REPORT TO THE BOARD OF APPEALS
SPECIAL EXCEPTION REQUEST DOCKET #1318

SUMMARY OF REQUEST:

Proposed Activities:	Use # 4.06.300 – Telecommunications tower more than 50 feet tall. New 195' monopole and 4' lighting rod (199' total height) within a 50' x 50' 8' high chain-link fenced compound.
Total Area of Site:	96.00 +/- acres
Total Area Disturbed:	Approximately 2,500 square feet (50' x 50' compound) as well as a 20' wide access and utility easement, which will be utilized to gain access to the site off of Port Tobacco Road (MD Route 6) via a proposed 8' wide gravel road.
Location of Site:	The location of the project site, known as "Cobb", is located at 6395 Port Tobacco Road in Nanjemoy, Maryland. The property is designated as Tax Map 52, Grid 11, Parcel 152, in the 2nd Election District and is located in the Agricultural Conservation (AC) Zone. (See Aerial, Location, and Zoning Maps).
Tax ID Information:	02-001861
Property Owner:	Mr. Jeffrey L. Chisley P.O. Box 164 Welcome, Maryland 20693
Applicant:	**InSite Towers, LLC** 301 North Fairfax Street Alexandria, Virginia 22314
Zoning:	(AC) Agricultural Conservation
Meeting Date:	June 24, 2014

SUMMARY OF ISSUES:

The following is a discussion of specific issues identified by Staff for consideration by the Board of Appeals. The minimum standards for Use # 4.06.300 are established within Article XIII §297-212 of the Charles County Zoning Ordinance. The principle issue is whether the proposed use is appropriate for the subject site, the surrounding neighborhood, and consistent with the requirements of the Zoning Ordinance.

NEED FOR SPECIAL EXCEPTION:

According to the current ordinance, the proposal as detailed in the application would require a Special Exception in the AC – Agricultural Conservation Zone in accordance with Figure IV-1 Table of Permissible Uses, Use #4.06.300 – Telecommunications tower more than 50 feet tall.

MINIMUM ZONING REQUIREMENTS:

In order to be conforming with the current ordinance, the proposed tower must be located on the property in such a way that it meets all the minimum requirements as found in the AC – Agricultural Conservation Zone; standards set forth in Article XXV, §297-415 on Special Exceptions; the applicable minimum standards in Article XIII, §297-212; and, any performance guarantees and conditions imposed by the Board.

DESCIPTION OF PROPERTY:

The location of the project site, known as "Cobb", is located at 6395 Port Tobacco Road in Nanjemoy, Maryland. The property is designated as Tax Map 52, Grid 11, Parcel 152, in the 2nd Election District and is located in the Agricultural Conservation (AC) Zone.

The subject property is approximately 96 acres +/- acres and is located in the Ironsides area of Charles County, Maryland. The proposed site is a cleared field surrounded by an established tree line with trees over 80 feet in height or higher around the perimeter of the property.

The property consists of several existing structures including a residential dwelling, a detached garage, and a barn. The barn is located 200' from the base of the proposed tower. The detached garage is located 346' away from the base of the tower and the residence is located 385' +/- away from the base of the tower. Please reference the conceptual site plan and aerial map.

InSite Towers, LLC is proposing to erect a 195' monopole telecommunications tower, with a 4' lighting rod (199' total height) on the subject property. The proposed 50' x 50' fenced compound will be made accessible by a proposed 20' wide access and utility easement, which contains an 8' wide gravel road, providing access to Port Tobacco Road (MD Route 6).

IMPACT ON SURROUNDING USES:

The character of the surrounding neighborhood consists of areas of mature heavily wooded forest cover, 80' feet tall and higher, and several residentially developed properties located in

the nearby surrounding vicinity accessed off Port Tobacco Road (MD Route 6). (See Aerial Map and Conceptual Site Plan).

The proposed 195' InSite Towers, LLC monopole tower will be located within a 50' x 50' (2,500 square foot) fenced-in area, which is proposed to be located on the 96 acre property and will be accessed via a proposed 20' wide access and utility easement onto Port Tobacco Road (MD Route 6) via the utilization of a 8' wide gravel road. The approximately 96 acre site is heavily wooded and other properties adjoining the site are also currently heavily wooded with mature forest cover.

USE SPECIFIC ANALYSIS:

The Applicant, InSite Towers, LLC, is seeking approval of a Telecommunications tower more than 50 feet tall, Use # 4.06.300. The telecommunications facility will be comprised of a 195' tall monopole tower with a 4' lighting rod (199' total) and four (4) RAD Centers at the 193', 183', 173', and 163' levels in accordance with the submitted Conceptual Site Plan. The four (4) RAD Centers will facilitate future co-location opportunities for carriers such as Verizon Wireless, T-Mobile, Sprint, and AT&T.

The telecommunications facility will be located within a fenced-in compound approximately 50' x 50' in size. The 50' x 50' compound will be fenced-in by an 8' tall chain-link fence and a 12'-0" wide access gate. The chain-link fence encircling the compound will have 3 strands of barbed wire at its peak. The facility will be accessed by authorized personnel via a proposed 20' wide access and utility easement, including an 8' wide gravel road, which accesses onto Port Tobacco Road (MD Route 6), as illustrated on the provided Conceptual Site Plan. The lease area will encompass a 100' x 100' leased area.

PRELIMINARY FINDINGS:

The request for Special Exception #1318 was evaluated based upon the standards set forth in Article XXV Section 297-415 (H) and Use #4.06.300 of the *Charles County Zoning Ordinance*. Findings of the Staff have been annotated in *italics*. This use

i. Will not be detrimental to or endanger the public health, safety, and general welfare.

Staff Finding: *Based upon the Applicant's submittal materials the proposed use will not be detrimental to or endanger the public health, safety, and general welfare as the proposed tower will be required to be designed in accordance with current building code and engineering standards, and will meet the required setbacks from property lines and dwellings as required under Section 297-212 of the Zoning Ordinance.*

Per the Applicant*: The use will be operated in accord with FCC and FAA requirements and will further provide wireless telecommunications services which will enhance the public health, safety and general welfare by providing effective communication services to an area currently*

underserved by wireless. Telecommunication wireless services has become a vital part of providing communication infrastructure for fire, police, rescue, and other emergency management agencies. The proposed Facility will certainly be available for emergency management communication services.

ii. Is a Permissible Special Exception in the Zone.

The subject property is Zoned AC, Agricultural Conservation, and the requested use of a telecommunications tower more than 50 feet tall (Use # 4.06.300) is permitted by Special Exception in the AC, Agricultural Conservation, Zone.

iii. Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

Staff Finding: *Based upon the Applicant's submittal materials it appears that the proposed tower will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood. Little to no impact is envisioned to be imposed upon the residencies / properties neighboring the proposed tower.*

Per the Applicant*: The Facility is to be located within a very small portion of a very large property, will be screened by significant woods, and is remote from adjoining properties and development. The Facility is passive, which means it will automatically operate without daily visitors. The Facility will be visited approximately four (4) times per year by cell site technicians driving a small SUV or pick-up truck type vehicle.*

iv. Complies with the Standards and Requirements set forth in Article XIII.

Staff Finding: *The proposed use complies with the Standards and Requirements set forth in Article XIII for this use.*

v. Will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors, dust or glare.

Staff Finding: *Based upon the Applicant's submittal materials the proposed use will not cause an impact on traffic nor cause objectionable noise, type of physical activity, fumes, odors, dust or glare. Once construction is complete the site will un-manned except for a routine service/inspection visit by authorized personnel, in a non-commercial vehicle, approximately four (4) times per year.*

Per the Applicant*: The Facility will generate very little traffic (i.e. approx.. 4 visits per year), make virtually no noise, and generate no fumes, odors, dust, or glare. The Property is large and buffered by woods, and the Facility will be far removed and screened from other properties. The closest*

property lines to the Facility are 457' (NW), 732' (E), and 1,511' (SW). See the Site Plan p.C-2 of Exhibit A.

vi. Will provide adequate utilities, water, sewer or septic systems, access roads, storm drainage, and/or necessary public facilities and improvements. If a request requires an Adequate Public Facilities Review by the Charles County Planning Commission, such review shall be made a condition of the granting of the Special Exception by the Board.

Staff Finding: *The 50' x 50' facility compound will be accessed via a proposed 20' wide access and utility easement, containing an 8' wide gravel road with access onto Port Tobacco Road (MD Route 6).*

Per the Applicant: *The Facility is unmanned and does not require water, sewer, or septic system. Electricity is already provided to the property and will be extended to serve the Facility.*

vii. Will provide adequate ingress and egress and be so designed as to minimize traffic congestion on the public streets.

Staff Finding: *The proposed telecommunications cell tower site will be required to possess adequate ingress and egress on-site. Ingress and egress to the 50' x 50' facility compound will occur via the proposed 20' wide access and utility easement containing an 8' wide gravel road, which accesses onto Port Tobacco Road (MD Route 6), illustrated on the Conceptual Site Plan.*

Adequate ingress and egress to the site was reviewed by County staff members for compliance with Transportation related requirements pertaining to the access point onto Ripley Road. At time of future Site Development Plan review applicable requirements associated with safe ingress and engress onto Port Tobacco Road (MD Route 6) will be confirmed prior to approval.

Per the Applicant*: Once construction is complete, the unmanned Facility will generate approximately 4 visits per year by a technician in a typical sized pick-up truck or SUV. The existing driveway off of Port Tobacco Road will be utilized as the access road. See the Site Plan at p.C-2 of Exhibit A.*

viii. Is in accordance with the objectives of the Charles County Comprehensive Plan.

Staff Finding: *Community Planning staff members reviewed the proposed use for compliance with the Comprehensive Plan's goals and objectives and found no non-conforming issues in which to comment on. The proposal*

complies with the Comprehensive Plan. The Applicant additionally provided their rationale for how they feel they are meeting objectives of the Comprehensive Plan within their Statement of Justification included within the Staff Report materials.

Per the Applicant: *The proposal is consistent with the objectives of the Comprehensive Plan. The property is within the Agricultural Conservation District and the prime objective of the Comprehensive Plan is to accommodate agricultural use and to not allow additional unplanned residential development (Chapter 3, p. 3-15). In furtherance of that objective, the Comprehensive Plan supports creating efforts to economically support preservation of farmland, (Chapter 9, sections 9-7). The Facility will provide economic support to the retention of farm property without seeking residential development. Also, the telecommunications facility will provide emergency and non-emergency wireless broadband service to areas of the County not presently served by broadband and enhanced services. The Comprehensive Plan objective in Chapter 4 is to enhance the broadband service for all citizens.*

In the Charles County recommended 2013 updates to the Comprehensive Plan, the need for reliable broadband was used as one of the main factors in stimulating and supporting economic development and growth in the County. One part of the potential broadband network is the use of wireless 3G and 4G provided through wireless carriers such as AT&T and Verizon Wireless. The Tri-County Council also conducted a Southern Maryland Broadband Study which determined that the only viable way to provide broadband to remote areas is through wireless services.

ix. Conforms to the Applicable Regulations of the zone in which it is located and to the Special Requirements established for the specific use.

Staff Finding: *The proposal conforms to the applicable regulations of the AC, Agricultural Conservation Zone and other special requirements established for the specific use.*

Per the Applicant: *The Site Plan on p. C-2 attached as Exhibit A demonstrates that the required setbacks for a telecommunications facility in an AC zone has been met therefore avoiding the need for a variance from the Zoning Ordinance regulations. Conformance with the applicable zoning requirements is further discussed in subsequent sections of this report.*

The request for Special Exception #1318 was evaluated based upon the standards set forth in Article XIII Section 297-212 and Use #4.06.300 of the *Charles County Zoning Ordinance*. Findings of the Staff have been annotated in *italics*. This use

A. All structures shall be located at least 200 feet from an existing dwelling or residential zone.

   Staff Finding: *Compliance with this requirement is verified on the Conceptual Site Plan. No existing residential dwellings on-site, or surrounding the site, are located less than 200' feet from the structure. The existing residential dwelling on-site is located 385' +/- away from the base of the tower. Confirmation of these distances will be verified at time of future Site Development Plan review and approval.*

   Per the Applicant*: The Site Plan on p. C-2 attached as Exhibit A highlights that the Facility will meet and exceed those required setbacks. The closest property lines to the Facility are 457' (NW), 732' (E), and 1,511 (SW).*

B. A minimum ten-foot landscape strip will be around all property lines exterior to any fence or wall.

   Staff Finding: *The minimum ten-foot landscaping strip will be provided around the 50' x 50' fenced compound, as illustrated on Sheet C-3 of the Conceptual Site Plan. The specific plant species and their quantities will be verified at time of future Site Development Plan application. If the Board so chooses they can specify the use of evergreens, etc. by way of a condition of approval.*

   Per the Applicant*: The Site Plan on p. C-2 attached at Exhibit A highlight that the Facility will meet and exceed this standard. In addition, the site currently has a mature stand of trees and vegetation that will provide adequate screening.*

C. Any proposed tower will have a setback of one foot from all property lines for every foot of height of the tower. Any broadcasting tower lawfully existing prior to the effective date of this chapter shall be exempt from the setback limitations imposed by this subsection and may be continued, structurally altered, reconstructed or enlarged, provided that no structural change, repair, addition, alteration or reconstruction shall result in increasing the height of such tower above the then-existing structurally designed height.

   Staff Finding: *Per the Applicant's submitted Conceptual Site Plan this setback requirement have been satisfied. The proposed tower height is 195', with a 4' lightning rod (199' total). The closest adjacent property lines are 457' (NW), 732' (E), and 1,511 (SW). All property line distances are well in access of the 199' total height of the tower, which includes the 4' lightning rod. Confirmation of these distances will be verified at time of future Site Development Plan review and approval.*

Per the Applicant: *The Site Plan p. C-2 attached at Exhibit A highlights that the Facility will meet and exceed this standard.*

D. The application submitted by the applicant to the Board of Appeals shall include the following:

(1) A system design plan that shall include, at a minimum, radio frequency parameters, tower height, number and location of antennas on the tower, radio frequency output, effective radiated power and azimuth antenna type.

Staff Finding: *This information has been provided within the Applicant's submittal materials.*

Per the Applicant: *The system design plan is attached hereto and incorporated herein as Exhibit D. The system design plan was developed by analyzing and evaluating existing wireless services of Verizon Wireless and AT&T for tower and antenna applications in Charles County and by analyzing and evaluating the FCC's database along with other information available to InSite's radio frequency engineers. The system design plans for Verizon and AT&T established a clear need for new tower sites. Based on this need, InSite Towers has calculated the location of new tower locations in Charles County. The proposed Facility located at 6395 Port Tobacco Road will fulfill this need.*

(2) Coverage map of the area to be served by the proposed tower.

Staff Finding: *The requested "Before" and "After" coverage (propagation) maps have been provided within the Applicant's submittal materials. These "Before" and "After" coverage maps are included within the Staff Report materials for your reference.*

Per the Applicant: *"Before and After" radio frequency propagation maps model AT&T's coverage are attached as Exhibit E-1. "Before and After" radio frequency propagation maps model Verizon Wireless coverage and are attached as Exhibit E-2 and E-3. "Before" and "After" radio frequency propagation maps model T-Mobile coverage and are attached as Exhibit E-4. "Before" and "After" radio frequency propagation maps model Sprint coverage and are attached Exhibit E-5.*

(3) Coverage map showing coverage available under existing towers, towers proposed to be constructed for the county's public communication system and other appropriate structures.

Staff Finding: *The requested coverage maps have been provided within the Applicant's submittal materials.*

Per the Applicant: *There are no existing towers, viable structures, or proposed towers in the area for wireless carriers to enhance their existing coverage without the need for new structures.*

(4) An evaluation of the tower's relationship to other antenna sites, existing buildings taller than 50 feet and communications towers and water tanks within ½ mile of a proposed tower which is less than 150 feet tall and within one mile of a proposed tower which is greater than 150 feet tall.

Staff Finding: *Per the RCC Consultant, Mr. Gary M. Whitley, "InSite Towers, LLC has sufficiently searched the FCC database, and other commercial databases, and performed a physical search of the area for existing towers for co-location of future cellular carriers. RCC concurs that there is no suitable communications structures within two miles of the proposed tower".*

Per the Applicant: *Several methods and resources were consulted to determine if there were any structures 50 feet and taller within the required Charles County Zoning Ordinance parameters. These include the FCC database, antenna and tower websites and a physical examination of the area. No such antenna sites, buildings taller than 50 feet or water tanks are located within the Search Area for the facility. Attached is a map that identifies all existing structures taller than 50' and all water tanks 150' within 1 mile of the proposed Facility. A Map that illustrates the location of all Existing Structures within two miles of the Facility is attached hereto and incorporated as Exhibit F.*

E. Co-location.

(1) The applicant for a new communications tower shall demonstrate to the Board of Appeals that co-location on existing towers or other appropriate structures is not feasible. Feasibility shall be demonstrated by an analysis and explanation prepared by the applicant which identifies all reasonable, technically feasible, alternative locations and/or facilities which would provide the proposed communication service and a structural analysis indicating that no existing or proposed tower can be structurally modified to accommodate the applicant's use.

Staff Finding: *Per the RCC Consultant, Mr. Gary M. Whitley, "InSite Towers, LLC has sufficiently searched the FCC database, and other commercial databases, and performed a physical search of the area for existing towers for co-location of future cellular carriers. RCC concurs that there is no suitable communications structures within two miles of the proposed tower".*

Per the Applicant: *InSite strives to minimize the number, size, and adverse impacts from new telecommunications facilities. InSite knows that any wireless service provider would rather co-locate onto an existing structure if one were available. InSite analyzed all potential structures within a two mile radius and determined and confirmed that there are no existing or planned structures within two miles of the proposed Facility that would be capable of fulfilling wireless carrier needs. Please see the Map that illustrates the location of all Existing Structures within 2 miles of the*

Facility attached as Exhibit F.

(2) The intention of the alternatives analysis is to present alternative strategies which would minimize the number, size and adverse environmental and public safety impacts of facilities necessary to provide the needed services to the county. The analysis shall address the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Physical constraints and economic feasibility may be considered. Approval of the project is subject to the board making a finding that the proposed site results in fewer or less severe environmental impacts than any feasible alternative site.

Staff Finding: *Per the RCC Consultant, Mr. Gary M. Whitley, "InSite Towers, LLC has sufficiently searched the FCC database, and other commercial databases, and performed a physical search of the area for existing towers for co-location of future cellular carriers. RCC concurs that there is no suitable communications structures within two miles of the proposed tower". In Site Towers, LLC seeks to find co-location opportunities, where available and viable, in accordance with County policy, in order to avoid the proliferation of towers.*

Per the Applicant*: There were no suitable structures within 2 miles of the Proposed Facility and no structural analyses were completed.*

(3) Co-location is not deemed possible if the Board finds that:

(a) Planned equipment would exceed the structural capacity of existing and approved towers or towers proposed to be constructed for the county's public communications system considering existing and planned use of those towers, and such towers cannot be structurally modified or reinforced to accommodate planned or equivalent equipment at a reasonable cost;

Per the Applicant: *There were no suitable structures within 2 miles of the Proposed Facility and no structural analyses were completed.*

(b) Planned equipment will cause interference with other existing or planned equipment for the tower, and the interference cannot be prevented at a reasonable cost;

Per the Applicant*: The wireless service providers who will operate at the Facility are licensed by the FCC and all equipment will meet the applicable standards and requirements. The wireless service provider's equipment operate on licenses spectrum (licensed from the FCC) and will not interfere with emergency communications.*

(c) Existing, approved towers, or towers proposed to be constructed for the county's public communications system do not have space on which

planned equipment can be placed so as to function effectively; or

Per the Applicant: *There were no suitable structures within 3 miles of the proposed Facility. The proposed Facility will provide space for at least four wireless service providers, as well as the County's public communications system.*

(d) Existing, approved towers, towers proposed to be constructed for the county's public communications system will not provide effective signal coverage sought by the applicant.

Staff Finding: *There are no existing or proposed towers, or existing structures from which the desired coverage can be provided. Per the RCC Consultant, Mr. Gary M. Whitley, "InSite Towers, LLC has sufficiently searched the FCC database, and other commercial data bases, and performed a physical search of the area for existing towers for co-location of future cellular carriers. RCC concurs that there is no suitable communications structures within two miles of the proposed tower".*

Per the Applicant: *InSite checked with in the County and confirmed there are no proposed or approved towers that would negate the need for the proposed Facility. In addition, there are not existing towers within two miles as shown on the Map attached as Exhibit F.*

F. The tower shall be constructed so as to provide adequate capacity for future co-location of other commercial and/or government-operated antennas, unless the applicant demonstrates why such design is not economically or physically feasible. The system design plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users.

Staff Finding: *The proposed monopole tower satisfies this requirement as it is designed to accommodate future co-location opportunities for other carriers. In total InSite Towers, LLC intends to provide four (4) RAD centers* at the 193', 183', 173', and 163' levels in accordance with the submitted Conceptual Site Plan. *Per the RCC Consultant, Gary Whitley, "InSite has provided engineering drawings that demonstrate the structure will be designed to accommodate future co-location of at least four carriers. InSite will be required to provide a structural analysis with PE seal in order to obtain a building permit. The engineering drawings indicate that the fenced compound facility will be constructed with sufficient space to accommodate additional carriers for future co-locations. The proposed compound can effectively support four carriers within the land lease. InSite confirms that a structural report will be provided during the permit stage of construction. RCC will review the report to verify that the tower is designed to support co-location of four carriers".*

Per the Applicant: *The proposed tower is designed for a minimum of four wireless providers and the compound can accommodate the equipment for a minimum of four wireless providers.*

G. The applicant shall submit a master plan for its proposed communications network for the entire county. The Department of Planning and Growth Management shall adopt a policy outlining the submittal requirements for such a master plan.

Staff Finding:

The Applicant provided acceptable responses to the current Charles County Standard Operating Procedure (SOP) criteria for a Master Plan to Staff's satisfaction. InSite Towers, LLC has provided a copy of the lease agreement between themselves and the landowner Mr. Jeffrey L. Chisley.

InSite Towers, LLC has contacted and has been having (and continues to have) on-going discussions with wireless service providers. InSite will submit evidence of these communications as the County deems necessary. InSite will not pursue a building permit for the tower unless it has a lease with a carrier in place. The proposed tower will accommodate four (4) co-locations at the 193', 183', 173' and 163' levels.

InSite Towers, LLC has not submitted any letters of intent from interested cellular carriers regarding this site; however it is important to note that the tower will only be constructed once a carrier/service provider has made a commitment and leased space on the tower. InSite cannot and will not construct a tower, even after Special Exception approval, until it has a lease with a wireless service provider (i.e. AT&T, Sprint, T-Mobile, Verizon, etc.).

The tower will be designed to meet or exceed all Federal, State, and local building code requirements, including those relating to strength and wind load, as well as all FCC and ANSI standards. Additionally, as part of the SOP criteria before and after photo-simulations of the proposed tower have been provided from locations surrounding the site and are included within the Staff Report materials for the Board's consideration.

In accordance with the Charles County Master Plan requirements for Towers more than 50 feet tall, the tower must be occupied with a carrier/service provider within 6 months of the approval date of the site development plan, and provide Charles County with verification of such or the approval is null and void.

***Per the Applicant**: InSite analyzed the existing network of emergency and non-emergency commercial wireless services and has provided a master plan of their proposed network of towers. The network will serve the needs of wireless providers such as Verizon Wireless, T-Mobile, and AT&T. The existing coverage for these carriers can be found on the before and after coverage propagation maps at Exhibits E-1 thru E-5.*

H. The applicant shall demonstrate that the proposed tower will not interfere with existing lines of communication used for public safety purposes.

Staff Finding: *Per the RCC Consultant, Mr. Gary M. Whitley, "InSite Towers has included a statement that the proposed tower is not in proximity to any such lines of communication. RCC reviewed the location of the County's existing Microwave Network infrastructure, and concurs that that the proposed tower will not block or interfere with this network.*

There are no confirmed cellular carrier antenna installations being proposed at this time. In order to determine the potential for radio frequency interference, specifically information is required pertaining to the design of the antenna system, frequencies being used, and transmit power. Therefore RCC cannot assess the impact of the interference with public safety. However, the permitting process requires each cellular carrier to demonstrate that their communications system will not cause interference with public safety lines of communications.

InSite acknowledges that upon acquiring a tenant carrier, they will provide all necessary information to demonstrate that the tenant will not cause interference with public safety communications. RCC can review the analysis during the permitting process".

Per the Applicant: *The tower is not in proximity to any such lines of communication.*

I. No signals, lights or illumination shall be permitted on the tower unless required by the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA) or the County.

Staff Finding: *The FAA requires that any structures over 200-ft in height or located within 2 miles of an airport are required to have an Aeronautical Study (performed by the FAA), and are required to be registered with the FCC. The proposed tower is less than 200-ft in height, and is not within 2 miles of a registered airport.*

Per the RCC Consultant, Gary Whitley, "Exhibit G of InSite Tower's initial submittal contains a letter from Wireless Applications Corp. The results of an airspace analysis shows that FAA Form 7460-1 for determination of non-obstruction is not required. The letter states that MD DOT filing was completed on 9/20/2013.

Per the Applicant: *The Facility will not have any lights or illumination unless otherwise required by the FAA or FCC. The FAA Report confirms there will be no lighting and is attached hereto and incorporated herein as Exhibit G.*

J. No commercial advertising or other signage shall be permitted on the tower.

Staff Finding: *InSite Towers, LLC agrees to comply with this requirement. Only appropriate danger / warning signage, required by law, are permissible.*

Per the Applicant*: The proposed Facility will not include any advertising or other signage other than safety notice signs as required by the FCC. Therefore, the proposed Facility will comply with this requirement.*

K. The applicant shall demonstrate that a tower shall not unreasonably interfere with the view of, or from, sites of significant public interest such as a public park, a state-designated scenic road, a structure on the historic sites surveyor or an historic district.

Staff Finding: *Within the Applicant's submittal documents they have provided Before-and-After Photo-simulations of the proposed site from surrounding locations to illustrate the proposed 195' monopole tower's visibility once erected from several properties surrounding the site. These Photo-simulations are included within the Staff Report materials.*

Per the Applicant*: InSite's A&E firm, KCI, conducted a visual impact survey and flew a large red balloon filled with helium at the proposed tower height from the exact location of the proposed monopole. KCI notified the Planning staff prior to the test, and used the Planning staff's Section 106 letter as a guideline for location of certain photos. While the large red balloon was in the air, KCI drove throughout the general area and evaluated and documented the potential and actual visibility of the large red balloon from nearly every road within a 1-2 mile radius of the Property. KCI took photos of the large red balloon (when visible) and photos toward the location of the large red balloon (when not visible). The visual impact survey and photo-simulations indicate that there will be little to no visual impact to the surrounding area or to any sensitive property (i.e. historically significant.*

The Facility is designed to have virtually no impact on the viewshed. The Property is large and remote and screened by trees. InSite consulted with the Maryland Historic Trust and other resources, and identified resources within 1.1 miles of the proposed Facility. A Map of Historical Resources attached hereto and incorporated herein as Exhibit H.

The topographic features of the Property and surrounding area, combined with the dense and mature forests and trees, indicate there will be little to no adverse impact to any historic resource. InSite will be conducting a visual impact survey and taking photographs from the surrounding area and providing the photos and/or photo simulations to the County prior to the hearing. In addition, InSite confirmed that there are no public parks or state designated scenic roads within one mile of the proposed Facility.

Charles County Community Planning staff members reviewed the proposed tower location and offered the following summary:

- *The recent balloon test conducted by InSite Towers, LLC demonstrated that the proposed tower will be visible from St. Ignatius of Loyola Church Cemetery (CH-97) and Ironsides House (CH-145). While the tower will be visible from these cultural resources, the impact is low.*

- *The proposed tower will also be visible from various points along Port Tobacco Road, which is part of the Religious Freedom National Scenic Byway. Therefore, Community Planning Staff does not support the proposed location for the tower without mitigation efforts.*

L. All obsolete or unused facilities shall be removed within 12 months of cessation of operations without cost to the county.

Staff Finding: *The abandonment of towers, as induced by obsolescence, results in potential adverse effects to the public. They are unsafe to the public, due to cessation of maintenance and surveillance, and contribute to adverse visual impact, thereby resulting in incompatibility with surrounding communities and landscapes. InSite Towers, LLC agrees to comply with this requirement.*

M. No tower or fixture attached thereto shall be taller than 300 feet above existing grade.

Staff Finding: *InSite Towers, LLC agrees to comply with this requirement. The proposed tower will possess a height of 199' (195' with the 4' lightning rod).*

Per the Applicant: *The proposed Facility will include a monopole that is 199' tall, including a 4' lightning rod. Please see the Elevation drawing on p. C-3 of Exhibit A.*

ENVIRONMENTAL IMPACTS:

Staff Finding: *At this time InSite Towers, LLC has not submitted NEPA compliance documentation for the Board's reference. They do however state that they are in the process of completing it as required. Typically this documentation has been provided concurrently with special exception use approval by the Board of Appeals. Staff proposes to make the submittal of this regulatory documentation a condition of approval to be attached to the future Site Development Plan and building permit applications to ensure that compliance has occurred.*

STAFF RECOMMENDATIONS:

Planning Staff recommends that Docket #1318 be approved with the following **Conditions of Approval**, for the purpose of adequately and completely addressing the requirements of the *Zoning Ordinance*:

1) The Applicant will provide a structural analysis with the final building permit application to confirm that the proposed tower structure is capable of supporting the proposed and speculative antenna loads. RCC will review the design at that time, prior to issuance of the building permit. The analysis will comply with TIA-222-G (Industry Standard for Towers) and validate that the design of the tower will have the structural integrity to support co-location of four (4) cellular carrier arrays.

2) InSite Towers, LLC will be required to provide an Interference Analysis prior to building permit approval in order to demonstrate that the tower or antenna system(s) will not cause RF interference with Charles County Public Safety Communications. Any interference will be resolved at the sole expense of the Applicant.

3) All work at the site access to Port Tobacco Road (Maryland Route 6) is subject to the requirements of the State Highway Administration via approval of an Access Permit. Approval of the Site Development Plan is contingent upon approval of an Access Permit from the State Highway Administration.

4) InSite Towers, LLC will be required to provide confirmation of NEPA compliance requirements and will comply with NEPA regulations at time of Site Development Plan application and prior to final building permit approval.

5) In accordance with the Charles County Master Plan requirements for Towers more than 50 feet tall, the tower must be occupied with a carrier/service provider within 6 months of the approval date of the Site Development Plan, and provide Charles County with verification of such or the approval is null and void.

6) The approved tower, antennas and ground support equipment, or future installation of any additional ground equipment and/or antennas, shall require the approval by the Department of Planning and Growth Management of a Site Development Plan and Building Permit, consistent with the requirements of the *Charles County Zoning Ordinance* and other applicable County regulations, and demonstrating continued conformance with the approved Special Exception.

7) Any future changes in height to the tower shall require approval, by the Board of Appeals, of a Modification to this Special Exception.

8) The approval and continued effect of this Special Exception is contingent upon compliance with all applicable County, State, and Federal regulations, including, but not limited to, the following local regulations: Charles County Zoning Ordinance, Grading and Sediment Control Ordinance, Road Ordinance, Storm Water Management Ordinance, Forest Conservation Ordinance, and Floodplain Ordinance.

Prepared By: Kirby R. Blass

Kirby R. Blass, Planner II

Date: June 24th, 2014

Attachments & Exhibits