

VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: 1408-VU-02 FILING DATE: 7-3-14
FILING FEE: \$ _____ FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: _____ (STAFF NAME) DATE: _____

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: _____ AMENDMENTS: _____ DEVELOPMENT PLAN: _____

PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): _____

APPLICANT INFORMATION

Verizon Wireless
APPLICANT'S NAME: by Clark, Quinn, Moses, Scott & Grahn, LLP TELEPHONE: 317-637-1321
320 North Meridian Street, Suite 1100
ADDRESS: Indianapolis, IN 46204 EMAIL: ebw@clarkquinnlaw.com

PROPERTY OWNER'S NAME: Westfield AS 1995 Bldg Corp. TELEPHONE: 317-867-8013
322 West Main Street
ADDRESS: Westfield, IN 46074 EMAIL: verhoffn@wws.k12.in.us

REPRESENTATIVE'S NAME: Russell L. Brown/Elizabeth Bentz Williams TELEPHONE: 317-637-1321
rbrown@clarkquinnlaw.com
COMPANY: Clark, Quinn, Moses, Scott & Grahn, LLP EMAIL: ebw@clarkquinn.com
ADDRESS: 320 North Meridian Street, Suite 1100, Indianapolis, IN 46204

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: West 161st Street (Shamrock Springs Elementary)

COUNTY PARCEL ID #(s): 08-09-10-00-00-022.001

EXISTING ZONING DISTRICT(S): SF-2 EXISTING LAND USE(S): Elementary School Campus

VARIANCE REQUEST

VARIANCE OF LAND USE CODE CITATION: 16.04.125, B, 3

VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: _____

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): The property is zoned SF-2. Verizon Wireless is requesting a Variance of Use to permit the construction of a wireless communication facility. The requested facility would propose a monopole tower with internal mounting, designed as a flag pole on property utilized as an elementary school with a height of 125 feet. The tower is setback 157 feet from the right of way of West 161st Street, 763 feet from the east side yard, 61 feet from the west side property line and approximately 1,111 feet from the rear property line. It is also located 320 feet from the school building.

VARIANCE APPLICATIONS

**GENERAL INSTRUCTIONS**

- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Economic and Community Development Department (the "Department") to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred. Applicants are encouraged to incorporate the Department's comments into the application prior to filing.
- B. **Filing Petition:** A petition shall be filed with the Department by the filing deadline in accordance with the Schedule of Meeting and Filing Dates. In order to be deemed a complete petition, a petition shall include the following:
- | | |
|--|--|
| <input checked="" type="checkbox"/> Completed Application | <input type="checkbox"/> Filing Fee Check (made out to "City of Westfield") |
| <input checked="" type="checkbox"/> Legal Description | <input checked="" type="checkbox"/> Copy of Property Deed |
| <input type="checkbox"/> Draft Public Notice | <input type="checkbox"/> List of Adjoining Property Owners (as provided by County) |
| <input checked="" type="checkbox"/> Property Owner Consent | <input type="checkbox"/> TAC Delivery Affidavit (if TAC is determined to be necessary) |
| <input checked="" type="checkbox"/> Site Plan (to scale) | <input checked="" type="checkbox"/> Vicinity Map (including property within 500 feet) |
| <input checked="" type="checkbox"/> Statement of Intent | <input checked="" type="checkbox"/> Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- C. **Technical Advisory Committee (TAC):** The applicant is responsible for submitting a copy of the application and related information to Technical Advisory Committee members prior to filing, if determined by the Department to be necessary. An affidavit confirming delivery of information is required to be completed and signed by the applicant and submitted with the petition. Technical Advisory Committee meetings are held in the City Services Building (2728 East 171st Street, Westfield, IN 46074) in accordance with the Schedule of Meeting and Filing Dates. A representative must be present at this meeting.
- D. **Public Hearing and Notice:** All variance petitions require a public hearing by the Board of Zoning Appeals. The public hearing is held at City Hall, 130 Penn Street, Westfield, Indiana, in accordance with the Schedule of Meeting and Filing Dates. Notice of the hearing is required in accordance with the Board's [Rules of Procedure](#):
- Newspaper Publication:** Notice of the hearing will be published in the Indy Star and The Times. The Department will handle the newspaper publication requirement.
 - Mailed Public Notice:** The applicant is responsible to send public notice by mail to all interested parties by certified mail with return receipt requested (green card), postmarked at least ten (10) days prior to the hearing. A list of adjacent property owners may be obtained from the **Hamilton County Auditor, Office of Transfers and Mapping** (33 North 9th Street, Noblesville, IN 46060, (317) 776-9624), and shall include all owners of property to a depth of two (2) ownerships of no direct or indirect financial or other interest to the applicant or property owner or one-eighth of a mile (1/8), whichever is less.
 - Public Notice Sign:** The applicant is responsible to post a public notice sign(s) on the property at least ten (10) days prior to the public hearing. The Department will determine sign locations and will make signs available for the applicant to obtain in the office of the Department.
 - Affidavit of Notice of Public Hearing:** The applicant shall deliver a copy of the mailed notice and a signed affidavit, verifying that the notices were mailed and the public notice sign(s) was posted on the subject property, to the Department at least four (4) calendar days prior to the public hearing.
- E. **Ex-parte Communication:** In no event shall applicants or other interested parties contact or attempt to communicate with members of the Board in regard to a filed variance petition prior to the public hearing.
- F. **Revised Materials:** If the applicant wishes to submit additional or revised information than what is filed, then the applicant shall submit those to the Department no later than ten (10) days prior to the public hearing.
- G. **Board's Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- H. **Resource:** Please see the Board's [Rules of Procedure](#) for more detailed procedural information.



FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Verizon Wireless,
by Clark, Quinn, Moses, Scott & Grahn, LLP

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below. A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

- A. The use will not be injurious to the public health, safety, morals, and general welfare of the community because: The proposed tower is located on a portion of unused property owned by the Westfield School Corporation. The location is 157 feet from the right of way from West 161st Street and 320 from the school structure itself. The construction and operation of this facility is strictly regulated by federal laws and Verizon will meet or exceed all Federal and State requirements.

- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: Because the height is under 200' no tower lighting will be required. The tower is designed as a monopole, flagpole. The ground equipment will be surrounded by fencing, locked and gated with additional landscaping surrounding the fenced area. Noise is limited to the generator, which is inside the equipment shelter; this generator is used only for testing remotely during normal business hours and in case of a power outage.

- C. The need for the variance arises from some condition particular to the property involved because: The proposed site is within an area of mixed uses, including agricultural, the existing school use, residential, support commercial and other special uses, such as churches. Support services such as the proposed wireless communication facility support healthy, stable communities including providing appropriate services for residents, employment centers and visitors or patrons in the area. There is a need for additional and more reliable service in the area. In order to accomplish providing this service to the community Verizon has designed a tower to be compatible with the neighborhood, as with other utilities, they need to go where the service is needed.

- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: The proposed use is needed within the area. The use will be designed, constructed and maintained as a monopole, flagpole designed so as to be harmonious and appropriate in appearance with the existing and intended character of the general vicinity and will not change the essential character of the area. The wireless communication facility provides needed signal coverage for the area as well as providing for co-location opportunities for two additional users. Under Verizon's license with the FCC, they are required to serve the area, without the requested variance, that cannot be accomplished.

- E. The variance of use does not interfere substantially with the Comprehensive Plan because: The Comprehensive Plan does not designate specific locations for such uses. The area proposed for the facility is a small part of the overall property and will not hinder the implementation of the Comprehensive Plan not its recommendations. Additionally, the remainder of the property will continue as a school campus, but will be provided with better wireless communication services, as will the neighboring uses in the area.



APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

Matthew R. Clark
Applicant/Representative (signature)

Matthew R. Clark
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 3rd day of July, 2014.

State of Indiana, County of Marion, SS:

Elizabeth Bentz Williams
Notary Public Signature

Elizabeth Bentz Williams
Notary Public (printed)
My Commission Expires: 11/18/2020
My County of Residence: Marion



PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

Nicholas O. Verhoff
Property Owner (signature)*

Westfield High School
1995 Bldg Corp, by Nicholes O. Verhoff,
Property Owner (printed) President

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 3rd day of July, 2014.

State of Indiana, County of Hamilton, SS:

Elizabeth Bentz Williams
Notary Public Signature

Elizabeth Bentz Williams
Notary Public (printed)
My Commission Expires: 11/18/2020
My County of Residence: Marion



*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

LEGAL DESCRIPTIONS

THE FOLLOWING IS A DESCRIPTION OF AN AREA TO BE LEASED FROM THE PROPERTY OF WESTFIELD HIGH SCHOOL 1995 BUILDING CORPORATION, WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PROPOSED LEASE AREA

BEING PART OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 8 NORTH, RANGE 3 EAST, HAMILTON COUNTY, INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND STONE 6" BELOW THE PAVEMENT WITH AN "X" CUT ON TOP IN THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 8 NORTH, RANGE 3 EAST, SAID POINT BEING N89°27'06"E 2615.35' FROM A FOUND RAIL ROAD SPIKE 4" BELOW THE PAVEMENT IN THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 8 NORTH, RANGE 3 EAST, ALSO BEING IN THE CENTERLINE OF WEST 161st STREET AND BEING THE NORTHWEST CORNER OF THE PROPERTY CONVEYED TO WESTFIELD HIGH SCHOOL BUILDING CORPORATION AS RECORDED IN INSTRUMENT #9509566617; THENCE WITH THE LINE BETWEEN THE SOUTHEAST AND SOUTHWEST QUARTERS OF SAID SECTION, S00°00'25"W 40.00' TO THE NORTHWEST CORNER OF WESTFIELD HIGH SCHOOL BUILDING CORPORATION PER DEDICATION OF PUBLIC RIGHT OF WAY TO THE HAMILTON COUNTY BOARD OF COMMISSIONERS AS RECORDED IN INSTRUMENT #9302591; THENCE WITH THE SOUTH RIGHT OF WAY LINE OF WEST 161st STREET, N89°27'06"E 50.00' TO A SET 5/8" REBAR; THENCE LEAVING SAID RIGHT OF WAY LINE, S00°00'25"W 105.37' TO A SET 5/8" REBAR; THENCE N89°59'35"W 10.00' TO A SET 5/8" REBAR; THENCE S00°00'25"W 30.00' TO A SET 5/8" REBAR IN THE NORTHWEST CORNER OF THE PROPOSED LEASE AREA AND BEING THE TRUE POINT OF BEGINNING; THENCE WITH THE LINES OF SAID LEASE AREA, S89°59'35"E 50.00' TO A SET 5/8" REBAR; THENCE S00°00'25"W 50.00' TO A SET 5/8" REBAR; THENCE N89°59'35"W 50.00' TO A SET 5/8" REBAR AND N00°00'25"E 50.00' TO THE TRUE POINT OF BEGINNING CONTAINING 2,500 SQUARE FEET AS PER SURVEY BY THOMAS J. BOOFER, LS #S-0133 WITH T.J. BOOFER, CIVIL ENGINEER AND LAND SURVEYOR, DATED SEPTEMBER 30, 2013.

PROPOSED VARIABLE WIDTH ACCESS AND UTILITY EASEMENT

BEGINNING AT A FOUND STONE 6" BELOW THE PAVEMENT WITH AN "X" CUT ON TOP IN THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 8 NORTH, RANGE 3 EAST, SAID POINT BEING N89°27'06"E 2615.35' FROM A FOUND RAIL ROAD SPIKE 4" BELOW THE PAVEMENT IN THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 8 NORTH, RANGE 3 EAST, ALSO BEING IN THE CENTERLINE OF WEST 161st STREET AND BEING THE NORTHWEST CORNER OF THE PROPERTY CONVEYED TO WESTFIELD HIGH SCHOOL BUILDING CORPORATION AS RECORDED IN INSTRUMENT #9509566617; THENCE WITH THE LINE BETWEEN THE SOUTHEAST AND SOUTHWEST QUARTERS OF SAID SECTION, S00°00'25"W 40.00' TO THE NORTHWEST CORNER OF WESTFIELD HIGH SCHOOL BUILDING CORPORATION PER DEDICATION OF PUBLIC RIGHT OF WAY TO THE HAMILTON COUNTY BOARD OF COMMISSIONERS AS RECORDED IN INSTRUMENT #9302591; THENCE WITH THE SOUTH RIGHT OF WAY LINE OF WEST 161st STREET, N89°27'06"E 50.00' TO A SET 5/8" REBAR, SAID POINT BEING THE TRUE POINT OF BEGINNING OF THE VARIABLE WIDTH ACCESS AND UTILITY EASEMENT; THENCE WITH THE LINES OF SAID EASEMENT, S00°00'25"W 105.37' TO A SET 5/8" REBAR; THENCE N89°59'35"W 10.00' TO A SET 5/8" REBAR; THENCE S00°00'25"W 30.00' TO A SET 5/8" REBAR; THENCE S89°59'35"E 50.00' TO A SET 5/8" REBAR; THENCE N00°00'25"E 30.00' TO A SET 5/8" REBAR; THENCE N89°59'35"W 10.00' TO A SET 5/8" REBAR; THENCE N00°00'25"E 105.66' TO A SET 5/8" REBAR IN THE SOUTH RIGHT OF WAY LINE OF WEST 161st STREET; THENCE WITH SAID RIGHT OF WAY LINE, S89°27'06"W 30.00' TO THE POINT OF BEGINNING AS PER SURVEY BY THOMAS J. BOOFER, LS #S-0133 WITH T.J. BOOFER, CIVIL ENGINEER AND LAND SURVEYOR, DATED SEPTEMBER 30, 2013.



June 30, 2014

RE: Proposed Verizon Wireless Communications Facility Site Name: Mulberry Farms

To Whom It May Concern:

As a radio frequency engineer for Verizon Wireless, I am providing this letter to state the need for a Verizon Wireless site called *Mulberry Farms*.

The Mulberry Farms site is proposed with the below objectives:

1. Offload 4G traffic from our sites in the area.
2. Improve 4G Throughput to existing heavy data users.
3. Improve 4G network reliability by increasing the amount of time our customers operate on 4G instead of 3G.

Currently the area is experiencing high demand for wireless high-speed data. Growth forecasts have triggered the need for an additional site in the area. The tower is needed to provide all Verizon customers in the area with the best experience on their 4G wireless devices.

Raw Land – Design plans for a new stealth flagpole would provide an antenna height of 120'. The new structure will be placed near the area with high traffic demand and will offload the surrounding sites. The new tower design meets stated objectives.

Verizon Wireless cares about the communities as well as the environment and prefers to collocate on existing structures when available. We prefer collocation due to reduced construction costs, faster deployment, and environment protection. However, Verizon Wireless was unable to find a suitable structure to collocate the proposed Mulberry Farms site. There was one candidate in the search area that was considered by the design team.

Westfield Water Public Works – This is a water tank with 3 current carriers installed. The available space on this water tower does not allow Verizon Wireless to meet our coverage and capacity objectives.

Verizon Wireless design engineers establish search area criteria in order to effectively meet coverage objectives as well as offload existing Verizon cell sites. When met, the criterion also reduces the need for a new site to cover the area in the immediate future. Each cellular site

covers a limited area, depending on site configuration and the surrounding terrain. Cell sites are built in an interconnected network; which means each cell site must be located so that their respective coverage areas are contiguous. This provides uninterrupted communications throughout the coverage area.

Since collocation is generally the most cost-effective means for prompt deployment of new facilities, Verizon Wireless makes every effort to investigate the feasibility for using existing towers or other tall structures for collocation when designing a new site or system expansion. However, collocation on an existing tower or tall structure is not always feasible due to location of existing cell sites. Cell sites are placed in a way so they provide smooth hand off to each other and are placed at some distance from each other to eliminate too much overlap. Too much overlap may result in a waste of resources and raise a system capacity overload concern.

The Mulberry Farms site will allow Verizon Wireless to provide continuous coverage in the city and along portions of major roadways in its vicinity. The site will provide the quality coverage our customers expect and rely on. Customers will experience access to mobile voice and wireless data services that may have been previously unavailable, and support Homeland Security through enhanced 911 services.

This cell site has been designed, and will be constructed and operated in a manner that satisfies regulations and requirements of all applicable governmental agencies that have been charged with regulating tower specifications, operation, construction, and placement, including the FAA and FCC.

RF exposure readings at this site in the accessible areas would be well below the applicable limits for FCC Uncontrolled/General Population and FCC Controlled/Occupational environments as outlined in 47 CFR 1.1301 through 1.1319. The site would carry appropriate RF exposure signage to the public entering the site area.

This site would transmit frequencies within the licensed frequency bands and the power limitations set by FCC regulatory authority. The site will go through a complete rigorous regulatory process before it comes on-air to provide service to our customers.

Verizon Wireless currently holds multiple FCC licenses in Hamilton County in order to provide multiple forms of wireless services to its current and prospective customers.

Sincerely,

Christopher Britt



6/30/2014

To: City of Westfield

RE: Verizon Wireless Mulberry Farms Site Located at: West 161st Street, Westfield, IN 46074

To Whom It May Concern,

We write to inform you that Verizon Wireless has performed a radio frequency (RF) compliance pre-construction evaluation for the above-noted proposed site and based on the result of the evaluation, will be compliant with FCC Guidelines.

The FCC has established safety guidelines relating to potential RF exposure from cell sites. The FCC developed the standards, known as Maximum Permissible Exposure (MPE) limits, in consultation with numerous other federal agencies, including the Environmental Protection Agency, the Food and Drug Administration, and the Occupational Safety and Health Administration. The FCC provides information about the safety of radio frequency (RF) emissions from cell towers on its website at: <http://www.fcc.gov/oet/rfsafety/rf-faqs.html>

Please refer to the FCC Office of Engineering and Technology Bulletin 65 for information on RF exposure guidelines. Policy questions should be directed to VZWRFCompliance@verizonwireless.com. Contact your local Verizon Wireless resource below if you have additional site-specific questions.

Contact Name	Contact Email	Contact Phone
Christopher Britt (RF Engineer)	Christopher.Britt@verizonwireless.com	317-617-8627

Sincerely,

Eric Mann

Director-System Performance

Verizon Wireless



June 30th 2014,

RE: City of Westfield Zoning Plots; Site Name: **Mulberry Farms**

To Whom It May Concern:

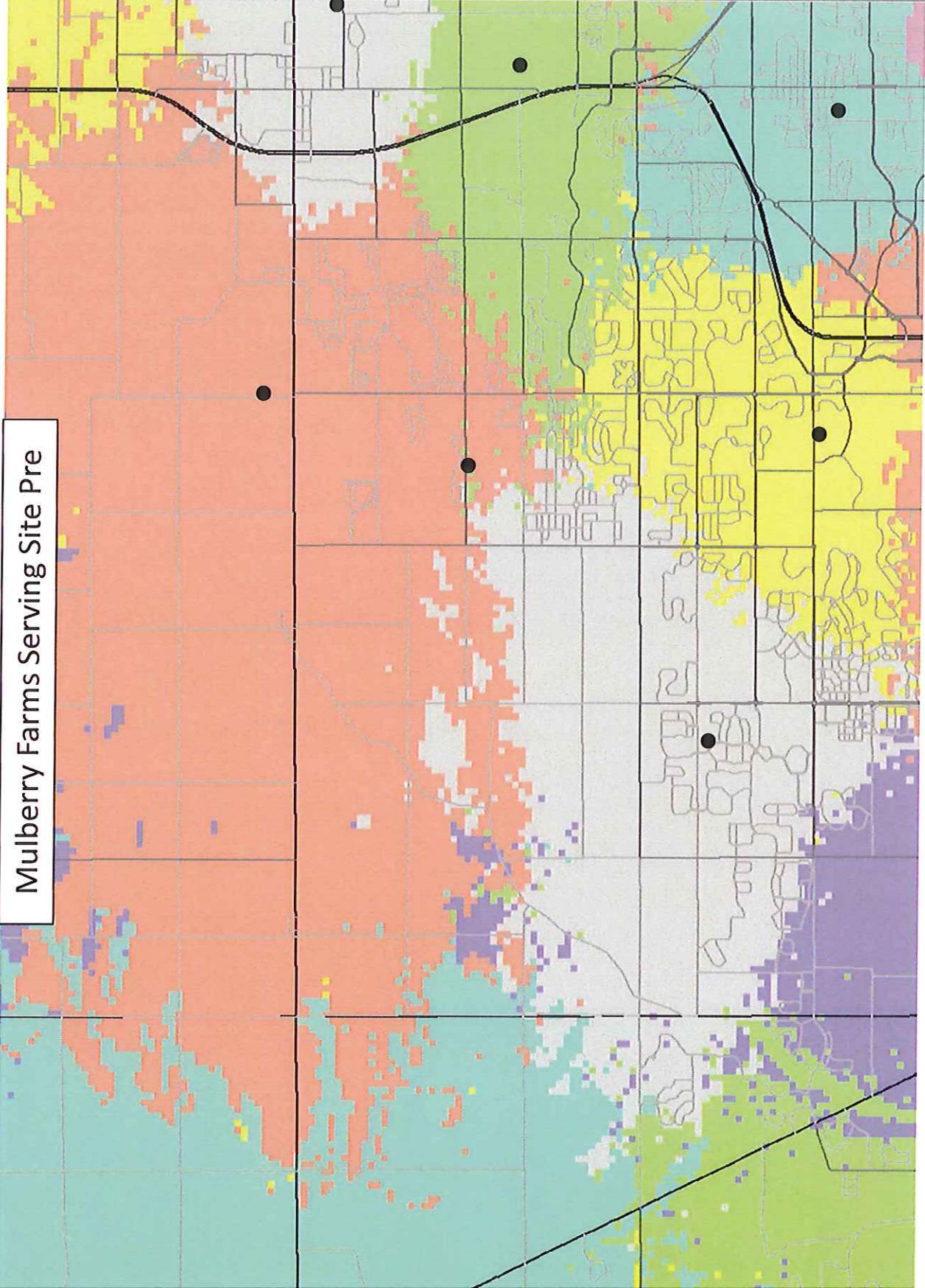
This map is not a guarantee of coverage and may contain areas with no service. This map reflects a depiction of predicted and approximate wireless coverage of the network and is intended to provide a relative comparison of coverage. The depictions of coverage do not guarantee service availability as there are many factors that can influence coverage and service availability. These factors vary from location to location and change over time. The coverage areas may include locations with limited or no coverage. Even within a coverage area shown, there are many factors, including but not limited to, usage volumes, service, outage, customer's equipment, terrain, proximity to buildings, foliage, and weather that may impact service.

The proposed site is needed to offload capacity from existing sites. This map reflects the predicted coverage area that will be offloaded from existing sites and transferred to the proposed site.

Sincerely,

Christopher Britt

Mulberry Farms Serving Site Pre



Mulberry Farms Serving Site Post

