

STATE OF WEST VIRGINIA, COUNTY OF UPSHUR, CITY OF BUCKHANNON, TO WIT:

A meeting of the Buckhannon Zoning Board of Appeals was held on Wednesday, April 29, 2026, at 5:30 pm in City Hall. The following were in attendance (GTM – GoToMeeting):

Board Member/Chair	Gini Jeran	Present
Board Member/Vice-Chair	Timothy Reese, OD	Present
Board Member	Natalie Feola	Present
Board Member	Corey Rozelle	Present
Board Member	Dean Everett	Present
City Recorder	Randy Sanders	Present
Zoning Enforcement Officer	Vincent Smith	Present
City Attorney	Thomas O'Neill	Present
Director of Public Works	Ethan Crosten	Present

Guests: Gerald & Kay Arey; Marc Mignault; Tracey Weber III; Mike Ross; Clayton T. Harkins; Allen Hamner; Jan Soloman; Connie Knight-Beers-GTM.

***City of Buckhannon Zoning Board of Appeals
Meeting Notice for Wednesday, April 29, 2026, at 5:30 pm in Council Chambers***

A Public Hearing of the Buckhannon Zoning Board of Appeals will be held on Wednesday, April 29, 2026, at 5:30 p.m. The meeting will be held in the City Council Chambers at City Hall, 70 East Main St., Buckhannon, WV. This is an open meeting (per WV code § 6-9A-3) and all interested parties may appear and be heard.

A. Call to Order

- A.1 Moment of Silent Reflection
- A.2 Pledge of Allegiance

B. Recognized Guests

C. Strategic Issues for Discussion and/or Vote

- C.1 Vote RE: Appeal 190 Pocahontas Street-The Width of Driveway Requirement
- C.2 Vote RE: Appeal 32 ½ North Locust Street-Construct Cellular Telecommunications Tower

D. Adjournment

This agenda is certified by Mayor Robbie Skinner on March 14, 2026. To participate in this meeting virtually, use this link: <https://meet.goto.com/782989269> or by phone, call: +1 (408) 650-3123, access code: 782-989-269.

A. Call to Order:

A.1 & A.2: Chairperson Jeran called the meeting to order, asking for a Moment of Silence, followed by the Pledge to the Flag of the United States of America.

B. Recognized Guests - The Chair noted that four seats were available at the table for individuals participating in appeal proceedings, with additional seating available if needed.

C. Strategic Issues for Discussion and/or Vote

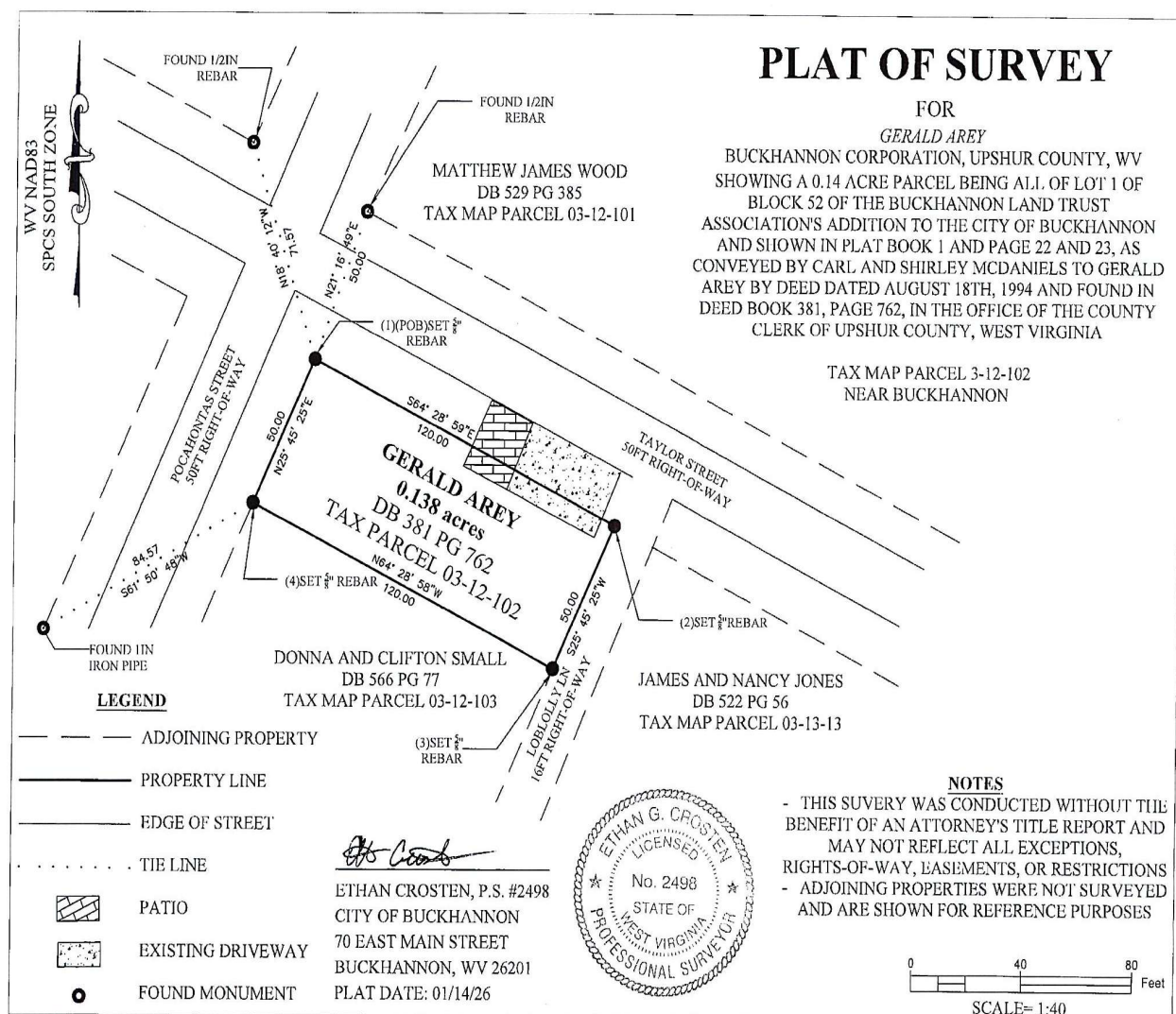
C.1 Vote RE: Appeal 190 Pocahontas Street-The Width of Driveway Requirement - City Attorney Tom O'Neill provided background on the request. The property owner seeks a variance from the 30-foot maximum driveway width requirement because the combined width of the existing concrete driveway and the newly installed paver area exceeds the limit established in the zoning ordinance. Attorney O'Neill explained that both the concrete portion and the paver portion extend several feet beyond the property owner's boundary and onto City-owned right-of-way. This encroachment originated when the home was constructed in the 1970s, prior to the adoption of the current zoning ordinance.

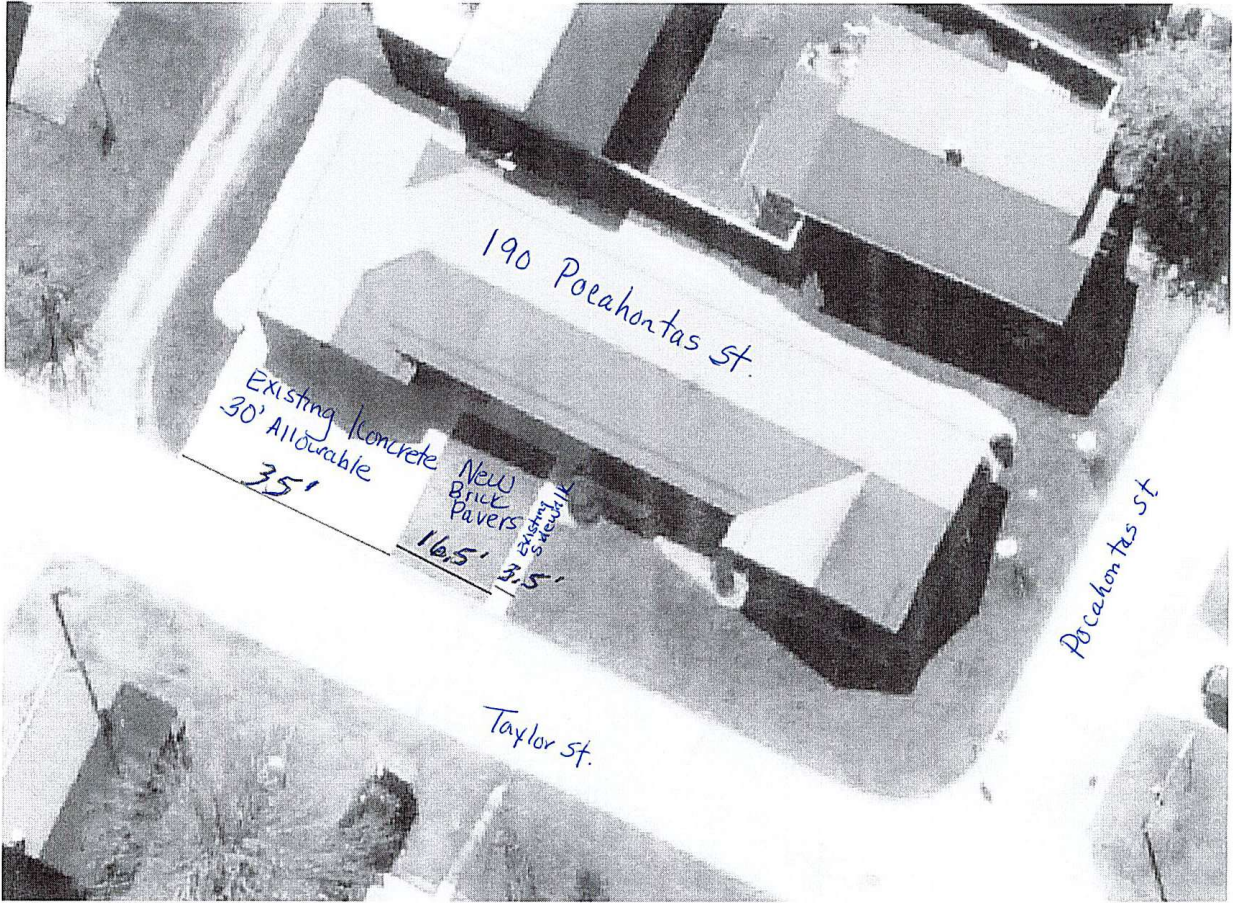
The City does not object to granting the variance, provided the property owner enters into an agreement acknowledging that if the City must disturb any portion of the driveway located on City property, the property owner—not the City—will be responsible for restoration costs.

Representing the property owner, Attorney Tracey Weber III stated that Mr. Arey purchased the property in 1994 and that a driveway was already in place at that time. Within the past 18 months, Mr. Arey removed the deteriorated driveway surface and installed pavers in the same general location. Mr. Webber emphasized that the pavers are not a permanent structure and requested approval for the improvement so that it may remain in place.

The Board discussed several considerations relevant to the variance:

- Members noted that many driveways in this neighborhood extend onto City right-of-way due to historic roadway alignment patterns.
- The project was initially treated as landscaping, but City staff later determined it constituted hardscape construction, requiring zoning review.
- Some members expressed concern about setting a precedent, but the City Attorney clarified that each variance is fact-specific and does not automatically authorize similar encroachments elsewhere.
- Board member Natalie Feola observed that the ordinance section cited in the denial—Ordinance 244 section 623A—applies specifically to commercial driveways, not residential properties. This clarification simplified the variance analysis and supported the conclusion that the cited restriction did not apply to this case.





Everett/Reese moved to approve the appeal, subject to the property owner entering into the maintenance and restoration agreement with the City as outlined by the City Attorney. The motion carried unanimously.

BEFORE THE ZONING BOARD OF APPEALS
OF THE CITY OF BUCKHANNON, WEST VIRGINIA

In Re: 190 Pocahontas Street
Gerald Arey, Owner/Applicant

Zoning Receipt No. 1170417

MEMORANDUM OF CONSENTED DECISION

On April 29, 2026 the Zoning Board of Appeals of the City of Buckhannon convened; the City was represented by Vincent Smith, Zoning Officer and Thomas O'Neill, City Attorney. Mr. Arey was present in person; also present was Mr. Arey's counsel, Tracey Weber, III of Weston. The Board convened to consider the appeal of Gerald Arey of the denial of Zoning Receipt No. 1170417 for approval of a previously-constructed driveway 51.5 feet wide which exceeds the 35-foot width requirement of the City's Zoning Ordinance, Ordinance No. 244, Section 623(a).

Further, the driveway as constructed also encroaches beyond the owner's property line into the alignment of Taylor Street. The portion of the driveway extending beyond the allowable 35-foot width measures 16 feet, 6 inches, and is constructed with brick pavers.

During discussion of this matter before the Board, an additional question arose as to the applicability of Section 623(a) against the subject property, as it is a residential property.

Upon consultation with the Applicant and his counsel, the City agreed to withdraw its objection to the as-built driveway extension, as long as the Applicant agreed that – should the City need to remove the pavers in order to carry out subsurface work within the Taylor Street alignment that the City would not be responsible for replacing or reconstructing the driveway, and the property owner would bear that risk and potential expense. This agreement was reduced to a memorandum of understanding and was delivered to applicant's counsel.

Said memorandum of understanding having been agreed to, the Zoning Board of Appeals hereby APPROVES the Applicant's appeal, subject to the provisions of the memorandum.

Entered this 22 day of June, 2026



Gini Jeran, Chair

C.2 Vote RE: Appeal 32 ½ North Locust Street-Construct Cellular Telecommunications Tower

– Zoning Officer Vincent Smith explained the permit was denied due to the fence height exceeding the 6-foot limit and the design showing the inclusion of barbed wire. City Attorney O'Neill then outlined the broader legal issue: whether the proposed telecommunications tower qualifies as an essential utility or equipment under WV Code § 8A-7-3(e). Mr. O'Neill will work with the City Council on this issue. If it is determined to be an essential utility or equipment under WV Code, the project would be a permitted use in any zoning district, and height restrictions would not apply. This Board is asked only to consider the fence height and barbed wire variance, with the understanding that the decision will be held pending the essential services determination.

Attorney Mark Mignault for City Switch described the project as a monopole tower to serve AT&T and FirstNet. It is intended to improve coverage in the Buckhannon area. The fence and barbed wire are requested for security. City Switch stated they could provide coverage maps later and noted that the existing SBA tower primarily serves the interstate corridor.

Discussion took place, including the aesthetic concerns at a major entrance to the city. Whether barbed wire is necessary or could be redesigned. Possibility of slats, landscaping buffers, or concealment panels. FAA approval and aviation safety (City Switch confirmed that the FAA "Determination of No Hazard" has already been issued). SBA Communications' attorney noted their opposition on essential-services grounds but had no comment regarding the fence variance.

City Switch Representative Connie Beers stated that City Switch is willing to proceed without the barbed wire, noting that they generally maintain a 10-foot buffer around our tower compounds and that we can install vinyl slats in the chain link.

PARENT PARCEL

THIS DOCUMENT IS A SURVEY OF THE LAND AND INTERESTS THEREIN, INCLUDING THE CITY OF BUCKHANNON, UPSON COUNTY, WEST VIRGINIA AND RECORDED AS FOLLOWS:

BEING A PART OF THE FIRST RIGHT-OF-WAY (R.O.W.) SUBJECT TO AND BEING A PART OF THE FIRST RIGHT-OF-WAY (R.O.W.) OF THE CITY OF BUCKHANNON, UPSON COUNTY, WEST VIRGINIA AND RECORDED AS FOLLOWS:

BEING A PART OF THE FIRST RIGHT-OF-WAY (R.O.W.) SUBJECT TO AND BEING A PART OF THE FIRST RIGHT-OF-WAY (R.O.W.) OF THE CITY OF BUCKHANNON, UPSON COUNTY, WEST VIRGINIA AND RECORDED AS FOLLOWS:

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BEING A PART OF THE FIRST RIGHT-OF-WAY (R.O.W.) SUBJECT TO AND BEING A PART OF THE FIRST RIGHT-OF-WAY (R.O.W.) OF THE CITY OF BUCKHANNON, UPSON COUNTY, WEST VIRGINIA AND RECORDED AS FOLLOWS:

TITLE EXCEPTIONS

THIS SURVEY WAS COMPLETED WITH THE AID OF TITLE WORK PREPARED BY THE BUCKHANNON, WEST VIRGINIA COUNTY COMMISSION DATED IN NOVEMBER 19, 2024, BEING COMPLEMENT NO. 01-2024-033-01 FOR THE PARENT PARCEL, TO DETERMINE THE IMPEDERS OF EXISTING TITLE EXCEPTIONS.

THIS SURVEY WAS COMPLETED WITH THE AID OF TITLE WORK PREPARED BY THE BUCKHANNON, WEST VIRGINIA COUNTY COMMISSION DATED IN NOVEMBER 19, 2024, BEING COMPLEMENT NO. 01-2024-033-01 FOR THE PARENT PARCEL, TO DETERMINE THE IMPEDERS OF EXISTING TITLE EXCEPTIONS.

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1. I HEREBY CERTIFY THAT THIS MAP IS CORRECT AND WAS DRAWN UNDER MY DIRECT SUPERVISION AND UNDER MY CLOSE PERSONAL SUPERVISION.

2. I HAVE BEEN A LICENSED SURVEYOR FOR THE STATE OF WEST VIRGINIA SINCE 06/17/2011.

3. I HAVE BEEN A LICENSED SURVEYOR FOR THE STATE OF WEST VIRGINIA SINCE 06/17/2011.

4. I HAVE BEEN A LICENSED SURVEYOR FOR THE STATE OF WEST VIRGINIA SINCE 06/17/2011.

5. I HAVE BEEN A LICENSED SURVEYOR FOR THE STATE OF WEST VIRGINIA SINCE 06/17/2011.

6. I HAVE BEEN A LICENSED SURVEYOR FOR THE STATE OF WEST VIRGINIA SINCE 06/17/2011.

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8. I HAVE BEEN A LICENSED SURVEYOR FOR THE STATE OF WEST VIRGINIA SINCE 06/17/2011.

9. I HAVE BEEN A LICENSED SURVEYOR FOR THE STATE OF WEST VIRGINIA SINCE 06/17/2011.

10. I HAVE BEEN A LICENSED SURVEYOR FOR THE STATE OF WEST VIRGINIA SINCE 06/17/2011.

100 Governors Trace, Ste. 103
Hochstadt, City, VA 20269
(p) 678.565.4440 (f) 678.565.4437 (w) p2ps.com

SPECIFIC PURPOSE SURVEY PREPARED BY:

CITYSWITCH
1900 CENTURY PLACE, NE, STE. 3020
ATLANTA, GA 30345

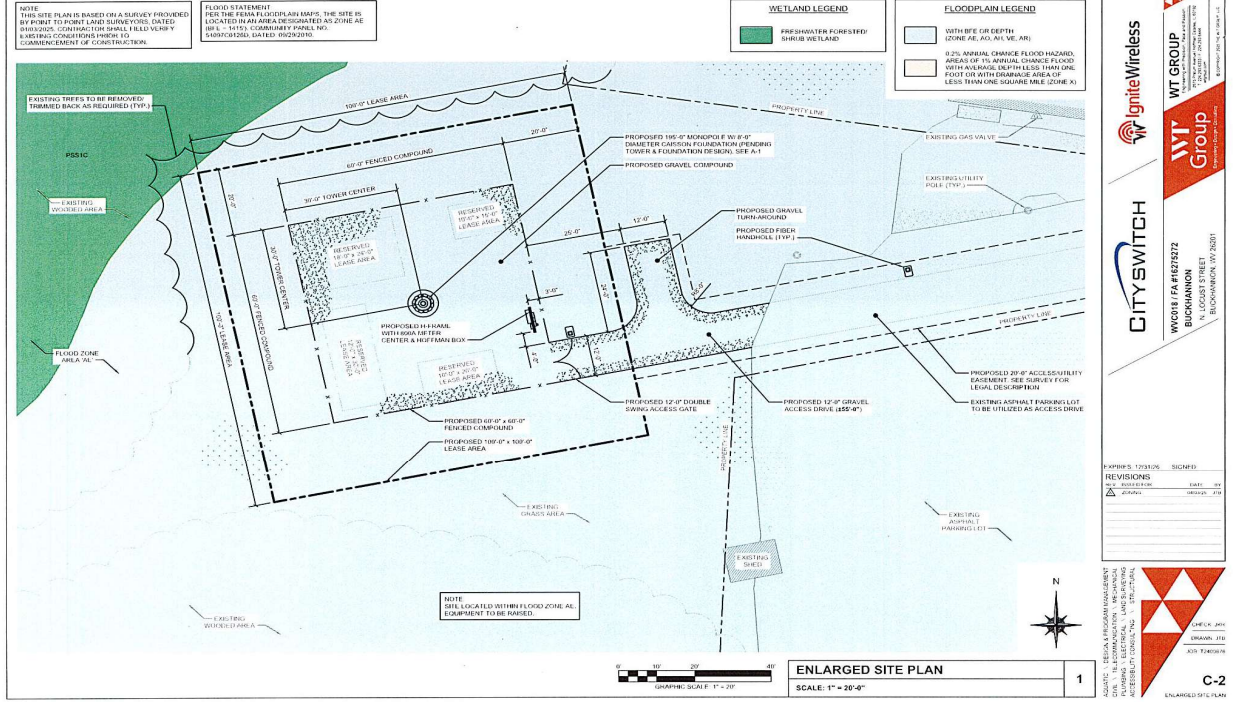
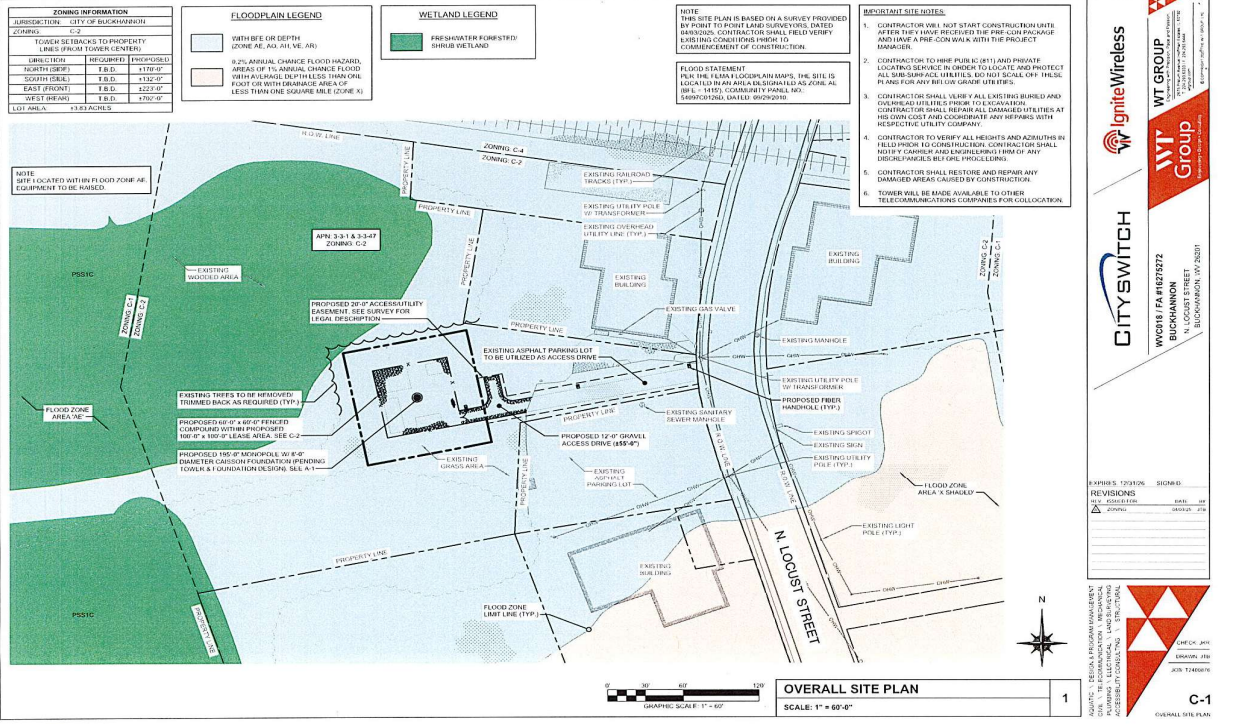
BUCKHANNON
SITE NO. WVC018
CITY OF BUCKHANNON
UPSON COUNTY, WEST VIRGINIA

LEGAL DESCRIPTION & TITLE REVIEW SHEET

NO.	DATE	REVISION	DRAWN BY	CHECKED BY	SHEET
1	4/2/2025	C.1 & C.2	C.1	C.2	3

DATE: MARCH 11, 2025
JOB NO. # 20250301
JOB # 20250301

SEEK FOR VIEW WITHOUT ALL SHEETS



WVC018 FA #01829272
BUCKHANNON
LOCKSTREET
BUCKHANNON, WV 26001

EXPIRES: 12/31/26 SIGNED: [Signature]

REVISIONS: [Table]

DATE: [Date]

SCALE: [Scale]

CHECK: [Signature]

DRAWN: [Signature]

JOB: 2406016

C-1

WVC018 FA #01829272
BUCKHANNON
LOCKSTREET
BUCKHANNON, WV 26001

EXPIRES: 12/31/26 SIGNED: [Signature]

REVISIONS: [Table]

DATE: [Date]

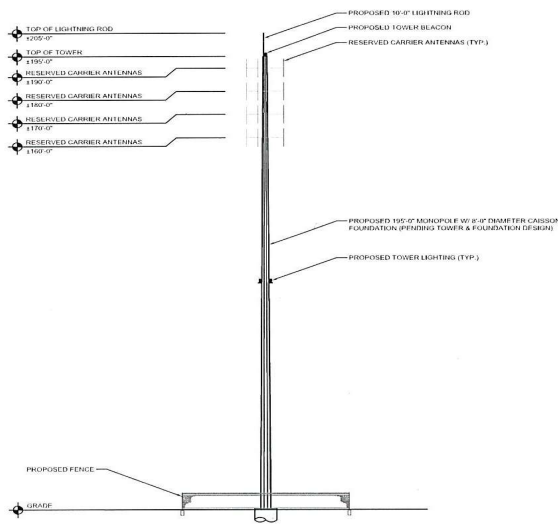
SCALE: [Scale]

CHECK: [Signature]

DRAWN: [Signature]

JOB: 2406016

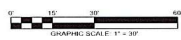
C-2



NOTE
 WTS SCOPE OF WORK DOES NOT INCLUDE A STRUCTURAL EVALUATION OF THIS TOWER OR STRUCTURE. NEW ANTENNAS AND EQUIPMENT SHOWN IN THIS PLAN HAVE NOT BEEN EVALUATED TO VERIFY THE TOWER OR STRUCTURE HAS THE CAPACITY TO ADEQUATELY SUPPORT THESE ANTENNAS. PRIOR TO ANY ANTENNA OR EQUIPMENT INSTALLATION, A STRUCTURAL EVALUATION OF THE TOWER OR STRUCTURE, INCLUDING ALL ANTENNA MOUNTING SYSTEMS & HARDWARE SHALL BE PERFORMED.

NOTE
 WTS SCOPE OF WORK DOES NOT INCLUDE A STRUCTURAL EVALUATION OF THE ANTENNA MOUNT. NEW ANTENNAS AND EQUIPMENT SHOWN ON THIS PLAN HAVE NOT BEEN EVALUATED TO VERIFY THE MOUNT HAS THE CAPACITY TO ADEQUATELY SUPPORT THESE ANTENNAS. PRIOR TO ANY ANTENNA OR EQUIPMENT INSTALLATION, A STRUCTURAL EVALUATION OF THE MOUNT, INCLUDING ALL ANTENNA MOUNTING SYSTEMS & HARDWARE SHALL BE PERFORMED.

NOTE
 PRIOR TO CONSTRUCTION CONTRACTOR TO VERIFY FAA REQUIREMENTS FOR LIGHTING TOWER



TOWER ELEVATION	1
SCALE: 1" = 30'-0"	

WORKSHEET #1827272
 BUCKHANNON
 11 LOCUST STREET
 BUCKHANNON, WV 26201

REVISIONS	DATE	BY

APPROVED: 1/23/2026 SIGNED: _____
 CHECK: JKH
 DRAWN: JTB
 JOB: 1827272

A-1
TOWER ELEVATION



Legal Counsel.

DINSMORE & SHOHL LLP
 707 Virginia Street E. Suite 1300 Charleston, WV 25301
 www.dinsmore.com

Clayton T. Harkins
 (304) 357-0912 (direct) · (304) 357-0919 (fax)
 Clayton.Harkins@dinsmore.com

April 24, 2026

VIA U.S. MAIL
 Zoning Board of Appeals
 Buckhannon City Hall
 70 E Main Street
 Buckhannon, WV 26201

Re: CitySwitch II-A, LLC Zoning Variance Application for Unmanned Wireless Telecommunication Facility

Dear Zoning Board of Appeals:

This firm is counsel to SBA Communications Corporation and its associated entities (collectively, "SBA"). The purpose of this letter is to provide public comment on the Zoning Board of Appeals (the "Board") review of the Zoning Variance Application filed by CitySwitch II-A, LLC ("CitySwitch") for a proposed 195' monopole tower located at 32 1/2 North Locust Street, Buckhannon, WV 26201 (the "Proposed Tower").

SBA owns an existing 195' tower located at 311 Leggett Addition Road, Buckhannon, WV 26201 ("Existing Tower") – a mere .42 miles (2,244 feet) away from the Proposed Tower. See Distance Map, attached as Exhibit 1. SBA has not been contacted by CitySwitch or any of SBA's carriers regarding issues with the Existing Tower or to determine whether the Existing Tower may be suitable for collocation. See Letter from M. Cabrales, attached as Exhibit 2. SBA notes that the Existing Tower has sufficient expansion capacity to allow for collocation of additional equipment. See Ex. 2. SBA has also performed a radio frequency coverage plot analysis showing that coverage from the Existing Tower provides comparable coverage to the Proposed Tower. See Radio Frequency Coverage Plot Analysis, attached as Exhibit 3. SBA stands ready, willing, and able to engage in collocation discussions with CitySwitch or any other carriers.

In addition, the City's Zoning Ordinance provides that no building, structure, or premises shall be erected or used except in conformity with the Zoning Ordinance as specified for the district in which it is located, as shown on the Zoning District Map. See Zoning Ordinance § 401(A). The Proposed Tower is located in C-2, Highway Commercial District. See Zoning District Map. Among other buildings and uses, which are inapplicable here, the Zoning Ordinance provides that all residential and non-residential uses as are permitted in R-2, General Residential District A, are permitted in C-2, Highway Commercial District. See Zoning Ordinance § 507(A)(9). The Zoning

Ordinance further provides that “*commercial radio and television transmission facilities, such as towers and amplifiers*,” are not permitted in R-2, General Residential District A. *See* Zoning Ordinance § 502(A)(10). By extension, commercial radio and television transmission facilities, such as the Proposed Tower, are not permitted in C-2, Highway Commercial District. Moreover, the Proposed Tower would exceed the maximum building height of 45’ or four stories. *See* Zoning Ordinance § 507(C)(6).

The City’s Zoning Ordinance also provides that the provisions of the Zoning Ordinance are subject to certain exceptions, additions, modification, or further explanation. *See* Zoning Ordinance Art. 6. Relevant here, the Zoning Ordinance provides that “[e]ssential service buildings and structures, as defined in [the Zoning Ordinance], may be located in all districts, subject to restrictions approved by the Zoning Board of Appeals with respect to use, design, yard area, set back and height.” Zoning Ordinance § 600. Further, the height limitations of the Zoning Ordinance do not apply to “essential service facilities . . . and any other necessary mechanical and operational apparatus usually conducted above roof level.” Zoning Ordinance § 612. The Zoning Ordinance defines “essential services,” in relevant part, as

The erection, construction, alteration or maintenance by either public utilities or municipal boards, departments or commissions of underground or overhead . . . telephone transmissions, . . . including but not limited to poles, . . . towers, . . . and similar equipment and accessories in connection therewith, which are reasonably necessary for the furnishing of adequate service by such public utilities or municipal boards, departments or commissions or for the public health, safety and general welfare.

Zoning Ordinance § 202(16).

It is SBA’s understanding that the City denied the Zoning Application because the Proposed Tower is not a permitted use in the zoning district, exceeds the maximum building height in the zoning district, and does not meet the definition of “essential services” as defined by the Zoning Ordinance. However, CitySwitch was invited to resubmit the Zoning Application following discussions between the City Attorney, Tom O’Neill, and CitySwitch’s counsel, Roger Hanshaw, because the Proposed Tower allegedly meets the definition of “essential utilities and equipment,” as defined by West Virginia Code § 8A-1-2(f), and, therefore, would be “a permitted use in any zoning district.” W. Va. Code § 8A-7-3(e). The City then denied the Zoning Application because it does not meet the requirements in Section 605 and 612 of the Zoning Ordinance, which CitySwitch has appealed to the Board.

Initially, SBA questions whether the Proposed Tower meets the definition of “essential utilities and equipment,” which is defined, in relevant part, as “underground or overhead . . . communications not regulated by the federal communications commission, . . . including pole structures, towers, . . . and other similar equipment accessories in connection therewith.” W. Va.

Code § 8A-1-2(f). Virtually all telecommunications facilities are regulated by the Federal Communications Commission (“FCC”) in some capacity. If the Proposed Tower is regulated by the FCC, then it does not meet the definition of “essential utilities and equipment” and, therefore, is not a permitted use in any zoning district.

To the extent the Proposed Tower is not regulated by the FCC, the Zoning Variance Application should be denied because the Proposed Tower does not qualify for a variance. “A variance is a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.” W. Va. Code § 8A-7-11(a); *see* Zoning Ordinance § 901(2). The Board may grant a variance if it finds that the variance:

- (1) Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- (2) Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
- (3) Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
- (4) Will allow the intent of the zoning ordinance to be observed and substantial justice done.

W. Va. Code § 8A-7-11(b); *see* Zoning Ordinance § 901(4) (“The Zoning Board of Appeals . . . [m]ay authorize upon appeal in specific cases such variances from the [Zoning Ordinance] as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the [Zoning Ordinance] would, in the opinion of the Board, result in unnecessary hardship, and so that the spirit of [the Zoning Ordinance] would be observed and substantial justice achieved.”).

Here, there do not appear to be any special conditions or attributes pertaining to the property where the variance is sought that were not created by the person seeking the variance. The only reason a variance is necessary is because CitySwitch is seeking to construct the Proposed Tower, which well exceeds the height limitations in the zoning district, and related facilities, which exceed the height limitations for fences and would be built with or composed of dangerous materials. Put differently, the conditions or attribute necessitating variance is created solely by CitySwitch. Moreover, there do not appear to be any unnecessary hardships that would be eliminated by the Proposed Tower or that there are no other reasonable uses for the property other than the Proposed Tower. Lastly, the requested variance would be inconsistent with the intent of the Zoning Ordinance. *See* Zoning Ordinance § 101 (summarizing the purpose of the Zoning Ordinance). Because the construction of the Proposed Tower does not qualify for a variance, the Board should deny the Zoning Variance Application.

April 24, 2026

Page 4

I look forward to attending the Public Hearing on Wednesday, April 29, 2026, at 5:30 p.m., and would be happy to answer any questions the Board may have at that time. Should the Board have any questions beforehand, please do not hesitate to contact me.

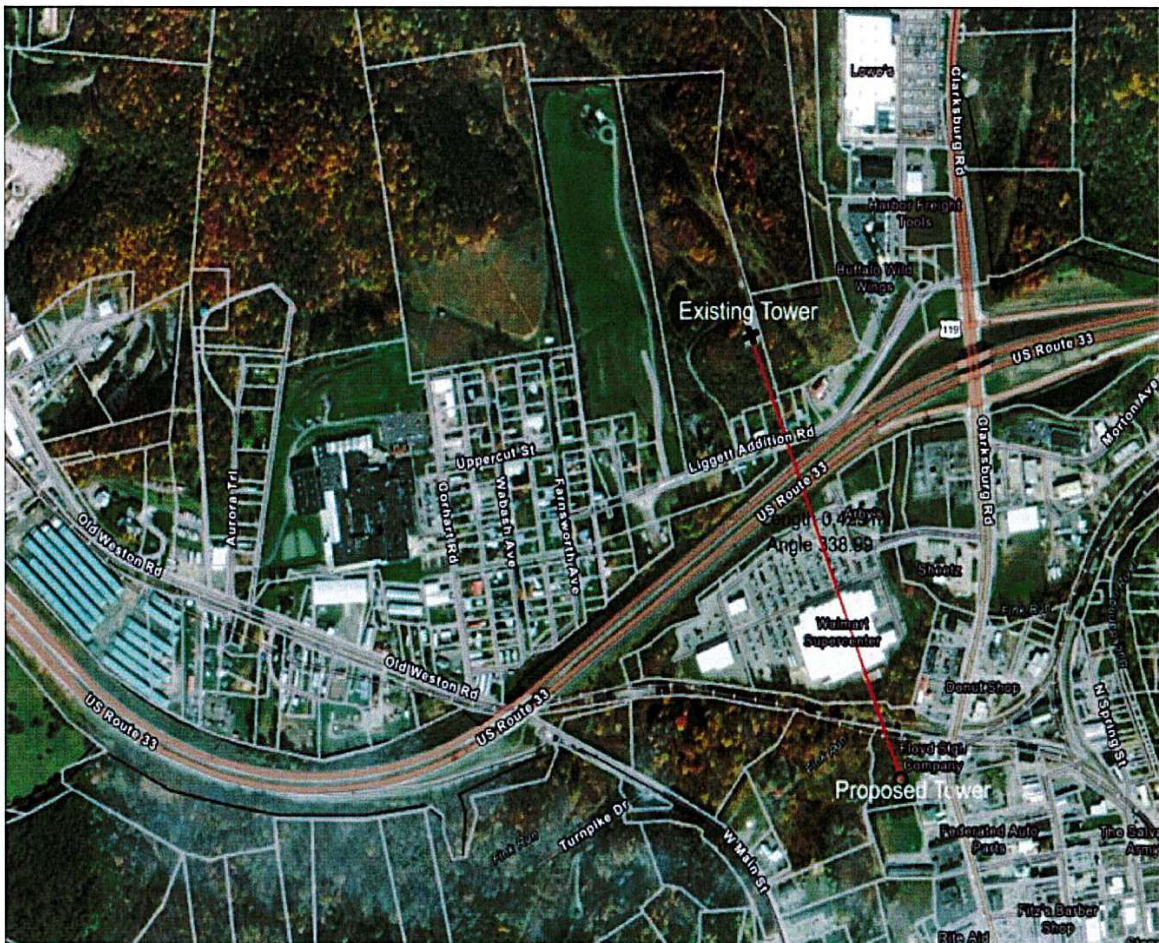
Sincerely,

/s/ Clayton T. Harkins

Clayton T. Harkins

Cc: Tom O'Neill (w/ encl.)
Victoria Weidenthaler (w/ encl.)
Debra DiBetta (w/ encl.)
Edward T. Depp (w/ encl.)

DISTANCE MAP – PROPOSED TOWER .4250 MILES FROM EXISTING TOWER





The OE/AAA system will be going offline at 7pm ET on Friday, 16 May 2025 until Sunday night 18 May 2025 for scheduled modernization upgrades and launch of the new and improved Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) Public Website.

« OE/AAA

Notice of Proposed Construction or Alteration - Off Airport

Add a New Case (Off Airport) - Desk Reference Guide V_2018.2.1

Add a New Case (Off Airport) for Wind Turbines - Met Towers (with WT Farm) - WT-Barge Crane - Desk Reference Guide V_2018.2.1

Project Name: CITYS-000928072-25 Sponsor: CitySwitch II, LLC

Details for Case : Buckhannon_WVC018

Show Project Summary

Case Status		Structure Summary				
ASN:	2025-AEA-5171-OE	Date Accepted:	04/20/2025			
Status:	Work In Progress	Date Determined:				
Public Comments:	None	Letters:	04/22/2025 ADD			
		Documents:	None			
		Project Documents:	None			
Construction / Alteration Information		Structure Details				
Notice Of:	Construction	Latitude:	38° 59' 46.20" N			
Duration:	Permanent	Longitude:	80° 14' 1.80" W			
if Temporary :	Months: Days:	Horizontal Datum:	NAD83			
Work Schedule - Start:		Site Elevation (SE):	1410 (nearest foot) PASSED			
Work Schedule - End:		Structure Height (AGL):	199 (nearest foot)			
*For temporary cranes-Does the permanent structure require separate notice to the FAA? To find out, use the Notice Criteria Tool. If separate notice is required, please ensure it is filed. If it is not filed, please state the reason in the Description of Proposal.		Current Height (AGL):	(nearest foot)			
State Filing:		* For notice of alteration or existing provide the current AGL height of the existing structure. Include details in the Description of Proposal				
		Minimum Operating Height (AGL):	(nearest foot)			
		* For aeronautical study of a crane or construction equipment				
		Proposed Frequency Bands				
		Low Freq	High Freq	Freq Unit	ERP	ERP Unit
		6	7	GHz	42	dBW
		6	7	GHz	55	dBW
		10	11.7	GHz	42	dBW
		10	11.7	GHz	55	dBW
		17.7	19.7	GHz	42	dBW
		17.7	19.7	GHz	55	dBW
		21.2	23.6	GHz	42	dBW
		21.2	23.6	GHz	55	dBW
		614	698	MHz	1000	W
		614	698	MHz	2000	W
		698	806	MHz	1000	W
		806	824	MHz	500	W
		806	901	MHz	500	W
		824	849	MHz	500	W
		851	866	MHz	500	W
		851	866	MHz	500	W
		869	894	MHz	500	W

https://oeaaa.faa.gov/oeaaa/external/eFiling/locationAction.jsp?action=showLocationForm&locationID=5810352&row=7

the maximum height should be listed above as the Structure Height (AGL). Additionally, provide the minimum operating height to avoid delays if impacts are identified that require negotiation to a reduced height. If the Structure Height and minimum operating height are the same enter the same value in both fields.	896	901	MHz	500	W	
	901	902	MHz	7	W	
	929	932	MHz	3500	W	
	930	931	MHz	3500	W	
	931	932	MHz	3500	W	
	932	932.5	MHz	17	dBW	
	935	940	MHz	1000	W	
	940	941	MHz	3500	W	
Requested Marking/Lighting:	None	1670	1675	MHz	500	W
	Other :	1710	1755	MHz	500	W
		1850	1910	MHz	1640	W
Recommended Marking/Lighting:		1850	1990	MHz	1640	W
		1930	1990	MHz	1640	W
Current Marking/Lighting:	N/A Proposed Structure	1990	2025	MHz	500	W
	Other :	2110	2200	MHz	500	W
		2305	2360	MHz	2000	W
		2305	2310	MHz	2000	W
Nearest City:	Buckhannon	2345	2360	MHz	2000	W
		2496	2690	MHz	500	W
Nearest State:	West Virginia					
Description of Location:	Near North Locust Street	Low Freq	High Freq	Freq Unit	ERP	ERP Unit
On the Project Summary page upload any certified survey.		3700	3720	kHz	1640	W
		3720	3740	kHz	1640	W
Description of Proposal:	Proposed new structure. Submitting for ASN.	3740	3760	kHz	1640	W
		3760	3780	kHz	1640	W
		3780	3800	kHz	1640	W
		3800	3820	kHz	1640	W
		3820	3840	kHz	1640	W
		3840	3860	kHz	1640	W



Mail Processing Center
 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 10101 Hillwood Parkway
 Fort Worth, TX 76177

Aeronautical Study No.
 2025-AEA-5171-OE

Issued Date: 07/02/2025

CITYSWITCH II, LLC
 ABBY MAZZETTI
 3715 Northside Parkway
 Suite 1-200
 Atlanta, GA 30327

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Monopole Buckhannon_WVC018
 County, State: Upshur, West Virginia

Collected Point(s):

Label	Latitude	Longitude	SE	DET AGL	AMSL
Buckhannon_WVC018	38-59-46.20N	80-14-01.80W	1410 Ft	199 Ft	1609 Ft

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

See attachment for additional condition(s) or information.

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M Change 1.

This determination expires on 01/02/2027 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within

6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact joseph.ctr.burkhardt@faa.gov, at 1-404-305-5958, or Joseph.CTR.Burkhardt@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2025-AEA-5171-OE.

Signature Control No: 654388027-668312493
 Julie A. Morgan
 Manager, Obstruction Evaluation Group

(DNE)

ELEVATION CERTIFICATE

IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON INSTRUCTION PAGES 1-11

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A – PROPERTY INFORMATION	FOR INSURANCE COMPANY USE
A1. Building Owner's Name: <u>Cityswitch</u>	Policy Number: _____
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.: <u>North Locust Street</u>	Company NAIC Number: _____
City: <u>Buckhannon</u> State: <u>WV</u> ZIP Code: <u>26201</u>	
A3. Property Description (e.g., Lot and Block Numbers or Legal Description) and/or Tax Parcel Number: <u>Tax Parcel Nos. 3-3-1 & 3-3-47; Deed Book 487, Page 366</u>	
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.): <u>Telecommunications Facility</u>	
A5. Latitude/Longitude: Lat. <u>38.996164</u> Long. <u>-80.233831°</u> Horiz. Datum: <input type="checkbox"/> NAD 1927 <input checked="" type="checkbox"/> NAD 1983 <input type="checkbox"/> WGS 84	
A6. Attach at least two and when possible four clear color photographs (one for each side) of the building (see Form pages 7 and 8).	
A7. Building Diagram Number: <u>1B</u>	
A8. For a building with a crawlspace or enclosure(s):	
a) Square footage of crawlspace or enclosure(s): <u>N/A</u> sq. ft.	
b) Is there at least one permanent flood opening on two different sides of each enclosed area? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	
c) Enter number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade: Non-engineered flood openings: <u>N/A</u> Engineered flood openings: <u>N/A</u>	
d) Total net open area of non-engineered flood openings in A8.c: <u>N/A</u> sq. in.	
e) Total rated area of engineered flood openings in A8.c (attach documentation – see Instructions): _____ N/A sq. ft.	
f) Sum of A8.d and A8.e rated area (if applicable – see Instructions): _____ N/A sq. ft.	
A9. For a building with an attached garage:	
a) Square footage of attached garage: _____ N/A sq. ft.	
b) Is there at least one permanent flood opening on two different sides of the attached garage? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	
c) Enter number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade: Non-engineered flood openings: _____ N/A Engineered flood openings: _____ N/A	
d) Total net open area of non-engineered flood openings in A9.c: _____ N/A sq. in.	
e) Total rated area of engineered flood openings in A9.c (attach documentation – see Instructions): _____ N/A sq. ft.	
f) Sum of A9.d and A9.e rated area (if applicable – see Instructions): _____ N/A sq. ft.	
SECTION B – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION	
B1.a. NFIP Community Name: <u>City of Buckhannon</u> B1.b. NFIP Community Identification Number: <u>540199</u>	
B2. County Name: <u>Upshur County</u> B3. State: <u>WV</u> B4. Map/Panel No.: <u>54097C0126</u> B5. Suffix: <u>D</u>	
B6. FIRM Index Date: <u>09/29/2010</u> B7. FIRM Panel Effective/Revised Date: <u>09/29/2010</u>	
B8. Flood Zone(s): <u>AE</u> B9. Base Flood Elevation(s) (BFE) (Zone AO, use Base Flood Depth): <u>1415.4'</u>	
B10. Indicate the source of the BFE data or Base Flood Depth entered in Item B9: <input type="checkbox"/> FIS <input checked="" type="checkbox"/> FIRM <input type="checkbox"/> Community Determined <input type="checkbox"/> Other: _____	
B11. Indicate elevation datum used for BFE in Item B9: <input type="checkbox"/> NGVD 1929 <input checked="" type="checkbox"/> NAVD 1988 <input type="checkbox"/> Other/Source: _____	
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Designation Date: _____ <input type="checkbox"/> CBRS <input type="checkbox"/> OPA	
B13. Is the building located seaward of the Limit of Moderate Wave Action (LiMWA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

ELEVATION CERTIFICATE

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c) Enter number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade: Non-engineered flood openings: _____ N/A Engineered flood openings: _____ N/A	
d) Total net open area of non-engineered flood openings in A8.c: _____ N/A sq. in.	
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c) Enter number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade: Non-engineered flood openings: _____ N/A Engineered flood openings: _____ N/A	
d) Total net open area of non-engineered flood openings in A9.c: _____ N/A sq. in.	
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After further discussion, the Board took the following action:

Rozelle/Reese moved to conditionally grant the variance for fence height and barbed wire, contingent upon the applicant submitting final renderings showing the fence design, barbed-wire configuration, and proposed landscaping buffers, with the Board to approve the final design at a future meeting. Final action on the variance is further contingent upon the City's determination regarding essential-services status. The motion carried unanimously.

BEFORE THE ZONING BOARD OF APPEALS
OF THE CITY OF BUCKHANNON, WEST VIRGINIA

In Re: 32½ North Locust Street
CitySwitch II, LLC, Applicant

Zoning Receipt No. 1170449

MEMORANDUM OF INTERIM DECISION

On April 29, 2026 the Zoning Board of Appeals of the City of Buckhannon convened; the City was represented by Vincent Smith, Zoning Officer and Thomas O'Neill, City Attorney. CitySwitch II, LLC was represented by its counsel Mark Mignault and Connie Beers. Mike Ross, the property owner, was also present. SBA Communications Corporation also registered an appearance in this matter as an interested party through its counsel, Clayton Harkins.

The Board convened to consider the appeal of CitySwitch II of the denial of Zoning Receipt No. 1170449 for approval of a communications tower upon the subject property proposed to be 195 feet in height, together with the construction of a barbed-wire-topped fence exceeding the 6-foot limitation within the City's zoning ordinance (Ordinance No. 244, as amended).

The subject property is located C2 Zone. Under the City's zoning ordinance, only certain property uses are permitted within the C-2 Zone. Telecommunications towers do not fall within the list of explicit acceptable uses appearing in the ordinance. The ordinance also provides that any structures located within the C-2 Zone are limited to a height of 45 feet or 4 stories, whichever is greater (see Section 507(C)(6)).

Section 600, however, provides that "Essential service buildings and structures, as defined in these Standards, may be located in all districts, subject to restrictions approved by the Zoning Board of Appeals with respect to use, design, yard area, setback and height." Moreover, the Applicant cites section 612, which provides for certain height exceptions, such as for "flag poles, church spires, belfries, domes or similar projections not used for human occupancy nor to chimneys, ventilations, sky lights, elevator shafts, water tanks, essential service facilities, bulk heads, silos, television reception and radio dishes or antennae, and any other necessary mechanical and operational apparatus usually conducted above roof level."

With respect to that portion of the variance application dealing with the proposed boundary fence height and use of barbed wire, upon discussion and due consideration, the Board CONDITIONALLY GRANTS the variance, subject to the Applicant providing renderings of the final intended construction showing the fence design, barbed-wire configuration, and proposed landscaping buffers to the Board for its final design approval at a future Board meeting.

With respect to the communications tower itself, the threshold question is whether the tower falls within the definition of "essential services". Within the ordinance, Section 202, subsection 16 defines "Essential Services", in relevant part, as: "The erection, construction, alteration or maintenance by either public utilities or municipal boards, departments or commissions of underground or overhead . . . telephone transmissions . . . including but not limited to poles, wires, mains . . . towers . . . and similar equipment and accessories in connection therewith, which are reasonably necessary for the furnishing of adequate service by such public utilities or municipal boards, departments or commissions for the public health, safety and general welfare."

Also relevant is West Virginia Code §8A-7-3(e), which provides "essential utilities and equipment are a permitted use in any zoning district". On first blush, this would seem to settle the matter; however, this section of code is informed by §8A-1-2(f), which defines "essential utilities and equipment" as "underground or overhead electrical, gas, communications not regulated by the federal communications commission. . . ."

It bears mentioning that the question of acceptable uses is not, under the ordinance, amenable to the grant of a variance by the Board; in other words, the City itself – acting through the City Council, and not the Zoning Board of Appeals – must set city policy on the question.

The Board therefore – on behalf of the City Council – asks the Applicant to provide further support for its contention that the proposed tower construction falls within the statutory definition of “essential utilities and equipment”, especially given the definition contained in WV Code §8A-1-2(f). Particularly, the Applicant should address the “communications **not** regulated by the federal communications commission” (emphasis added) element of the definition.

Pending the receipt of the requested further information, the Board holds its decision on the variance application in abeyance until a future meeting.

Entered this 22 day of June, 2026



Gini Jeran, Chair

D. Adjournment

The meeting was adjourned at 6:40 p.m., upon a motion by Reese.

Chairperson Virginia Jeran

City Recorder Randall H. Sanders