

**Statement of Compliance and Justification for
AT&T's Proposed Stealth 109' Monopole Telecommunication Facility
at
801 Maple Grove Drive, Fredericksburg, VA 22406**

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

Representatives: Gregory E. Rapisarda and Douglas A Sampson
Saul Ewing Arnstein & Lehr, LLP
500 East Pratt Street, Suite 900
Baltimore, MD 21202-3171
(410) 332-8963
Greg.Rapisarda@saul.com
Douglas.Sampson@saul.com

Property Owner: Peace United Methodist Church, Thomas R. Stevenson, Trustee Chair
Tax Map/Parcel: 23-A-92B/23-A-92D
Property Address: 801 Maple Grove Drive, Fredericksburg, VA 22406
Zoning Designation: R-1 Residential
Jurisdiction: Spotsylvania County
Acreage: 5.34

Pursuant to Section 15.2-2232 of the Code of Virginia and Chapter 23, Section 7A of the Spotsylvania County Code of Ordinances Governing Telecommunications Facilities ("Zoning Code"), New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T"), by and through its agent/counsel, Saul Ewing Arnstein & Lehr, LLP, hereby requests a determination that the proposed wireless telecommunication application described herein is in substantial compliance with the Spotsylvania County Comprehensive Plan and is authorized for a special use. We appreciate your time and consideration in review of this application for Special Use Permit.

The following document and attached Exhibits provide a justification for AT&T's proposal, and a brief explanation as to how and why this proposal conforms with the Zoning Code. This information, as well as additional and clarifying evidence, will be presented at an upcoming public hearing to provide the foundation for approving AT&T's Petition for a Special Use Permit. The following Exhibits are attached to this Justification Statement:

EXHIBITS

Exhibit 1	RF Propagation Map of Existing Coverage
Exhibit 2	RF Propagation Map of Proposed Coverage at 100'
Exhibit 3	Unavailability of Suitable Structures Within Three Miles
Exhibit 4	Propagation Map of Proposed Coverage at 80'
Exhibit 5	Community Meeting Sign-In Sheet
Exhibit 6	Site Plan in 8.5" x 11"
Exhibit 7	Photo Simulations for Proposed Tree Monopole
Exhibit 8	RF Emissions Compliance Report
Exhibit 9	AT&T Existing Sites Within 20 Miles
Exhibit 10	RF Justification Statement
Exhibit 11	Engineering Certification Letter
Exhibit 12	Letter from the Owner
Exhibit 13	FAA Air Navigation Hazard Determination Report
Exhibit 14	FCC NEPA Land Use Screening Checklist
Exhibit 15	AT&T FCC License

I. AT&T's Goals and Lack of Existing Coverage

New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T") is licensed by the Federal Communications Commission ("FCC") to provide wireless telecommunications services in Spotsylvania County, Virginia. AT&T needs additional antennas in order to provide and improve the delivery of wireless services to residents in Spotsylvania County and commuters along Interstate 95 and Route 1. (See Existing Coverage Radio Frequency Propagation Map attached as Exhibit 1).

AT&T's lack of adequate coverage has resulted in customer complaints and dropped calls in the above mentioned areas. AT&T's proposed telecommunications facility will also ensure adequate overlapping coverage between and among existing sites including AT&T's Central Park site to the northeast, Twin Lakes Site to the southeast, and the Middle Earth FR 209 and Plank sites to the west. (Compare Proposed Coverage Radio Frequency Propagation Map for 100' Monopole attached as Exhibit 2 with Ex. 1). Ultimately, the proposed site will allow residents and commuters to experience better quality and diminished dropped calls.

II. The Proposed Telecommunications Facility

When AT&T has a need for coverage, it first seeks to co-locate antennas onto, or within, an existing structure. In accordance with Zoning Code § 23-7A.3.3.6, AT&T has provided evidence demonstrating the inadequacy or unavailability of other structures within a three (3) mile radius of the proposed Raynold site. (See Report of Availability of Other Sites attached as Exhibit 3). Based on the existing AT&T towers and the coverage goals to fill in a gap in coverage, AT&T determined there was only a half-mile radius in which a tower would meet AT&T's existing coverage goals. Anything beyond a half-mile was excluded as inadequate to AT&T's coverage needs. Within the half-

mile radius, there were no structures which both met the height and structural requirements for AT&T's equipment and had land owner willing to lease space to AT&T. A search throughout the area demonstrated that no viable co-location opportunities exist that would meet AT&T's existing coverage requirements.

With no viable co-location opportunity, AT&T determined, and its investigation confirmed, that a new tower was required. AT&T determined that property at 801 Maple Grove Drive in Fredericksburg, Virginia (the "Property") was viable from a technical perspective (i.e. radio frequency), a zoning perspective (the proposed tower is a permitted use in R-1 district and compliant with all regulations *see* Zoning Code § 23-6.6.3(17); § 23-6.6.4), and from a land owner perspective (i.e. land owner willing to lease the required space to AT&T).

The proposed telecommunications facility consists of a 109' monopole within a 50' x 50' equipment compound surrounded by an 8' tall chain link fence (the "Facility") at the Property. The 109' tower consists of a 105' monopole topped by a 4' tall lightning rod. This monopole will allow AT&T to locate its antennas at a RAD center of 100' and it will allow at least two future carriers to locate antennas at 90' and 80' respectively. The height of the monopole was determined to be the lowest possible height that would eliminate AT&T's current coverage gaps. AT&T reviewed an 80' monopole and found that a monopole at that height would still leave significant gaps in the coverage area. (See Proposed Coverage Radio Frequency Propagation Map for 80' Monopole attached as Exhibit 4).

III. Community Outreach

AT&T has communicated with the Spotsylvania County community about the proposed tower. A community meeting was held on Friday, December 9, 2016 at 7:00 p.m. and lasted until approximately 9:00 p.m. AT&T presented an overview of the project and took feedback and input from community residents in attendance. (See Community Meeting Sign-In Sheet attached as Exhibit 5). Some residents expressed concerns about the location and visual impact, specifically asking if the tower could be moved in line with the existing tree line. In response, AT&T redesigned the site and reduced the height as low as possible, and moved the proposed location 50 feet to the east to be in line with the existing tree line. Additionally, to reduce the potential visual impact, AT&T will stealth the monopole at a tree pole with "double density" branches. (See Site Plan in 8.5" x 11" attached as Exhibit 6).

IV. AT&T's Proposal is Consistent with Chapter 23, Section 7A of the Spotsylvania County Code of Ordinances Governing Telecommunications Facilities:

SPECIAL USES § 23-4.5.7. - Standards of review.

The planning commission shall not recommend, nor shall the board of supervisors approve, the proposed special use unless it satisfies the following standards:

(a) General standards:

(1) That the proposed use is in accord with the comprehensive plan and other official plans adopted by the county;

- **AT&T Response:** AT&T's Proposed Tower is in accordance with the comprehensive plan and other plans adopted by the County.

(2) That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;

- **AT&T Response:** AT&T's Proposed Tower is in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located. The tower will be built on a large lot sufficiently away from surrounding homes and property lines, and will be stealthed to reduce the visual impact on the surrounding area. A telecommunications tower is a permitted use in the R-1 district.

(3) That the proposed use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;

- **AT&T Response:** AT&T's Proposed Tower will not hinder any further development on adjacent properties or impair the value of the surrounding land.

(4) That the proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use;

- **AT&T Response:** AT&T's Proposed Tower will comply with all FCC and other federal guidelines, and will not pose a danger to the public in the surrounding area. Further, AT&T's enhanced the County's emergency responders network.

(5) That the proposed use will not be detrimental to the public welfare or injurious to property or improvements within the neighborhood;

- **AT&T Response:** AT&T's Proposed Tower will not endanger the public welfare or be injurious to the surrounding area.

(6) That the proposed use is appropriately located with respect to transportation facilities, water supply, wastewater treatment, fire and police protection, waste disposal, and similar facilities;

- **AT&T Response:** AT&T's Proposed Tower complies with this requirement.

(7) That the proposed use will not cause undue traffic congestion or create a traffic hazard;

- **AT&T Response:** AT&T's Proposed Tower will not create any additional traffic congestion in the area.

(8) That the proposed use will have no unduly adverse impact on environmental or natural resources.

- **AT&T Response:** AT&T's Proposed Tower will have no unduly adverse impact on environmental or natural resources. (See FCC NEPA Land Use Screening Checklist attached as Exhibit 14).

§ 23-7A.1.2. - GOALS.

The goals of this section are:

1. Accommodate wireless telecommunication services while minimizing the impact of tower sites on the community.

- **AT&T Response:** The proposed tower includes camouflaging to minimize the visual impact on the surrounding community. (See Ex. 6 at 4; Photo Simulations for Proposed Tree Monopole attached as Exhibit 7).

2. Require wireless telecommunication facilities to be sited and designed in a way that minimizes infringement upon and degradation of the scenic and historical resources of the county and adjacent properties.

- **AT&T Response:** The proposed tower includes camouflaging to minimize the scenic impact on the surrounding community. (See Ex 6 at 6 & Ex. 7.) The proposed site will not implicate the historical resources of the County.

3. Encourage co-location of antennae on towers and/or alternative support structures.

- **AT&T Response:** AT&T intends to allow the co-location of at least two other wireless providers on the proposed structure. (See Ex. 6 at 4.)

4. Comply with applicable federal, state and local rules and regulations so as to accommodate the provision of a broad range of wireless telecommunication services in a safe, effective and efficient manner.

- **AT&T Response:** AT&T has complied, and will continue to comply, with all applicable federal, state and local rules and regulations.

5. Encourage economic development of Spotsylvania County to ensure the prosperity of future generations. Most cities and counties do not have the resources to provide a costly telecommunications infrastructure, thus the role of local government has evolved into providing an environment that encourages the development of this crucial infrastructure. Spotsylvania County takes seriously its responsibility for investing in and shaping the economic development of its communities, while, at the same time, protecting residential areas and land uses from potential adverse impacts of wireless telecommunications facilities.

- **AT&T Response:** The proposed tower will improve the delivery of wireless services to residents in Spotsylvania County and commuters along Interstate 95 and Route 1, with no cost to the County.

6. Promote the public health, safety and general welfare of the community.

(a) To avoid potential damage to adjacent properties from *tower* failure and falling objects through engineering structural standards and setback requirements.

(b) To mitigate and address the potentially adverse effects of wireless telecommunications facilities on human health and safety.

(c) To require compliance of safety standards consistent with applicable federal and state regulations.

- **AT&T Response:** As discussed in more detail below, the proposed tower will abide by all setback requirements preventing any impact from tower failure. (See Ex. 6 at 4.) The tower will not have an adverse effect on human health or safety, and will comply with all federal and state safety standards.

§ 23-7A.3.3- SPECIAL USE PERMIT REVIEW PROCESS

Prior to submitting an application for a special use permit, the applicant shall:

(a) Meet with the director of planning to discuss all aspects of the proposal.

- **AT&T Response:** AT&T personnel met with the Spotsylvania County Director of Planning in early 2016 to discuss all aspects of this proposal. AT&T explained its coverage needs and why the Property was chosen as the most viable location with no existing structure available to meet AT&T's needs. AT&T also expressed ways to camouflage or stealth the tower to reduce the visual impact on the surrounding area.

(b) Conduct a balloon test:

- The balloon shall be a minimum five (5) feet in diameter and be of a highly visible color.

- The balloon shall be flown during daylight hours for two (2) consecutive days.
 - An alternate date shall be planned for in the event that the weather is not conducive to a balloon test.
 - The applicant is responsible for securing all FAA approvals prior to this demonstration.
- **AT&T Response:** AT&T hired Maser Consulting P.A. to perform the required balloon test on December 8 and 9, 2016 from 7:00 a.m. to 5:00 p.m. Photographs were taken from four separate locations on December 8, 2016. (See Ex. 7).

(c) Hold a community meeting in compliance with the County of Spotsylvania Community Meeting Policy:

- Notice of the meeting and balloon test shall be advertised in the local newspaper twice no more than fourteen (14) and no less than five (5) days prior to the balloon test.
 - Notification shall be mailed to all properties within two thousand (2,000) feet of the subject property no less than fourteen (14) days prior to the balloon test.
 - Discussion shall include the balloon test, photo simulations, and current plans.
 - Results of the meeting shall be reasonably incorporated into applicant's filing submission package.
- **AT&T Response:** AT&T held a community meeting in compliance with the County of Spotsylvania Community Meeting Policy on December 9, 2016. (See Community Meeting Sign-In Sheet attached as Exhibit 5). Notice of the meeting and balloon test was given in the Free Lance Star on December 6 and December 7, 2016. At the community meeting, AT&T personnel discussed the balloon test, photo simulations, and design plans. Based on community input, AT&T agreed to relocate the site 50 feet to the west to line up with the existing tree line.

(d) The applicant shall submit a complete application package and review fee to the county. A complete application includes the following information:

1. Scaled drawings, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning the structure, equipment, utilities, grounding, topography, ANSI collapse zone, setbacks, drives, parking, fencing, landscaping, adjacent uses and other information deemed necessary to assess the siting and design.

- **AT&T Response:** AT&T has provided a detailed site plan, signed and sealed by a professional engineer licensed in the Commonwealth of Virginia. All required designs, dimensions and information are included in the site plan.

2. Photographs of the site from a minimum of four (4) points surrounding the site as designated by the director of planning that include a simulated photographic image to scale of the proposed wireless telecommunication facility to show the impact on other predominate land uses. The photograph with the simulated image shall include the

foreground, mid-ground and the background of the site. A map shall be provided indicating the location and distance from the point at which the photograph was taken to the proposed site.

- **AT&T Response:** AT&T has complied with this requirement. (See Ex. 7).

3. A statement from an electrical engineer attesting that the cumulative effect of all existing and proposed antennae will not result in a ground level exposure of non-ionizing electromagnetic radiation (NIER) that exceeds the lowest applicable exposure standards established by the FCC.

- **AT&T Response:** AT&T has complied with this requirement. Sitesafe, Inc. was hired by AT&T to conduct an RF Emissions Compliance Investigation. Sitesafe engineer Klaus Bender, a professional engineer licensed in the Commonwealth of Virginia, License No. 39384, found that “the proposed operation at the site would not result in exposure of the Public to excessive levels of radio-frequency energy as defined in the FCC Rules and Regulations, specifically 47 CFR 1.1307 and that AT&T Mobility, LLC’s proposed operation is completely compliant.” (See RF Emissions Compliance Report dated July 23, 2018 attached as Exhibit 8 at 3).

4. An inventory of the existing wireless telecommunication facilities owned and/or operated by the applicant and other entities associated with the application that are located within the jurisdiction of Spotsylvania County or within twenty (20) miles of the border thereof, including specific information about the location and height of each antenna and/or antenna support structure.

- **AT&T Response:** AT&T has complied with this requirement. (See AT&T Existing Sites Within 20 Miles attached as Exhibit 9).

5. A radio frequency engineer's statement that specifically describes the coverage area objective, the "hand-off" sites, equipment specifications, methodology, assumptions, constraints and other factors used in the design. The engineer's statement shall be supported by propagation maps that include a legend referencing signal strength. At a minimum, the following coverage maps shall be presented:

(a) Existing network coverage (minimum twenty (20) mile radius surrounding the proposed site).

(b) Proposed coverage from the proposed site.

(c) Composite network coverage (existing and proposed coverage).

(d) Composite network coverage (existing and proposed coverage) demonstrating the effect on coverage as the height of the proposed structure is reduced at twenty (20) foot increments to a minimum height of eighty (80) feet AGL.

(e) Capacity.

- **AT&T Response:** AT&T has complied with the requirement of a statement from a radio frequency engineer. (See RF Justification Statement attached as Exhibit 10). AT&T has attached the required propagation maps showing existing network

coverage, proposed coverage at 100', and the effect of reducing the tower height to 80'. (See Exs. 1, 2, 4).

6. Evidence demonstrating the inadequacy or unavailability of other structures within a three (3) mile radius of the proposed site. In assessing the adequacy of existing structures, the applicant should consider the use of one (1) or more existing structures or a combination of an existing structure and a new structure at a lower height than proposed as a means to achieve coverage objective.

- **AT&T Response:** AT&T has complied with this requirement. (See Ex. 3).

7. An engineering report by a structural engineer describing the structure height, design, and capacity of the proposed antenna support structure including the number and type of antenna which could be accommodated in accordance with the requirements set forth in the latest revision to ANSI EIA/TIE-222.

- **AT&T Response:** AT&T has complied with this requirement. Tectonic engineer Graham L. Evans provided all required information in the site plan drawings and designs. (See Site Plan at Ex. 6). Mr. Evans has certified that the Project will comply with the latest revision of the ANSI/TIA-222 Structure Standard for Antenna: Supporting Structures and Antenna. (See Engineering Certification Letter attached as Exhibit 11).

8. For new structures, a copy of the owner's co-location policy.

- **AT&T Response:** The owner of the property has certified that AT&T may use the leased land for the Project and has requested the County approve AT&T's Special Use Permit Application. (See Letter from the Owner attached as Exhibit 12).

9. FAA air navigation hazard determination report. A consultant study will not be accepted as a substitute to this requirement.

- **AT&T Response** AT&T has complied with this requirement. (See FAA Air Navigation Hazard Determination Report attached as Exhibit 13).

10. FCC environmental compliance report identifying the impact on environmental resources, prepared in accordance with the National Environmental Policy Act of 1969 (NEPA).

- **AT&T Response:** AT&T has complied with this requirement. (See FCC NEPA Land Use Screening Checklist attached as Exhibit 14).

11. Report describing the impact on historic resources prepared in accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA). This report

should be accompanied by written comment by the State Historic Preservation Office (SHPO).

- **AT&T Response:** AT&T has complied with this requirement. (See Ex. 14 at Appendices B & F).

12. FCC license for each wireless service provider associated with the application.

- **AT&T Response:** AT&T is licensed to provide a variety of services in Spotsylvania County, including but not limited to wireless services, broadband, FirstNet responder network, and wireless signals at a variety of frequencies. (See AT&T FCC Licenses attached as Exhibit 15).

(e) The Spotsylvania County Cable Commission shall review and provide comments on the application to the planning commission.

- **AT&T Response:** AT&T looks forward to any comments from the Spotsylvania County Cable Commission.

SEC. 23-7A.4.1. - GENERAL STANDARDS.

The following general standards shall apply to all applications proposing wireless telecommunication facilities:

1. A report prepared by a structural engineer certifying that the proposed structure is capable of supporting similar users, including the primary user. All new structures shall be built with the intent of allowing the maximum number of co-locaters possible.

- **AT&T Response:** The proposed tower is capable of supporting similar users and AT&T intends to co-locate at least two similar wireless providers on the proposed tower. (See Ex. 6, Site Plan, at 4).).

2. The following setback requirements shall apply:

(a) All antenna support structures must maintain a minimum setback of one hundred ten (110) percent of the ANSI collapse zone standard from the nearest legally occupied structure and from all adjoining property lines. In the event that the same person(s) own several parcels, the setback shall be to the peripheral property lines created by the aggregate of the parcels.

- **AT&T Response:** AT&T has complied with the setback requirement. (See Ex. 6, Site Plan, at 2).

(b) All wireless telecommunication facilities must satisfy the minimum zoning district setback requirements for primary structures.

- **AT&T Response:** AT&T has complied with the setback requirement. (See Ex. 6, Site Plan, at 2).

3. Speculative structures are not permitted. Applications to construct new antenna support structures will not be considered unless evidence is presented of a legally binding commitment by at least one (1) wireless service provider agreeing to install and operate his equipment continuously on the proposed structure upon its construction for a minimum period of one (1) year.

- **AT&T Response:** AT&T certifies that it will install and operate its equipment continuously on the proposed tower for at least one year.

4. The county is particularly mindful of the uniqueness of its historic resources. Every effort shall be made to minimize adverse impacts on such resources in the siting of telecommunication facilities. Every effort should be made to make each facility as aesthetically pleasing as possible. All stealth techniques when appropriate must be utilized.

- **AT&T Response:** AT&T's proposed tower will use stealthing technology to minimize the adverse visual impacts of the proposed tower. (See Ex. 6, Site Plan, at 4 and Ex. 7, Photo Simulations).

5. All antenna support structures shall be enclosed by security fencing not less than six (6) feet in height, equipped with an appropriate anti-climbing device.

- **AT&T Response:** The antenna support structures at the site shall be enclosed by a chain-link security fence of at least 8 feet in height, and will include anti-climbing devices. (See at Ex. 6, Site Plan, at 4).

6. The following requirements shall govern the landscaping surrounding wireless telecommunications facilities. The board of supervisors may waive or allow modified screening with a special use permit.

(a) Any combination of landscaped vegetative buffers, landscaped earthen berms or preservation of existing vegetation shall be provided around the perimeter of the site of any wireless telecommunication facility to effectively screen the view of the equipment compound from surrounding perspectives. The standard buffer shall consist of a mix of native trees and shrubs planted in a landscaped area at least fifteen (15) feet wide outside the perimeter of the compound.

(b) Existing mature tree growth and natural landforms shall be preserved at a minimum radius depth of one hundred (100) feet from the base of the structure except as necessary to accommodate the proposed facilities and vehicular access.

(c) The wireless telecommunication facility owner is responsible for maintaining all landscape plant material in a healthy condition. Dead plants shall be removed and replaced in-kind.

- **AT&T Response:** AT&T will comply with all landscaping requirements. (See Ex. 6, Site Plan, at 3).

7. The treatment, color and lighting system for wireless telecommunication facilities shall be as follows:

- (a) Antenna support structures shall either maintain a galvanized steel finish, or subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- (b) Antennae shall be a neutral, non-reflective color with no logos.
- (c) The design of wireless telecommunication facilities shall to the extent possible use materials, colors, textures and screening that will blend the facilities with the natural setting and the built environment.
- (d) If an antenna is installed on a structure other than an antenna support structure, the antenna and ancillary equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure.
- (e) Antenna support structures at least eighty (80) feet in height that are not required to be lit by federal regulations shall be equipped with beacon strobe lights that can be remotely activated.
- (f) Advertising without prior approval of the board of supervisors is not permitted on any component of the wireless telecommunication facility.
- (g) Utility lines shall be placed underground.

- **AT&T Response:** AT&T will comply with this section and all FAA Regulations. (See Ex. 6, Site Plan and Ex. 13, FAA Hazard Report).

8. Applicants shall submit with the intent to occupy the lowest height possible to meet their coverage objectives. Reverse stacking is encouraged in order to reduce the number of taller towers.

- **AT&T Response:** AT&T has determined that the proposed tower height is the lowest possible height that will meet coverage requirements. If the height was any lower it would leave gaps in the wireless coverage area. (See RF Ex. 2, Proposed Coverage at 100' and Ex. 4, Proposed Coverage at 80').

9. Wireless telecommunication facilities shall be designed and installed so as not to interfere with the county's public safety/service radio system or public safety/service radio systems operated in other jurisdictions. Any entity operating wireless telecommunication facilities determined to interfere with the county's or another jurisdiction's public safety radio system shall take corrective action immediately upon discovery. All wireless providers must check prior to network deployment and annually thereafter with the director of emergency communications to insure compliance.

- **AT&T Response:** AT&T will comply with this requirement.

10. All new towers, monopoles, or like structures hereafter constructed in the county shall include, at no cost to the county, space, as the county may require, for installation by the county of components for its communication system(s) (including both *tower* space and sheltered equipment space on the ground.)

- **AT&T Response:** AT&T will comply with this requirement.

11. All wireless telecommunication facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate their operation. If such standards and regulations are changed, then the owners of the facilities shall bring such facilities into compliance with such revised standards and regulations as required by law. Failure to comply shall constitute grounds for the removal of the facility at the owner's expense.

- **AT&T Response:** The proposed tower meets or exceeds current regulations of the FAA, FCC, and other applicable federal agencies. AT&T will ensure that the facility remains in compliance with any changes to federal or state laws or regulations.

12. At such time that any component of the wireless telecommunication facility ceases to be operated for a continuous period of twelve (12) months, it shall be considered abandoned, and the owner of such facility shall remove same or opt to convey *tower* to county within ninety (90) days of receipt of notice from the department of planning of the removal requirement. The applicant shall post a performance bond equivalent to the cost of removal of the said *tower* facility from existence with the director of planning prior to issuance of a permit. If removal to the satisfaction of the department of planning does not occur within ninety (90) days, the county may remove and salvage the telecommunications facility or *tower* and all supporting equipment and building(s) at the owner's expense.

- **AT&T Response:** AT&T will comply with this requirement.

13. The owner of each antenna support structure shall have a safety inspection conducted annually by a registered professional engineer licensed by the Commonwealth of Virginia. A copy of the inspection report shall be filed annually in March with the director of planning. The report shall state the current user status of the antenna and/or support structure and the overall condition of the facility in accordance with the latest revision of ANSI EIA/TIA-222, and any subsequent amendment thereto.

- **AT&T Response:** AT&T will comply with this requirement.

14. The owner of the antenna support structure shall provide the name and address of a contact person during the approval process and shall notify the department of planning in writing of any changes. The name and address of a registered agent for each lessee of *tower* space shall also be provided to the department of planning and the commissioner of revenue by January 1st of each year.

- Gregory Rapisarda, Esquire
Douglas A. Sampson, Esquire
Saul Ewing Arnstein & Lehr LLP

500 E. Pratt Street
Suite 800
Baltimore, MD 21202
410-332-8963
greg.rapisarda@saul.com
douglas.sampson@saul.com

15. The board of supervisors may waive or modify any of the general standards with a special use permit.

- **AT&T Response:** AT&T will address this consideration as necessary at the upcoming public hearing.

SEC. 23-7A.7 Airport Overlay District

Sec. 23-7.7.1. - Purpose and intent.

(a) To provide for the safe use of Shannon Airport by creating additional regulation of the use of land surrounding the airport, in addition to existing zoning districts, which will protect over flying aircraft from conflicts with land uses, objects, and natural foliage on the ground.

(b) To protect the safety of air navigation around the airport by limiting the height of structures and foliage under the four (4) approach paths to the airport and generally within nine thousand (9,000) feet of the runway surfaces. Anything above the established height limitations could obstruct aircraft using the airport, create a safety hazard to airport operations, and unnecessarily endanger people, property and land use activities in the vicinity of the airport. Standard zoning height limitations and land use regulations alone are insufficient to provide the required protection for air navigation, according to Federal specifications.

- **AT&T Response:** The proposed tower is approximately four miles from Shannon Airport, as the crow flies. Therefore, the proposed tower is more than 9,000 feet from any of the Shannon Airport's runway surfaces, and the Airport Overlay Zone does not apply.

V. Historic and Environmental Impact

AT&T contracted with a third party environmental engineering consultant, Advantage Environmental Consultants, LLC ("AEC"), to analyze the Property, the Facility, and the surrounding areas and complete the required FCC environmental compliance report identifying the impact on environmental resources, prepared in accordance with the National Environmental Policy Act of 1969 (NEPA).

As stated above, a copy of the final NEPA report, dated May 26, 2016, is attached as Exhibit 14. Please note that the NEPA report made a finding of "*No Adverse Effect on Historic Properties in Are of Potential Effects (APE)*" via the FCC's E-106 online

system.” (See Ex. 14 at 9). AEC received a response from the Virginia Department of Historic Resources concurring with AEC’s finding. (See Ex. 14 at Appendices B & F). The NEPA report further indicates that there will be no effect on dedicated wilderness areas, designated wildlife preserves, threatened or endangered species, designated critical habitats, proposed critical habitats, or Native American Religious Sites, and will not significantly change surface features or require high intensity lighting. (See Ex. 14 at Appendix A). Based on its review, AEC determined “the preparation and submittal of an Environmental Assessment is no warranted and no further action is recommended.” (See Ex. 14 at 3).

VI. Conclusion

AT&T respectfully requests that Spotsylvania County grant the requested special exception relief. If you need further information, please contact our zoning attorney Gregory Rapisarda at 410-332-8963.