverage diagrams and technical *reports*, demonstrating that co-location on existing sites is not technically *possible* in order to serve the desired need.

REPLY: The Applicant is locating at the long established Potomac Edison power substation in Hagerstown on Hopewell Road. Applicant via its wireless anchor tenant AT&T has shared radio frequency propagation maps, a Co-Location Rule Out report and Stotler Neighboring AT&T Sites document (See Ex. #4) that the proposed location will fill a current coverage gap in its system for its customers and that it was unable to fill this coverage gap by locating upon existing infrastructure in the vicinity. In fact as the propagation map shows, the proposed location at the Potomac Edison substation is essentially in the middle of AT&T's four nearest existing and to be link up sites to the northwest (Huyett, 12062 Smithfield Farm Lane, 1.8 miles away), northeast (McSwain, 118 Hump Road, 1.45 miles away), south (Wilcox Dr., 16907 Virginia Avenue, 1.43 miles and southeast (Hagerstown South, 18112 West Oak Ridge Drive, 2.7 miles). Thus, the proposed location is like a donut hole in the middle of the existing sites. The donut hole will be filled by this site filling the coverage gap and providing enhanced wireless connectivity to the area. It will also fill a coverage gap for FirstNet public safety customers. The current location was reached after significant time, discussions, efforts and collaboration among many in order to produce this application, which will provide important and needed enhanced wireless connectivity for the power company, businesses, residents and visitors of the area.

A. Design requirements

In addition to the applicable requirements for a site plan as specified in Section 4.11, the applicant shall provide the following information as part of the site plan

submittal. These provisions shall apply to towers in all districts where permitted as a principal permitted or special exception use:

1. Subject to a minimum setback of a distance equaling the total height of the tower and equipment. The setback shall be measured from the base of the tower to the boundary line of the property owned, leased, or controlled by easement by the applicant.

REPLY: The Applicant meets this to the southeast (368 plus feet) and southwest (219 plus feet). Applicant is in need of a Variance to the northwest as it is 121'9 inches (thus needs a variance of 73'1 ft.) from property line and to the northeast as it is 57'9 inches from edge of property (thus needs a variance of 137'1 feet). Please see rationale supporting the variance requests later in this document under the Variance section.

2. Subject to a minimum distance requirement of a distance equaling the height of the tower and equipment plus 200 feet from the RT, RS, RU, RM and RV districts or the nearest part of any existing dwelling, school, church, or institution for human care, in any other district.

REPLY: The tower is greater than 399 feet from the nearest RT, RS, RU, RM and RV districts or the nearest part of any existing dwelling, school, church, or institution for human care, in any other district.

3. *Subject to a minimum setback from all overhead transmission lines of a distance equaling two times the height of the tower and equipment.*

REPLY: Applicant is in need of a Variance as the setback to the Potomac Edison overhead transmission lines in their substation is 64'1 feet versus code requirement of two times the height of the tower equipment (398 feet). Thus, Applicant is in need of a variance of 339'1 feet. Please see rationale supporting the variance requests later in this document under the Variance section.

4. *Subject to a height not to exceed 200 feet. Measurement of tower height shall include the tower structure itself, the base pad, and any other equipment attached thereto which extends more than twenty (20) feet over the top of the tower structure itself. The tower height shall be measured from grade.*

REPLY: Applicant meets this requirement, as the proposed tower is 195 feet and even with the lightning rod is at 199 feet, which technically does not count towards this specific subsection regarding the setback and height.

5. *Proposed towers shall meet the following minimum separation requirements from existing towers or towers which have been issued a permit but are not yet constructed.*

(a) Monopole towers shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred and fifty (750) feet.

(b) Self-supporting lattice or guyed towers shall be separated from all other self-supporting or guyed towers by a minimum of fifteen hundred (1,500) feet.

(c) Self-supporting lattice or guyed towers shall be separated from all monopole towers by a minimum of seven hundred and fifty (750) feet.

REPLY: Applicant is in compliance as the proposed monopole is over 750 feet from the nearest tower, whether monopole, self-supporting lattice, or guyed

6. All towers shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of comparable equipment for other carriers. An application for a tower shall be accompanied by an affidavit from the applicant stating that one ten (10) foot space on the proposed tower will be specifically reserved for use by the County, and that other spaces will be made available to other future users, when possible.

REPLY: Applicant agrees to this requirement and has included an Affidavit noting such a commitment.

7. Fencing shall be provided around the base of the tower and any associated

equipment buildings.

REPLY: Applicant agrees to this requirement. Please also see attached drawing plans, page C-2 (Ex. # 11).

8. All sites shall be identified by means of a sign no larger than two square feet affixed to the fence identifying the entity using the site and shall provide the telephone number of a contact person in the event of an emergency.

REPLY: Applicant agrees to this requirement.

9. Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the Planning Commission or Board of Zoning Appeals. Towers shall not be lighted unless specifically required by the FAA.

REPLY: Applicant agrees to this requirement. Per Applicant's FAA Consultant's report (attached herein as Ex. # 10) FAA painting, marking or lighting is not required.

10. In order to protect the natural skyline, towers should be sited within areas of mature vegetation and should be located down slope from ridge lines, and toward the interior of the parcel whenever possible. Placement should only be considered elsewhere on the property when valid technical data supplied

by the applicant indicates that there is no other suitable location.

REPLY: Applicant believes that this site meets the spirit and wording of this requirement as much as possible as this is a very large and heavily developed industrial/commercial area with a HI zoning classification. The subject property is a long established power company substation. The location of the communications facility on the property is driven by the existing Dominion Power use of the property as a substation and the corresponding substation infrastructure as well as the overhead power lines and poles within the right of way as shown on our attached drawing plans (Ex. # 11).

11. Towers proposed to be located within the Appalachian Trail corridor special planning area as identified in the adopted Comprehensive Plan for the County, any “AO” Antietam Overlay zoning district or “HP” Historic Preservation zoning district shall utilize stealth technology as defined in Article 28A to minimize visual impact.

REPLY: Not applicable. The location is not within the Appalachian Trail corridor special planning area as identified in the adopted Comprehensive Plan for the County, any “AO” Antietam Overlay zoning district or “HP” Historic Preservation zoning district. The site is located in a HI zone in a long established Potomac Edison substation within a large and developed industrial/commercial area.

12. (a) A Commercial Communication Tower that is out of service for a

continuous six (6) month period will be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the Owner of the Tower that is deemed to be abandoned. The Owner shall have the right to respond in writing to the Notice of Abandonment setting forth the reasons for operation difficulty and providing a reasonable timeframe for correction action, within thirty (30) days from the date of the Notice. The Administrator shall withdraw the Notice of Abandonment and notify the Owner that the Notice has been withdrawn if the Owner provides information that demonstrates the Tower has not been abandoned.

(b) If the Tower is determined to be abandoned, the Owner of the Tower shall remove the Tower and all related equipment at the Owner's sole expensed within three (3) months of the Date of Notice of Abandonment. If the Owner fails to remove the Tower and related equipment, the Administrator may pursue legal action to have the Tower removed at the Owner's expense.

REPLY: Applicant agrees to this requirement.

B. Additional Provisions for Towers Permitted by Special Exception

In addition to the limitations, guides and standards enumerated in Section 25.6, the Board of Zoning Appeals shall consider the following provisions when considering a

request for a special exception for a commercial communications tower.

1. In those cases where a proposed tower is part of a grid or network, the applicant shall provide a map indicating the location of any existing or proposed towers in the grid or network within Washington County and within one (1) mile of the County boundary.

REPLY: Applicant, Diamond Communications, does not have any existing or proposed towers in its grid or network in Washington County and within one (1) mile of the County boundary.

2. The tower shall be compatible with and shall not adversely impact the character and integrity of surrounding properties. Consideration shall be given to the view shed associated with scenic and historic areas and to the use of stealth technology to minimize the visibility of the proposed tower.

REPLY: The tower is compatible with and will not adversely impact the character and integrity of surrounding properties. Applicant is confident that this is the ideal type of siting location and is encouraged by the County when new structures are needed and technically feasible as it is in a large and heavily developed industrial/commercial area. Additionally, it is set away a large distance from residential dwellings and located inside of a long-standing, existing power company substation and similar in design to the existing power company poles and light poles on subject property and property in the area.

3. The applicant shall submit a visual analysis which may include, photo simulation, field mock-up, elevations or other visual or graphic illustrations to determine visual impact. Consideration shall be given to views from public areas as well as from private residences. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable towers in the area, and shall identify and include all feasible mitigation measures.

REPLY: Please see the attached photo simulations that the Applicant has commissioned from around the area from multiple locations. The simulations provide a reasonable projection of what the facility will look like upon construction from around the vicinity. In fact, the photos provide additional support that the location is ideal and the new tower/pole will blend in very nicely and appropriately, with the existing area that primarily consists of industrial properties with many tall parking and security light poles, existing power lines with poles and the subject property power company substation. The planned tower is a monopole structure similar in color and height (albeit a bit taller in order to support the needs of AT&T and FirstNet's coverage gap and future co-location of the County and other wireless providers) to the existing power poles.

4. The Board may include conditions on the site where the tower is to be located if such conditions are necessary to preserve the character and integrity of the area affected by the proposed tower and mitigate any adverse impacts which arise in connection with approval of the special

exception.

REPLY: Applicant and its anchor tenant have worked diligently to find an appropriate location and design and believes it has provided an ideal solution at this location in order to provide enhanced wireless connectivity to this area of Washington County.

Section 25.56 Variances

A variance may be granted by the Board upon a showing of criteria of practical difficulty or undue hardship described below respectively:

A. Practical Difficulty

1. Strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

REPLY: Applicant does contend that were it not to be permitted the requested variances here that it would suffer a practical difficulty as strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome. The HI zone does permit commercial communications towers. In fact, we believe it is one of the most preferred County zones for such a structure. In addition, the subject property is a long established Potomac Edison substation as the property was purchased back in 1974 per Deed 00582/00511. Power company substations often hold industrial infrastructure including

towers and overhead lines with poles running through rights of way (as this location does). This location is also in a very large and developed industrial/commercial area. Please see attached aerial maps of the vicinity and photo simulations (Ex. # 9). The property's long established power company substation infrastructure utilizes the majority of the property and has right of way (ROW) running through the property with power lines running above ground along with a long standing wooded area on the eastern edge of the property that all affect the property in a most unique way. The power company property also has a bit of an odd shape, particularly towards the southeast corner. Lastly, its uniqueness extends to the fact that it is in a heavily established industrial area with significant distance to residential homes. The setback variances being requested are the minimum needed in order to provide AT+T for its private customers and for its partner, FirstNet to fill the existing wireless coverage gap in the area for its customers. The setbacks being request includes one to the existing "overhead transmission lines" per section 4.22 A.3., that requires that a tower be set back two times the height of the tower. Well, that certainly could not be met in this case since, as one would suspect the substation does have power lines running through the location and the surrounding right of way. We believe the intent of this code section is to protect power company's transmission lines when such a proposal involves an offsite property encroaching upon its power company infrastructure and not when the power company desires to put up a pole on its own property and follow all necessary and required industry safety standard and practices. In this case, Potomac Edison is certainly supportive of the variance request and will ensure all engineering and safety protocols are taken.

The other two setbacks are related to section 4.22 A.1. that requires a minimum setback equaling total height of the tower. While the Applicant meets the setbacks to the southeast and southwest, it needs a variance for the distance to the northwest for 73'1" feet as it is 121'9" feet

from the property line and one for 137'1" feet to the northeast as it is 57'9" from that property line direction. Again, for the above reasons we believe that, the variance is appropriate and strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome. Additionally, the Applicant has provided a civil engineering structural integrity letter certifying that the design of the tower/pole is such that in the unlikely event of a failure, that is designed to crumple upon itself (as all telecom monopoles are designed) and thus would remain on the Dominion Power property and thus have no material impact to the offsite properties. See Ex. # 8.

2. Denying the variances would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and

Yes, denial of the variances would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief. The substantial injustice is that Potomac Edison partner and applicant herein, Diamond Communications on behalf of its anchor tenant, AT&T Wireless, would not be able to fill a coverage gap for its customers, nor be able to provide enhanced wireless connectivity for the first national public safety system (FirstNet), that provides interoperable wireless communications to first responders. It would also deprive Washington County of a future communications location, as they have a location reserved along with other future wireless co-locators who desire to provide enhanced connectivity to this area of the County. The requested tower height is the minimum needed by AT&T and FirstNet to meet

the coverage needs of its customers and fill the current coverage gaps as shown on the attached radio frequency propagation maps, which can be expounded upon via live testimony at the public hearing.

3. Granting the variance would observe the spirit of the Ordinance and secure public safety and welfare.

Reply: Yes, granting the variance would absolutely observe the spirit of the Ordinance and secure public safety and welfare. That is exactly what this application is focused on, assisting the public safety and welfare by providing enhanced state of the art broadband wireless communications to businesses, residences, first responders and visitors to this area of Hagerstown. Additionally, not only will this application meet all applicable laws, but also the communications tower/pole will provide a positive impact in the County. This positive impact will include filling multiple needs in this area of Hagerstown, including AT&T's and First Net's wireless coverage gap, as well as reserving a future spot on the tower for Washington County's communications needs. By filling this wireless communications coverage gap the residents, visitors, and businesses will have enhanced wireless connectivity for essential, non-essential and emergency communications. It will also assist in helping shrink the digital divide that exists in many areas of our Country and State by providing state of the art wireless broadband services. Additionally, it will provide essential FirstNet wireless services to the first responder agencies that support the businesses, visitors and residents in this area of the County. Finally, it is an ideal location and design. The HI zone does permit commercial communications towers. In fact, we believe it is one of the most preferred zones in the County for such a structure. The subject

property is a long established Potomac Edison substation. Power company substations often hold industrial infrastructure including towers and overhead lines and poles running through rights of way (as this location does). This location is also in a very large and developed industrial/commercial area that is a significant distance from residential dwellings.

SUMMARY

The applicant contends that per the attached application, supporting materials and projected testimony to be shared at the County's Special Exception and Variance public review process prove that the application is appropriate, reasonable and meets all of the County's Zoning code criteria (including Special Exception general and specific standards for Commercial Communication Towers and Variance code section regarding setback waivers requested). We are confident that not only does this application meet the spirit and law for a Washington County Special Exception and Variance request, as well as applicable State and Federal laws, that the facility will provide a positive impact on the County by filling wireless coverage gaps in this area of Hagerstown for AT&T FirstNet public safety customers and non-public safety customers. Additionally, it is a site for future Washington County government communication needs and other potential future wireless providers on the pole (below AT&T's antennas) and location. The needs include filling AT&T's coverage gap by providing enhanced state of the art wireless communications to its residents, visitors, government agencies and businesses for essential, non-essential and emergency communications. Additionally, it will provide essential FirstNet wireless services to all first responders in the area who can or will use FirstNet public safety radio services.

If you have any questions or need anything further regarding this application, please
contact me at:

Miller, Miller & Canby

200-B Monroe Street

Rockville, MD 20850

301-762-5212

sphughes@mmcanby.com

Thank you,

Sean P. Hughes

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

DIAMOND COMMUNICATIONS, LLC

Appellant

*

*

*

*

Appeal No.: AP2020-029

* * * * *

OPINION

Diamond Communications, LLC (hereinafter “Appellant”) requests a special exception to construct a 199 foot monopole commercial communication tower with equipment shelter, a variance to reduce the minimum setback from 199 feet to 57 feet, 9 inches from the northeast property line, 121 feet, 9 inches from the northwest property line, and a variance to reduce the setback from overhead transmission lines from 398 feet to 64 feet, 1 inch at the subject property. The subject property is located at 11676 Hopewell Road, Hagerstown, Maryland; is owned by Potomac Edison Co.; and is zoned Highway Interchange, HI.

The Board held a public hearing on the matter on October 14, 2020.¹ Appellant was represented by Sean P. Hughes, Esq., Law Offices of Miller, Miller & Canby. All witnesses provided testimony, under oath and on the record.

¹ Due to the COVID-19 pandemic, in-person access and contact for public hearings has been limited, especially in County buildings. The members of the Board of Appeals, counsel, staff, and the Appellant were the only persons physically in attendance for the hearing. All other witnesses and the public at large were permitted to participate by telephone/video. All notices for the hearing provided the information necessary to call in and/or participate remotely and those who wished to participate were encouraged to make written submissions as well.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. Potomac Edison Co. owns the subject property located at 11676 Hopewell Road, Hagerstown, Maryland. The property is zoned Highway Interchange, HI.
2. Appellant is the anticipated lessee of the subject property.
3. The subject property consists of a Potomac Edison Co. substation and overhead transmission lines for electrical power.
4. Appellant proposes to construct a 195-foot monopole tower, with a 4-foot lightning rod, for a total of 199 feet. The site would contain an equipment shelter and 50-foot by 50-foot fenced area to secure access.
5. The proposed communications tower will provide coverage for service gaps and for FirstNet to operate emergency communication services. The anchor tenant will be AT&T, but capacity will be reserved for other communications providers and for Washington County Emergency Response. It will be designed to deliver 5G service.
6. The site would be serviced approximately one (1) time every other month, or about six (6) times per year.
7. Appellant has elected not to utilize the existing overhead transmission poles because they are only 120 feet tall. Communications service requires more height to be effective.
8. There was no opposition presented to this appeal.

Rationale

Special Exception

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as “a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood.” Article 28A. In the instant case, the subject property is ideal for the proposed project. It is located in an industrial area, isolated and already outfitted for the type of use proposed. There will be no gas, odor or light emissions, and no dust, noise, or significant traffic to and from the property. The Board finds that the proposed use at the subject property will have no greater “adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” *Schultz v. Pritts*, 291 Md. 1, 15 (1981). For all these reasons, we conclude that this appeal meets the criteria for a special exception and secures public safety and welfare and upholds the spirit of the Ordinance.

Accordingly, the request for a special exception to establish a 199-foot monopole commercial communication tower with equipment shelter at the subject property is hereby GRANTED, by a vote of 5–0.

Variances

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.² “Practical Difficulty” may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying

² “When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive (“or”), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements.” *Belvoir Farms Homeowners Ass’n, Inc. v. North*, 355 Md. 259, 276 n.10 (1999) (citations omitted).

the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

Practical difficulty and undue hardship are the result of a property being unique. "'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." *North v. St. Mary's Cnty.*, 99 Md. App. 502, 514 (1994).)

Appellant explained that the setback requirements for overhead transmission lines were likely intended to ensure that if a structure fell, it would clear said lines. In the instant case, Appellant testified that the monopole is designed to crumple rather than fall over. While there have been some instances of this happening in very extreme weather, the tower will be constructed at the subject property to withstand the typical elements encountered locally. There is little concern for the tower falling on the overhead transmission lines adjacent to the site. Moreover, the entity which should be most concerned with such a request is Potomac Edison Co., and they are in support of the requests made herein. Consequently, the imposition of the setback unreasonably prevents an otherwise reasonable use of the property and should be reduced.

Pursuant to the Ordinance requirements, the proposed tower must have a setback equal to its height, in this case, 199 feet. This is specifically intended to give clearance from nearby improvements should the structure fall. As has been stated, the risk of this is very minimal based both on construction and design of the monopole tower. Imposing this setback requirement without some relaxation would unreasonably prevent this

reasonable use of the property.

Appellant further testified, and the Board recognizes that the world of cellular phone and wireless data usage is growing exponentially. Appellant provided statistics that about sixty percent (60%) of all 911 emergency calls originate from a cellular phone. To meet the needs of this growing market and to ensure consistent coverage and capacity for users, Appellant is establishing towers like the one proposed in identified gap areas. The proposed project meets a need of the community and enhances communication services for the public; thus it is consistent with the spirit and intent of the Ordinance.

Accordingly, the request for a variances to reduce the minimum setback from 199 feet to 57 feet, 9 inches from the northeast property line, 121 feet, 9 inches from the northwest property line, and a variance to reduce the setback from overhead transmission lines from 398 feet to 64 feet, 1 inch at the subject property are hereby GRANTED, by a vote of 5-0. The application is granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein.

BOARD OF APPEALS

By: Paul Fulk, Chair

Date Issued: November 12, 2020

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.

Ex. 3

**APPLICATION FEES (\$500 FOR
SPECIAL EXCEPTION AND \$300
FOR VARIANCES)**

Ex. 4

**RADIO FREQUENCY (RF)
PROPAGATION COVERAGE
MAPS, CO-LOCATION RULE OUT
REPORT AND STOTLER
NEIGHBORING AT&T SITES
DOCUMENT**



RF Justification

Site Name: STOTLER

**Address: 11676 Hopewell Rd, Hagerstown MD 21740
(Washington County)**

The main objective of this site is to add and enhance AT&T coverage near Valley Mall along Hopewell Rd, Halfway Blvd, I-81 and the surrounding areas between I-70 and SR 144.

The addition of this site will improve coverage including in-building coverage in the commercial and residential areas along above routes and Valley Mall. Currently, this area has weak AT&T coverage.

The Proposed site will also ensure overlap coverage, handoffs and off-load traffic among existing AT&T Sites Wilcox DR, MCSWAIN and HUYETT, Commuters and residents will experience better quality of voice and data services from AT&T with the addition of the STOTLER site.

AT&T is proposing for 190' Rad Center for this site to meet its coverage and capacity needs.

Prepared by:

Gaurav Behl
RF Engineer

Approved by:

Sandeep Gupta
RF Design Manager

AT&T Mobility
7150 Standard Drive
Hanover, MD
Tel: 410-712-7817
Fax: 410-712-7784



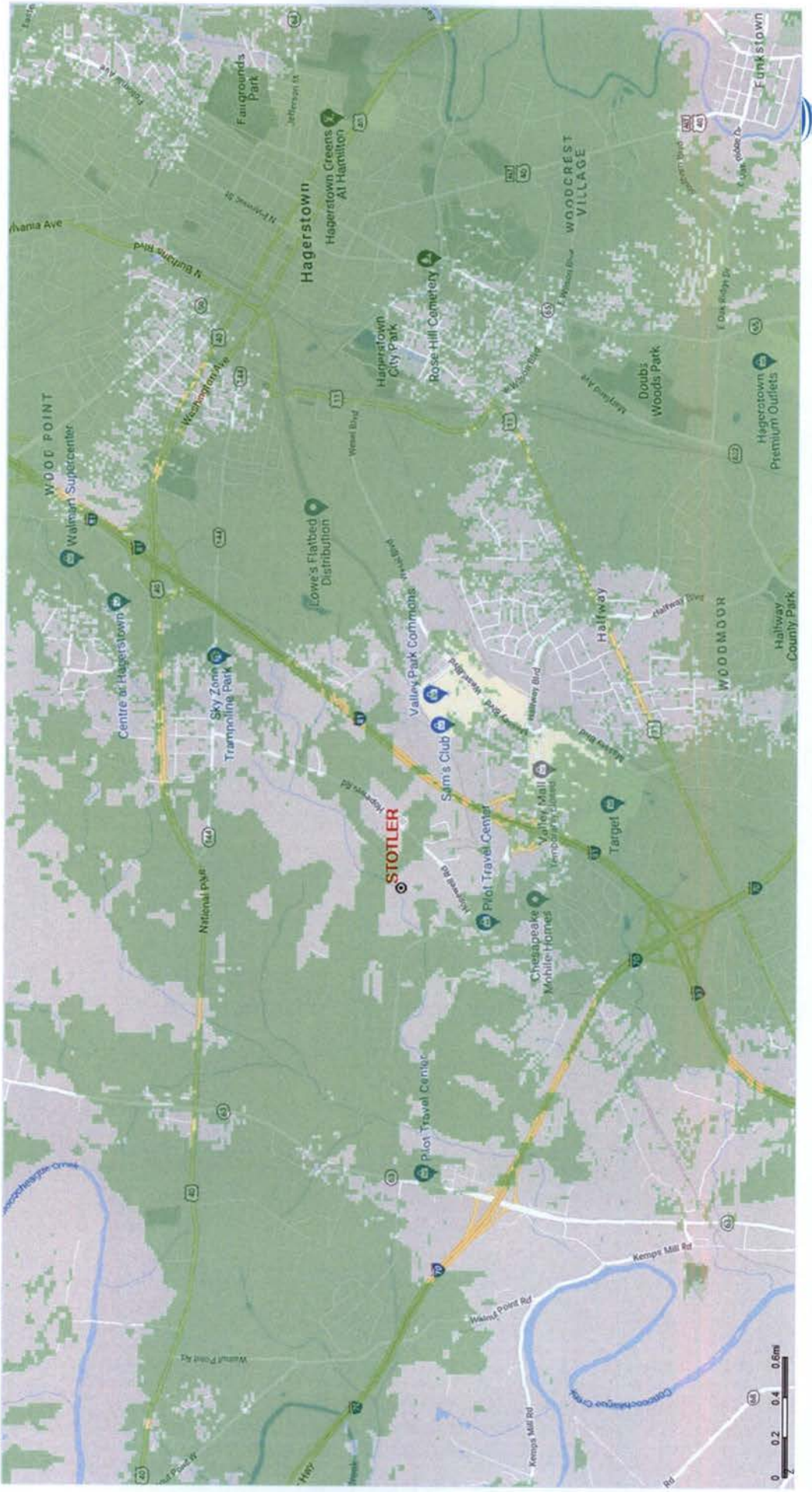
Stotler FA# 14564626

Coverage Plots

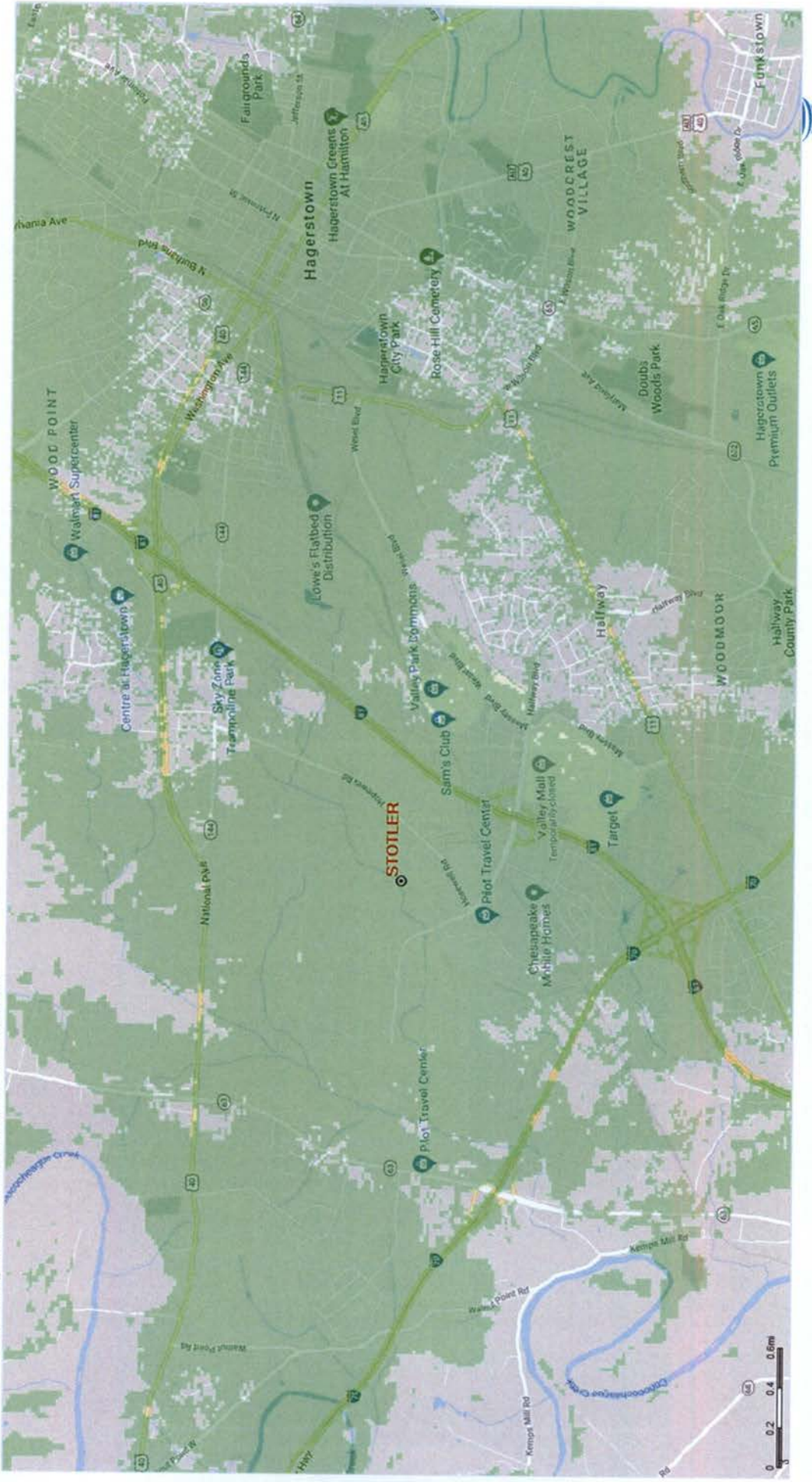
June 12, 2020

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Existing AT&T Coverage without Stotler



Proposed AT&T Coverage with Statler @ 190' Rad Center



The map displays Washington County, Maryland, with a red circle highlighting the Stoller site. The site is located near the intersection of MD 371 and MD 372, south of the town of Stoller. The map includes various towns and roads, such as Mesum, Smithsburg, and Middletown. An inset map in the bottom right corner shows the location of Washington County within the state of Maryland, with a red arrow pointing to the county's location. The inset map also shows the location of the Stoller site within the county.





AT&T

AT&T Site Stotler Possible Co-Location Rule Outs

Below are locations that were identified as viable co-location options for AT&T new site build search ring Stotler. Each of the below listed locations turned out to not be a viable options because each of the landlords had no interest in a lease agreement allowing AT&T to co-locate a cell tower at their rooftop site or on their existing tower.

- 1 11411 Hopewell Rd, Hagerstown, MD 21740

Kent Nutrition Group

Hagerstown Plant

301-582-0400

The decision went to the parent company - Purina - that had no interest in a lease for AT&T to co-locate on the property.

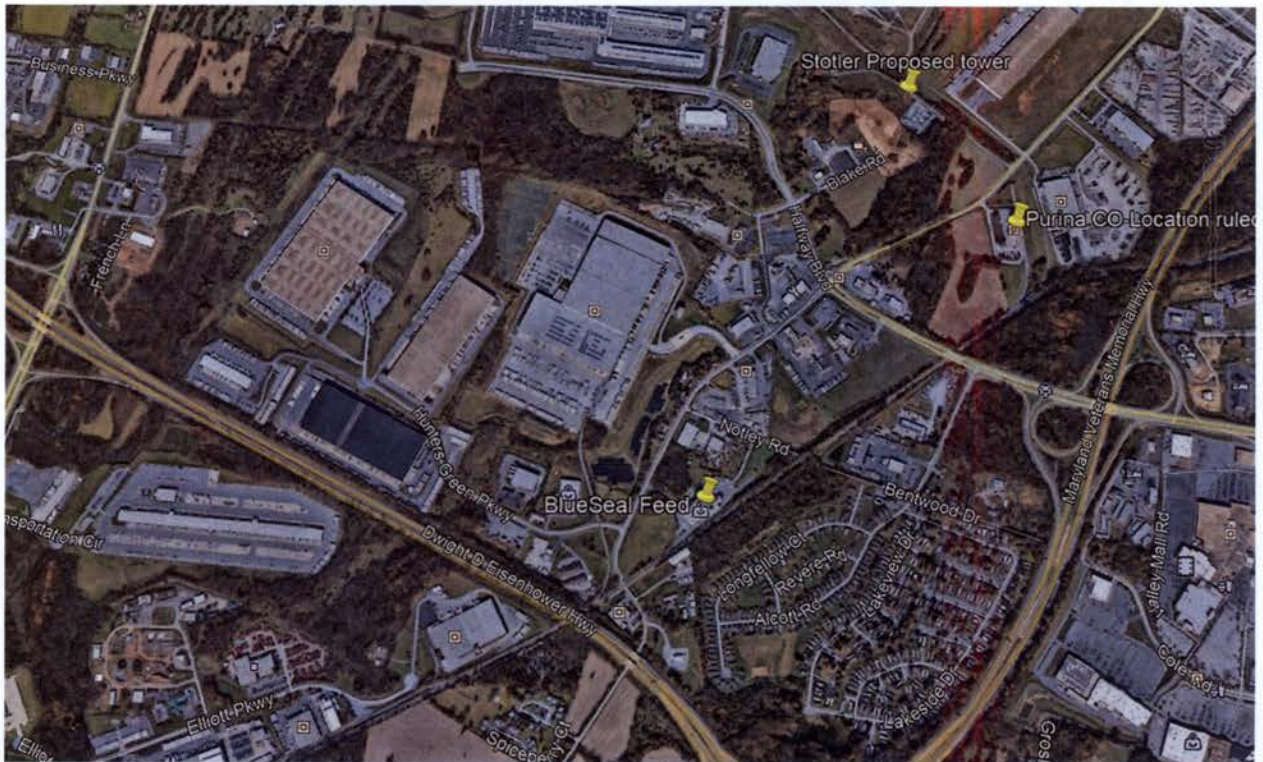


2. 11431 Hopewell Rd, Hagerstown, MD 21740

Blue Seal Feeds, Inc

301-582-4072

Landlord had no interest in a lease for AT&T to co-locate on the property.
Usable space for AT&T was also an issue.



3. Eliot Parkway, Hagerstown, MD 21740

Washington County, Maryland

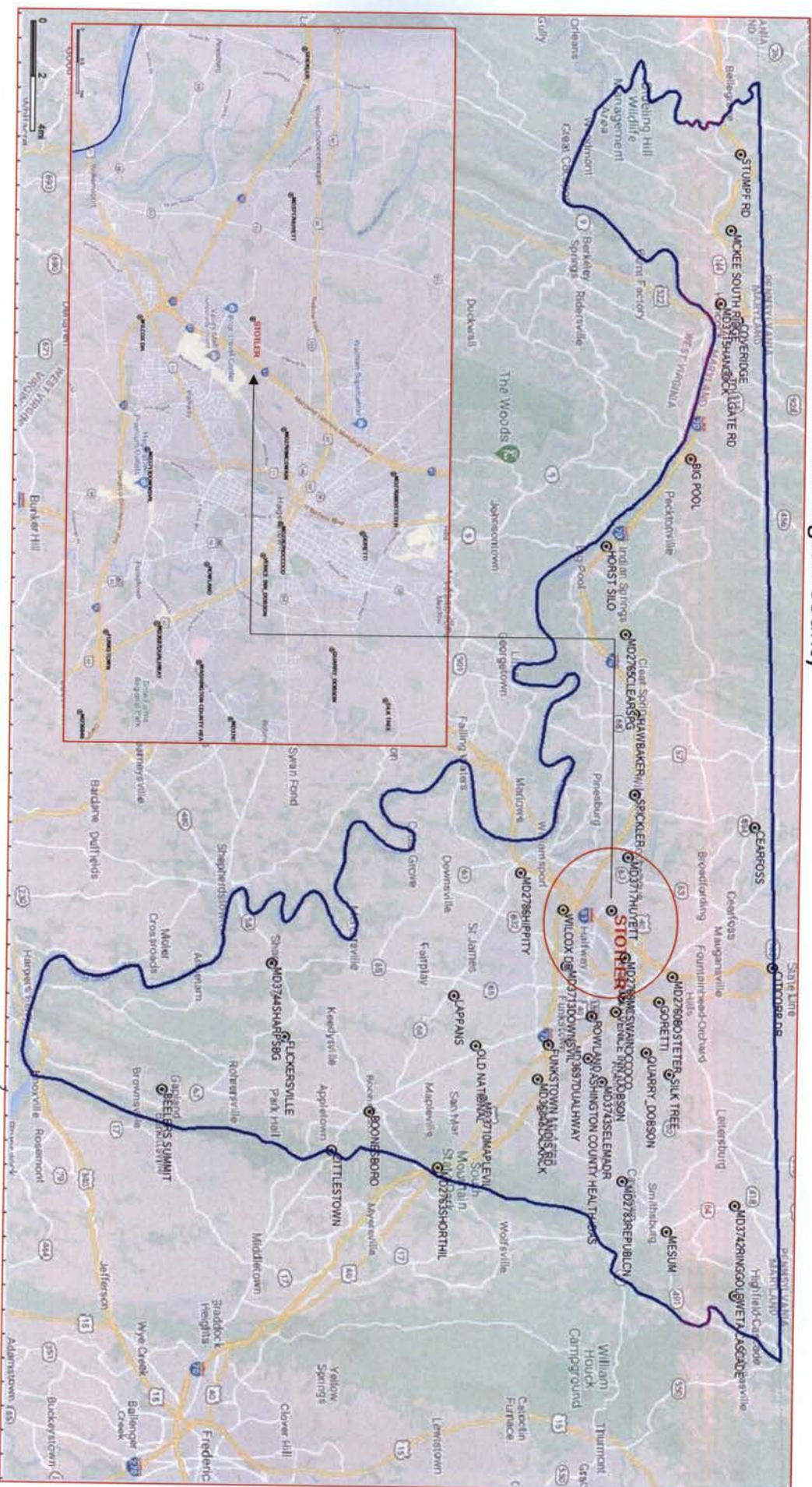
240-313-2072

330' Communications Tower ASR #1258441

Per a conversation with Mark May with Washington County that tower was not open for cellular carriers to lease tower space. It's their main emergency communications tower.



Existing and Proposed AT&T Sites in Washington County



Ex. 5
NOTARIZED AFFIDAVIT FROM
PROPERTY OWNER
AUTHORIZING APPLICATION



Washington County

M A R Y L A N D

DIVISION OF

ENGINEERING & CONSTRUCTION MANAGEMENT
PLAN REVIEW | PERMITTING | ENGINEERING | CONSTRUCTION

Washington County Building Code Board of Appeals Owner's Representative Affidavit

This is to certify that DIAMOND COMMUNICATIONS is authorized to file an appeal with the Washington County Building Code Board of Appeals for A SPECIAL EXCEPTION on property located 11676 HOPEWELL RD HAGERSTOWN MD MAP 0048 GRID 005

The said work is authorized by POTOMAC EDISON COMPANY the property owner in fee. PARCEL 0735 NEIGHBORHOOD 30000.22

PROPERTY OWNER

WILLIAM R. BEACH, DIRECTOR, REAL ESTATE

Property Owner's Name

76 SOUTH MAIN ST

Property Owner's Address

AKRON OH 44308

City, State, Zip Code

William R. Beach

Property Owner's Signature

Sworn and subscribed before me this 2 day of July, 2020

My Commission Expires:

Sara A. Batko

Notary Public



Sara A. Batko
Notary Public
In and For the State of Ohio
My Commission Expires
23 September 2023

AUTHORIZED REPRESENTATIVE

MELISSA COOKE / SCOTT VONREIN

Authorized Representative's Name

820 MORRIS TPKE, STE 104

Authorized Representative's Address

SHORT HILLS NJ 07078

City, State, Zip Code

Melissa Cooke / Scott Vonrein

Authorized Representative's Signature

Sworn and subscribed before me this 21st day of Feb., 2020

My Commission Expires:

[Signature]

Notary Public

Revised: 7-30-15

80 West Baltimore Street Hagerstown, MD 21740 P: 240.313.2460 F: 240.313.2461

WWW.WASHCO-MD.NET



Ex. 6

**AFFIDAVIT RESERVING 10 FOOT
SPACE ON TOWER FOR COUNTY
USE AND OTHER CO-LOCATION**

9/18/2020

Re: Diamond Communications Special Exception and
Variance Applications for Commercial
Communications Tower

Location: Diamond Comm. Site: Halfway Substation
11676 Hopewell Road, Hagerstown, MD 21740
Potomac Edison Substation

This is to certify pursuant to City of Washington Zoning Code section 4.22A.6. that Diamond Communication's proposed commercial communications tower facility will reserve a ten (10) foot space on the proposed tower for use by the County (see drawing plan page C-3) and that the other spaces will be made available to other future users, when possible.

If you need any additional information, please contact me at the number listed below. Diamond Communications is committed to compliance with all government regulations and standards.

Sincerely,

Scott Von Rein - Dir of Site Dev
Name & Title

Scott Von
Rein

Signature

Digitally signed by
Scott Von Rein
Date: 2020.09.18
11:29:11 -04'00'

973-544-6834
Tele Number

Ex. 7

**NAME AND MAILING ADDRESSES
OF OWNERS OF LAND
ADJOINING THE SUBJECT
PROPERTY**

ADJOINING / CONFRONTING PROPERTY TO PARCEL 735									
Map Designation	Acct No.	Owner	Address	Address2	City	State	Zip	Parcel	Situs Address
1	24 001067	2004 Halfway Boulevard LLC	11535 Hopewell Rd.	P.O. Box 4217	Hagerstown	MD	21741	6	16804 Blake Rd
2	24 005453	2004 Halfway Boulevard LLC	11535 Hopewell Rd.	P.O. Box 4217	Hagerstown	MD	21741	3	Halfway Blvd
3	24 009955	Liberty Property Limited Partnership	c/o Prologis LP	1800 Wazee St., Ste 500	Denver	CO	80202	939	11841 Newgate Blvd

Ex. 8

**CIVIL ENGINEERING LETTER
CERTIFYING STRUCTURAL
INTEGRITY DESIGN OF THE
TOWER/POLE**

September 21, 2020

Scott Von Rein
Director of Site Development
Diamond Communications
820 Morris Turnpike
Suite 104
Short Hills, NJ 07078

RE: Proposed 195' Monopole for Halfway Substation, MD

Dear Mr. Von Rein,

Upon receipt of order, we propose to design and supply the above referenced tower for a Basic Wind Speed of 111 mph with no ice and 40 mph + 1" ice, Structure Class II, Exposure Category C, and Topographic Category 1, in accordance with the Telecommunications Industry Association Standard ANSI/TIA-222-G, "Structural Standard for Antenna Supporting Structures and Antennas".

When designed according to this standard, the wind pressures and steel strength capacities include several safety factors, resulting in an overall minimum safety factor of 25%. Therefore, it is highly unlikely that the monopole will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

Should the wind speed increase beyond the capacity of the built-in safety factors, to the point of failure of one or more structural elements, the most likely location of the failure would be within the monopole shaft, above the base plate. Assuming that the wind pressure profile is similar to that used to design the monopole, the monopole will buckle at the location of the highest combined stress ratio within the monopole shaft. This is likely to result in the portion of the monopole above leaning over and remaining in a permanently deformed condition. *Please note that this letter only applies to the above referenced monopole designed and manufactured by Sabre Towers & Poles.* This would effectively result in fall radius of 55' at ground level.

Sincerely,

Robert E. Beacom, P.E., S.E.
Engineering Supervisor



Ex. 9
VISUALS – PHOTO SIMULATIONS
AND AERIAL MAPS OF
PROPERTY/AREA

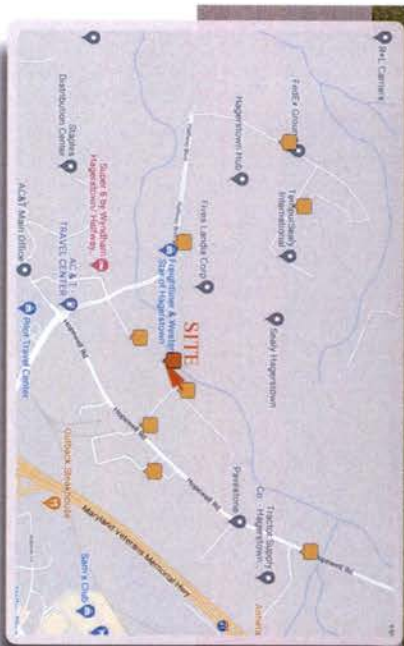
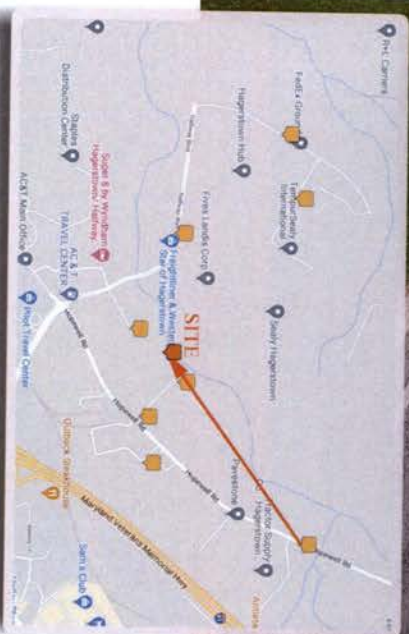


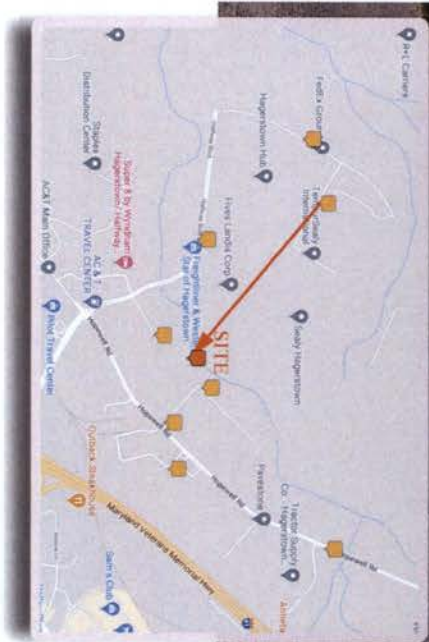
PHOTO #1
.07 MILES



PROPOSED MONOPOLE



HALFWAY SUB PROPOSED MONOPOLE



PROPOSED MONOPOLE



HALFWAY SUB PROPOSED MONOPOLE



PHOTO #6 HALFWAY SUB
.42 MILES PROPOSED MONOPOLE



FINDER Online Map



FINDER Online Map



FINDER Online Map



Ex. 10
FAA CONSULTANT'S REPORT

* Federal Airways & Airspace *
* Summary Report: New Construction *
* Antenna Structure *

Airspace User: Sarah Schaaf

File: HALFWAY_SUB

Location: Hagers, MD

Latitude: 39°-38'-10.7" Longitude: 77°-46'-49.27"

SITE ELEVATION AMSL.....497 ft.

STRUCTURE HEIGHT.....200 ft.

OVERALL HEIGHT AMSL.....697 ft.

NOTICE CRITERIA

FAR 77.9(a): NNR (DNE 200 ft AGL)

FAR 77.9(b): NNR (DNE Notice Slope)

FAR 77.9(c): NNR (Not a Traverse Way)

FAR 77.9: NNR FAR 77.9 IFR Straight-In Notice Criteria for HGR

FAR 77.9: NNR (No Expected TERPS® impact MRB)

FAR 77.9(d): NNR (Off Airport Construction)

NR = Notice Required

NNR = Notice Not Required

PNR = Possible Notice Required (depends upon actual IFR procedure)

For new construction review Air Navigation Facilities at bottom
of this report.

Notice to the FAA is not required at the analyzed location and height for
slope, height or Straight-In procedures. Please review the 'Air Navigation'
section for notice requirements for offset IFR procedures and EMI.

OBSTRUCTION STANDARDS

FAR 77.17(a)(1): DNE 499 ft AGL

FAR 77.17(a)(2): DNE - Airport Surface

FAR 77.19(a): DNE - Horizontal Surface

FAR 77.19(b): DNE - Conical Surface

FAR 77.19(c): DNE - Primary Surface

FAR 77.19(d): DNE - Approach Surface

FAR 77.19(e): DNE - Approach Transitional Surface

FAR 77.19(e): DNE - Abeam Transitional Surface

VFR TRAFFIC PATTERN AIRSPACE FOR: HGR: HAGERSTOWN RGNL-RICHARD A HE

Type: A RD: 28009.13 RE: 658.9

FAR 77.17(a)(1): DNE

FAR 77.17(a)(2): DNE - Height No Greater Than 200 feet AGL.

VFR Horizontal Surface: DNE

VFR Conical Surface: DNE

VFR Primary Surface: DNE
VFR Approach Surface: DNE
VFR Transitional Surface: DNE

The structure is within VFR - Traffic Pattern Airspace Climb/Descent Area.
Structures exceeding the greater of 350' AAE, 77.17(a)(2), or VFR horizontal
and conical surfaces will receive a hazard determination from the FAA.
Maximum AMSL of Climb/Descent Area is 1053 feet.

VFR TRAFFIC PATTERN AIRSPACE FOR: MRB: EASTERN WV RGNL/SHEPHERD FLD

Type: A RD: 99753.06 RE: 547

FAR 77.17(a)(1): DNE
FAR 77.17(a)(2): DNE - Greater Than 5.99 NM.
VFR Horizontal Surface: DNE
VFR Conical Surface: DNE
VFR Primary Surface: DNE
VFR Approach Surface: DNE
VFR Transitional Surface: DNE

TERPS DEPARTURE PROCEDURE (FAA Order 8260.3, Volume 4)

FAR 77.17(a)(3) Departure Surface Criteria (40:1)
DNE Departure Surface

MINIMUM OBSTACLE CLEARANCE ALTITUDE (MOCA)

FAR 77.17(a)(4) MOCA Altitude Enroute Criteria
The Maximum Height Permitted is 1800 ft AMSL

PRIVATE LANDING FACILITIES

FACIL	BEARING	RANGE	DELTA	ARP	FAA
IDENT TYP NAME	To FACIL	IN NM	ELEVATION	IFR	

MD30 HEL CRAIG COMPANY	77.24	1.46	+69		
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No Impact to Private Landing Facility
Structure is beyond notice limit by 3871 feet.

7MD4 HEL VINAYAKA MISSIONS AMERICA UN	161.08	2.35	+119		
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No Impact to Private Landing Facility
Structure is beyond notice limit by 9279 feet.

5MD3 HEL MERITUS HOSPITAL	100.33	4.44	+119		
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No Impact to Private Landing Facility
Structure is beyond notice limit by 21978 feet.

AIR NAVIGATION ELECTRONIC FACILITIES

FAC	ST	DIST	DELTA	GRND	APCH		
IDNT	TYPE	AT FREQ	VECTOR (ft)	ELEVA	ST LOCATION	ANGLE	BEAR

HGR LOCALIZER	I	111.9	22.94	27767	+41 MD RWY 27	HAGERSTOWN	.08 272
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HGR ATCT	I	A/G	27.64	30237	-82 MD	HAGERSTOWN REGION	-.16
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HGR CO	Y	A/G	316.44	30813	+135 MD	HAGERSTOWN	.25
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HGR VOR	R	109.8	316.55	30828	+134 MD	HAGERSTOWN	.25
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MRB VORTAC	R	112.1	191.84	93327	+97 WV	MARTINSBURG	.06
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MRB RADAR	I	2735.	214.49	106606	+60 WV	EASTERN WV REGION	.03
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No Impact. This structure does not require Notice based upon EMI.

The studied location is within 20 NM of a Radar facility.
The calculated Radar Line-Of-Sight (LOS) distance is: 63 NM.
This location and height is within the Radar Line-Of-Sight.

THS VORTAC	I	115.0	336.15	118306	-1641	PA ST THOMAS	-.79
FDK VOR	R	109.0	125.65	140468	+394	MD FREDERICK	.16

CFR Title 47, §1.30000-§1.30004

AM STUDY NOT REQUIRED: Structure is not near a FCC licensed AM station.
Movement Method Proof as specified in §73.151(c) is not required.
Please review 'AM Station Report' for details.

Nearest AM Station: WHAG @ 4210 meters.

Airspace® Summary Version 20.7.580

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09-17-2020
10:37:26



Certified Local Government FFY 2020 Annual Report

Introduction

Per the National Park Service, the Maryland Historical Trust (MHT) must monitor and evaluate Certified Local Government (CLG) performance. This Annual Report -- a requirement for participation in the CLG program -- provides useful data to help develop training and support for CLGs, while charting the success of the program. In addition to the Annual Report, MHT will conduct in-depth evaluations of each CLG every four years.

For this Annual Report, please report only on activities for the 2020 federal fiscal year (October 1, 2019 through September 30, 2020). The FFY 2020 Annual Report is due on February 28, 2021.

Questions? Contact Nell Ziehl, Chief of MHT's Office of Planning, Education and Outreach at nell.ziehl@maryland.gov.

* 1. Certified Local Government Name:

* 2. Contact First Name:

* 3. Contact Last Name:

* 4. Contact Telephone:

* 5. Contact Email:



Part 1: Program Changes

* 6. Has the Commission changed its designation criteria or adopted new criteria for designation?

☐ Yes

☐ No

7. If you answered "Yes" to the previous question, please describe the change(s) here. You may cut and paste language directly from the ordinance.

* 8. Has the Commission limited or expanded its ability to review archeological sites, cultural landscapes or other non-architectural features?

☐ Yes

☐ No

9. If you answered "Yes" to the previous question, please describe the change(s) here. You may cut and paste language directly from the ordinance.

* 10. Has the Commission adopted or made substantial revisions to its design guidelines?

☐ Yes

☐ No

11. If you answered "Yes" to the previous question, please describe the change(s) here and include a link to your design guidelines.

* 12. Has the Commission created or made substantial changes to its local tax credit program?

☐ Yes

☐ No

13. If you answered "Yes" to the previous question, please describe the tax credit program change(s) here and include a link to your program information.

* 14. Has the Commission changed its member make-up or qualifications?

☐ Yes

☐ No

15. If you answered "Yes" to the previous question, please describe the change(s) to the commission requirements here.

16. Has the Commission made any other changes to its ordinance, program or procedures? Please describe.



Part 2: Summary of Activities/Design and Development Review

17. How many staff does your Commission have?

18. Please enter the number of cases approved by your Commission. (Please do not include approvals given due to expiration of time.)

Alteration

Demolition

New Construction

19. Please enter the number of cases denied by your Commission.

Alteration

Demolition

New Construction

20. Please enter the number of Commission decisions appealed.

Alteration

Demolition

New Construction

21. If you conduct reviews for archaeological resources, please list the number of cases completed.

Approved

Phase 1 Required

Phase 2 Required

22. How many alterations, demolitions or new construction projects were approved at the staff level?

23. How many cases were automatically approved through expiration of time limit for review?



Part 2: Summary of Activities/Survey and Designation

24. How many National Register nominations did your Commission review?

25. How many new or revised Maryland Inventory of Historic Properties (MIHP) forms did your Commission submit to MHT?

26. Were all the MIHP forms submitted by your Commission approved by MHT?

☐ Yes

☐ No

☐ N/A

27. How many new or revised Maryland Archaeological Site Survey (MASS) forms did your Commission submit to MHT?

28. Were all the MASS forms submitted by your Commission approved by MHT?

☐ Yes

☐ No

☐ N/A

29. Please list any new local designations made during this fiscal year. In your answer, please include the name of each designated site, property or district; the relevant MIHP or MASS number; and the number of resources included in each designation.

30. Have you conducted survey or inventory work that did not result in MIHP or MASS forms? If so, please describe.

31. What are your top three priorities for survey and/or designation in the coming year?



Part 2: Summary of Activities/Special Programs

* 32. How many historic properties were assisted through the local tax credit program? (If you do not have a local tax credit, write "N/A.")

* 33. How many projects involving historic properties were reviewed as a result of local government undertakings (i.e., a "local Section 106" review)? (If you are not required to review local government undertakings, write "N/A.")

* 34. How many historic properties were assisted through local grant or loan programs? (If you do not have local grant or loan programs, write "N/A.")

* 35. How many historic properties were acquired, in whole or in part, by the local government?



Part 3: Commission Qualifications and Procedures

* 36. Please describe your Commission by listing each member (Last Name, First Name) and documented area of interest.

If applicable, please also indicate if a member meets the Secretary of the Interior's Professional Qualifications Standards by noting, for example, "SOI-Historic Architecture" or "SOI-Architectural History."

37. If you have vacancies, please list the type of vacancy (qualified or not) and the duration.

* 38. Please list the trainings and/or educational sessions attended by each member (Last Name, First Name) in this fiscal year.

* 39. Number of meetings held:

* 40. How are regular meetings advertised?

* 41. How are special meetings advertised?

* 42. How are meeting minutes made available to the public?

* 43. How are the Commission's rules and procedures made available to the public?



Part 4: General Feedback

44. Please describe any great projects you completed or successes you achieved during this federal fiscal year.

45. Please describe any major new projects or plans anticipated for the coming year.

46. Do you have any training or educational needs that are not met by existing offerings from the Maryland Association of Historic District Commissions or the Maryland Historical Trust?

47. Please share any concerns, issues or additional comments you may have about the Certified Local Government program or preservation in your jurisdiction.



Certified Local Government FFY 2020 Annual Report

Thank You!

Thank you for completing your Annual Report!

Please do not forget to email nell.ziehl@maryland.gov with:

- **Maps showing newly designated properties**
- **Resumes of new Commission members**
- **Any other material you wish to share!**