VARIANCE STAFF REPORT

Docket Number: 2018-V-12

Public Hearing Date: August 9, 2018

Pre-Application Conference: October 13, 2017

Applicants/Property Owners:
Skees Development Group, LLC
1550 Westen Street
Bowling Green, KY 42104

Location of Property:
Skees Road

Current Zoning:
AG (Agriculture)

PVA Parcel Number:
031A-09 (portion)

Existing Land Use:
Agricultural

Property Size:
2.5 +/- Acres

Traffic Considerations:
The property has currently has access from Skees Road, a County maintained rural local roadway with fifty (50) feet of right-of-way and eleven (11) feet of pavement width. It may have future frontage on Round Bale Avenue, which would connect to the adjacent Stuart Farm subdivision, subject to Planning Commission consideration on July 19th.

Description of Request:

The applicants are requesting two variances:

1) A variance of 43% (125.9 feet) from the minimum required setback of 60% (176.5 feet) of the overall height of the tower, for the tower to be located 50.6 feet from the nearest property line.

2) A variance of 900 feet from the minimum required setback of 1000 feet from any residential district, structure or use, for the tower to be located 100’ from the nearest residential property.

ZONING ORDINANCE REFERENCE

The provisions of the Zoning Ordinance from which these variances are requested are referenced in **Article 5, Section 5.**

Section 5.2.6.E.5.a(1)(a) – All self-supporting and guyed telecommunication towers shall be set back from the property line a minimum of 60 percent of the overall height of the tower.

Section 5.2.6.E.5.a(1)(b) – All telecommunications towers shall be set back from any residential district, structure or use a minimum of 1,000 feet.

VARIANCE FINDINGS

KRS 100.243 - Findings necessary for granting a variance:

(1) Before any variance is granted, the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow for an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:

(a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

(b) The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

(c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

(2) The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

The applicants submitted the following narrative to address items a, b and c, listed above:

"It is the applicant's desire to develop a residential subdivision on the subject property. In order to maintain the current allowable tower height on behalf of the owners of the existing tower, and to allow for the maximum number of buildable lots within the development, a variance from the required tower setback distance is necessary. Whereas the owners of the existing tower currently benefit from a blanket easement over the property, it will be necessary that they are agreeable to the proposed development. The requested variance is required in exchange for their cooperation and agreement to the proposed development."

STAFF ANALYSIS

As stated previously, the applicants are requesting two variances for the existing telecommunications tower to address the required setback for the overall height of the tower to the nearest property line and proximity to the nearest residential property. The applicants have also submitted an application to be heard before the Planning Commission on July 19th to rezone the 31.02 +/- acres on which the cell tower is currently located from AG (Agriculture) to RS-1C (Single Family Residential). If the rezoning application is approved, a property line will be created 50.6 feet from the tower and the nearest residential property would be located 100 feet from the tower. The location of the existing tower, proposed lot configuration and nearest future residential use are shown on the attached Variance exhibit.

MOTIONS

MOTION TO **APPROVE** THE VARIANCE REQUEST:

I make the motion to **approve** the request for variances on Skees Road, Docket number **2018-V-12**:

1) A variance of 43% (125.9 feet) from the minimum required setback of 60% (176.5 feet) of the overall height of the tower, for the tower to be located 50.6 feet from the nearest property line.
2) A variance of 900 feet from the minimum required setback of 1000 feet from any residential district, structure or use, for the tower to be located 100' from the nearest residential property.

The testimony presented in this public hearing has shown that the granting of this variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

OR

MOTION TO **DENY** THE VARIANCE REQUEST:

I make the motion to **deny** the request for variances on Skees Road, Docket number **2018-V-12**:

1) A variance of 43% (125.9 feet) from the minimum required setback of 60% (176.5 feet) of the overall height of the tower, for the tower to be located 50.6 feet from the nearest property line.
2) A variance of 900 feet from the minimum required setback of 1000 feet from any residential district, structure or use, for the tower to be located 100' from the nearest residential property.

Sufficient testimony has **not** been presented in this public hearing that the requested variances meet the criteria set forth in KRS 100.243, "Findings necessary for granting a variance," as:

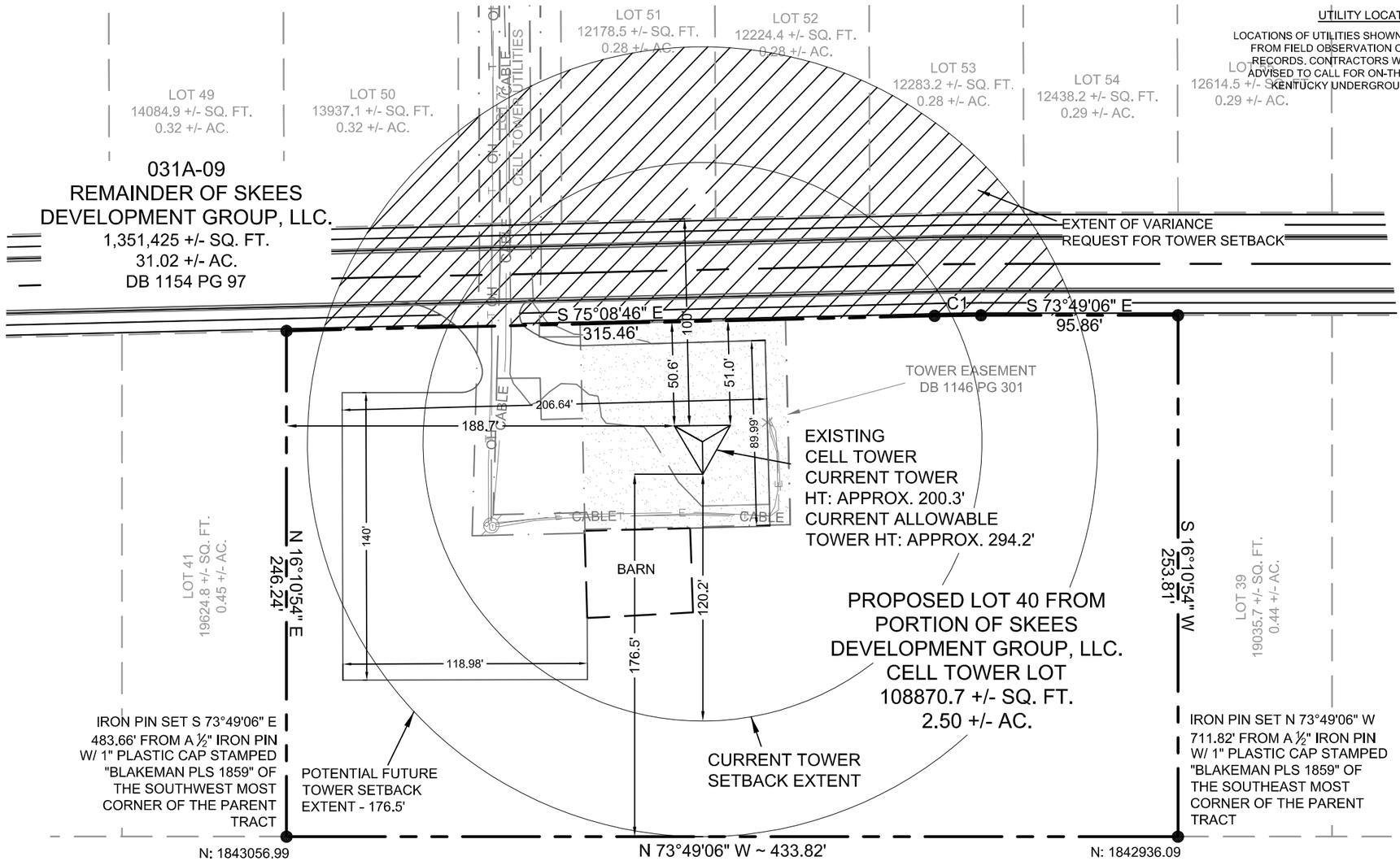
(Choose one or more appropriate finding(s) and specific items)

- **will** adversely affect the public health, safety or welfare.
- **will** alter the essential character of the general vicinity.
- **will** cause a hazard or a nuisance to the public
- **will** allow an unreasonable circumvention of the requirements of the zoning regulations.

The proposed development plan does **not** show that the requested variances arise from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

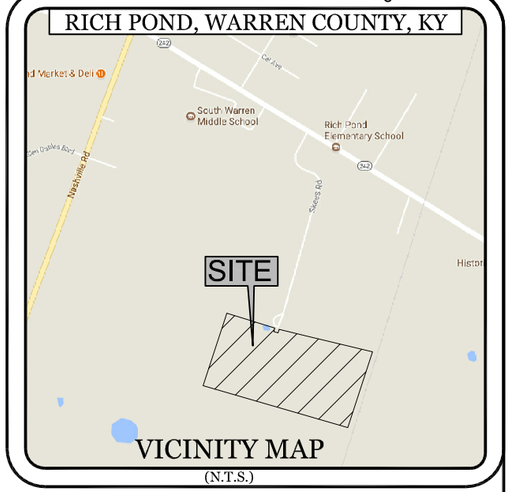
The proposed development plan does **not** show that the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;

The circumstances are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.



UTILITY LOCATION DISCLAIMER

LOCATIONS OF UTILITIES SHOWN HEREON HAVE BEEN DETERMINED FROM FIELD OBSERVATION OR REVIEW OF UTILITY COMPANY RECORDS. CONTRACTORS WHO PERFORM EXCAVATION ARE ADVISED TO CALL FOR ON-THE-GROUND LINE LOCATION FROM KENTUCKY UNDERGROUND (B.U.D.) AT 1-800-752-6007



TOTAL AREA OF SURVEY
1,351,425 +/- SQ. FT. 31.02 +/- ACRES

CLASS "A" SURVEY
URBAN OR SUBURBAN DATE OF FIELD SURVEY OCTOBER 2, 2017

CURVE	ARC LENGTH	RADIUS	CHORD LENGTH	DELTA ANGLE	CHORD BEARING
C1	22.60'	975.00'	22.59'	01°19'40"	S 74°28'56" E

VARIANCES REQUESTED	
PROVISION OF ZONING ORD. FROM WHICH VARIANCE IS REQUESTED	ARTICLE (5.2.6.E.5.a(1)(a)) USE REGULATIONS; INSTITUTIONAL AND CIVIC USE CATEGORIES; UTILITIES, BASIC; SPECIFIC USE STANDARDS; MINIMUM LOCATION STANDARDS; ALL SELF SUPPORTING TRANSMISSION TOWERS WILL BE SET BACK FROM THE PROPERTY LIEN ON WHICH IT IS LOCATED 60 PERCENT OF THE OVERALL HEIGHT OF THE TRANSMISSION TOWER.
PROVISION OF ZONING ORD. FROM WHICH VARIANCE IS REQUESTED	ARTICLE (5.2.6.E.5.a(1)(b)) USE REGULATIONS; INSTITUTIONAL AND CIVIC USE CATEGORIES; UTILITIES, BASIC; SPECIFIC USE STANDARDS; MINIMUM LOCATION STANDARDS; ALL TELECOMMUNICATION TOWERS SHALL BE SET BACK FROM ANY RESIDENTIAL DISTRICT, STRUCTURE OR USE A MINIMUM OF 1,000 FEET.
VARIANCE # 1	WE REQUEST A VARIANCE OF 43% (125.9') FROM THE MINIMUM REQUIRED TOWER SETBACK OF 60% (176.5') BASED ON CURRENT ALLOWABLE TOWER HEIGHT OF 294.2' WHICH IS CALCULATED BY MEASURING THE DISTANCE OF THE EXISTING TOWER TO THE NEAREST PROPERTY LINE (176.5'). THE RESULTING SETBACK TO THE NEAREST PROPERTY LINE WOULD BE 50.6'
VARIANCE # 2	WE REQUEST A VARIANCE OF 900' FROM THE MINIMUM REQUIRED TOWER SETBACK OF 1000' FROM ANY RESIDENTIAL DISTRICT, STRUCTURE OR USE. THIS VARIANCE REQUEST IS BASED ON THE PROPOSED REZONING AND SUBSEQUENT DEVELOPMENT OF THE SUBJECT PROPERTY INTO A RESIDENTIAL SUBDIVISION AS SHOWN ON THE CONCEPTUAL LAYOUT PLAN.

GENERAL NOTES

1. THE PURPOSE OF THIS EXHIBIT IS TO DEPICT THE DESIRED VARIANCE FOR THE SUBJECT PROPERTY AS SHOWN HEREON.
2. THE PROPERTY SHOWN HEREON IS SUBJECT TO: ANY AND ALL LEGAL EASEMENTS AND RIGHT-OF-WAYS RECORDED AND UNRECORDED, INCLUDING BUT NOT LIMITED TO THOSE SHOWN HEREON; ANY AND ALL FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
3. THE PROPERTY SHOWN HEREON DOES NOT LIE IN A FLOOD PRONE AREA ACCORDING TO (FIRM) FLOOD INSURANCE RATE MAPS FOR WARREN COUNTY, KENTUCKY. SAID AREA IS SHOWN ON MAP PARCEL NO. 21227C0295E AS DATED MAY 2, 2007.
4. THE LOCATION OF ALL UTILITIES SHOWN HEREON ARE BASED ON THE FIELD LOCATION OF FOUND VISIBLE STRUCTURES OR AS FLAGGED OR MARKED BY THEIR RESPECTIVE UTILITY COMPANIES. THERE MAY BE OTHER UNDERGROUND UTILITIES LOCATED ON THE PROPERTY SHOWN HEREON. NO GUARANTEE IS EXPRESSED OR IMPLIED TO THE ACTUAL LOCATION OF SAID UTILITIES.
5. A BOUNDARY SURVEY DOES NOT DETERMINE LAND OWNERSHIP, A PROFESSIONAL LAND SURVEYOR ONLY PROVIDES AN OPINION OF PREVIOUSLY DESCRIBED BOUNDARY LINES WHICH MAY OR MAY NOT BE UPHELD BY A COURT OF LAW. UNWRITTEN RIGHTS MAY OR MAY NOT EXIST ON SUBJECT PROPERTY.
6. THE 50' RIGHT OF WAY OF E. 10TH AVENUE AS SHOWN HEREON WAS DETERMINED FROM HISTORIC SANBORN MAPPING OF THE CITY OF BOWLING GREEN WAS CONFIRMED BY COMPARING DISTANCE MEASUREMENTS FROM THE CENTERLINE OF E. 10TH AVENUE TO THE REAR OF THE SUBJECT PROPERTY WITH RECORD DISTANCES AS SET FORTH IN THE SOURCE DEED.
7. ALL IRON PINS SET ARE 1/2" X 18" PINS SET WITH 1" YELLOW PLASTIC CAP STAMPED "B. HESTER PLS 4147" UNLESS OTHERWISE NOTED.

SURVEYOR'S CERTIFICATE

I DO HEREBY CERTIFY THAT THE URBAN SURVEY SHOWN HEREON WAS PERFORMED UNDER MY DIRECTION USING APPROPRIATE G.P.S. METHODS FOR MEASURING RECOVERED MONUMENTS AND ESTABLISHING SURVEY CONTROL AND/OR BY THE METHOD OF RANDOM TRAVERSE. CONVENTIONAL METHODS OF REDUNDANCY WERE EMPLOYED TO ENSURE THE QUALITY OF THE GPS DATA. THE UNADJUSTED MATHEMATICAL ERROR OF CLOSURE OF THE TRAVERSE AND THE THEORETICAL UNCERTAINTY OF THE CORNERS ESTABLISHED EXCEED THE SPECIFIED TOLERANCES SET FORTH BY THE COMMONWEALTH OF KENTUCKY, STANDARDS OF PRACTICE FOR PROFESSIONAL LAND SURVEYORS FOR A SURVEY OF THIS CLASS IN 201 KAR 18:150 . THE BEARINGS AND DISTANCES SHOWN HEREON HAVE NOT BEEN ADJUSTED FOR CLOSURE AND ARE BASED ON GRID NORTH AS ESTABLISHED BY KY STATE PLANE COORDINATES (SOUTH ZONE 1602, GEOID 12), TAKEN FROM STATIC GPS OBSERVATION.

_____ DATE_____
CHARLES B. HESTER PLS 4147

LEGEND

- IRON PIN FOUND (AS NOTED)
- IRON PIN SET
- PROPERTY LINE
- EASEMENT
- BUILDING SETBACK LINE
- EXISTING FENCE

0' 60' 120' 180'
GRAPHIC SCALE: 1" = 60'

PROJECT/CLIENT:

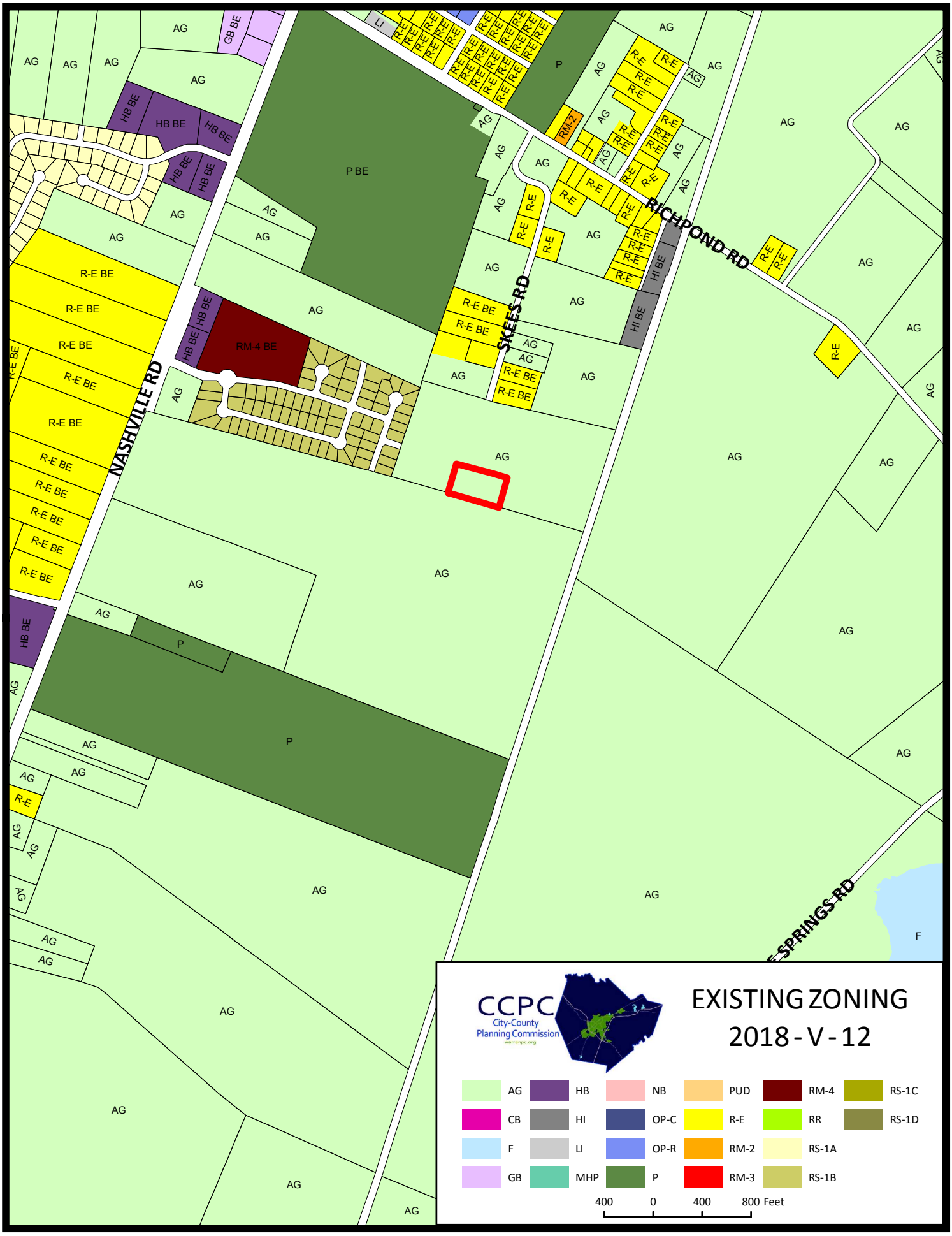
VARIANCE EXHIBIT
OF THE
SKEES DEVELOPMENT GROUP, LLC PROPERTY

SKEES DEVELOPMENT GROUP, LLC
1550 WESTEN STREET
BOWLING GREEN, KY 42104

DRAWN BY: J. HOGUE	DATE: 6-22-2018	SCALE: 1" = 60'
CHECKED BY: B. HESTER	PROJECT NUMBER:	

PREPARED BY:

ARNOLD CONSULTING ENGINEERING SERVICES, INC.
P.O. BOX 1338 BOWLING GREEN, KY 42101
PHONE (270) 780-9445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SKEES RD
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AG
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RM-4 BE
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City-County
Planning Commission
EXISTING ZONING
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PUD
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RS-1C
CB
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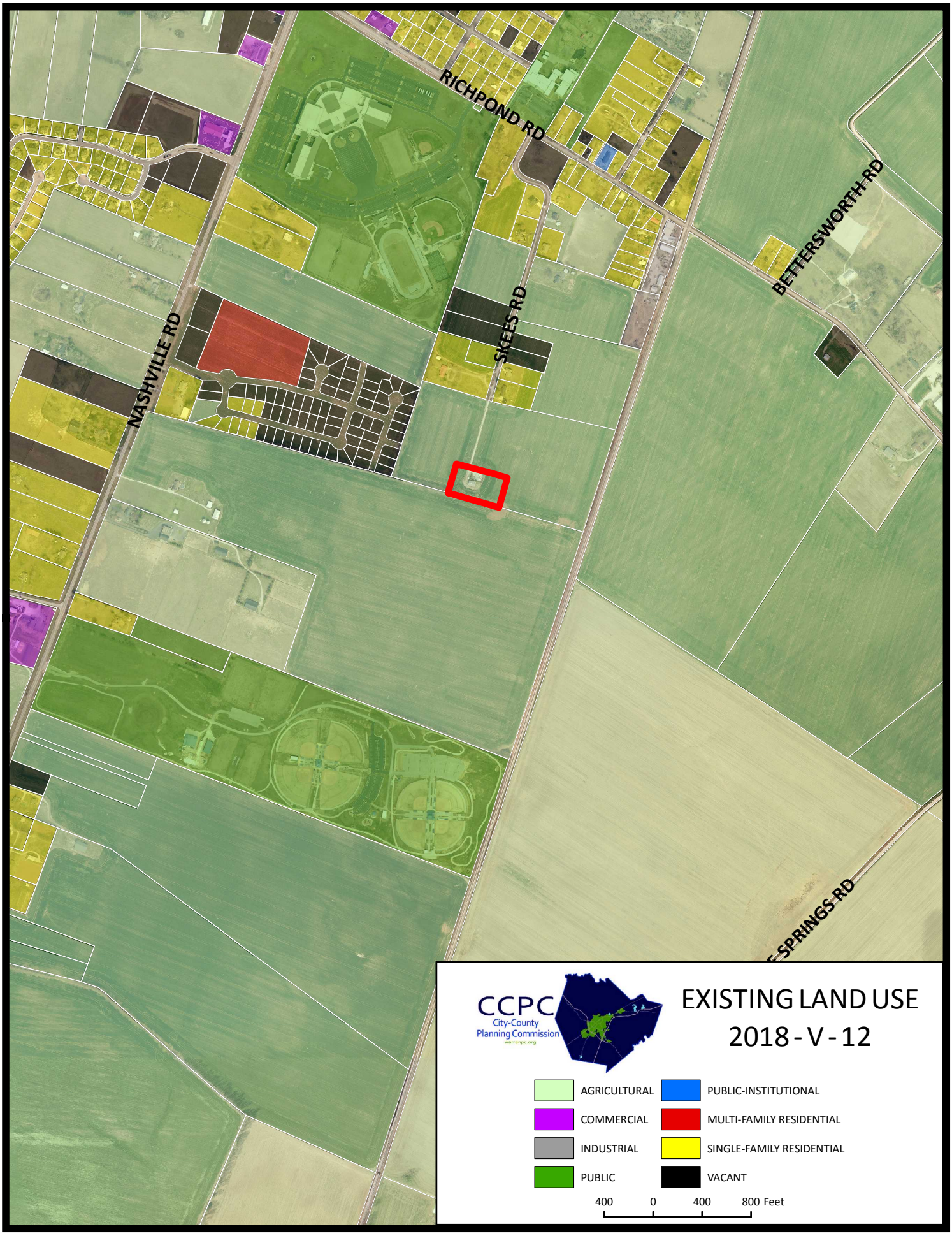
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BETTERSWORTH RD
SKEES RD
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SPRINGS RD
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EXISTING LAND USE
2018 - V - 12
AGRICULTURAL
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PUBLIC
PUBLIC-INSTITUTIONAL
MULTI-FAMILY RESIDENTIAL
SINGLE-FAMILY RESIDENTIAL
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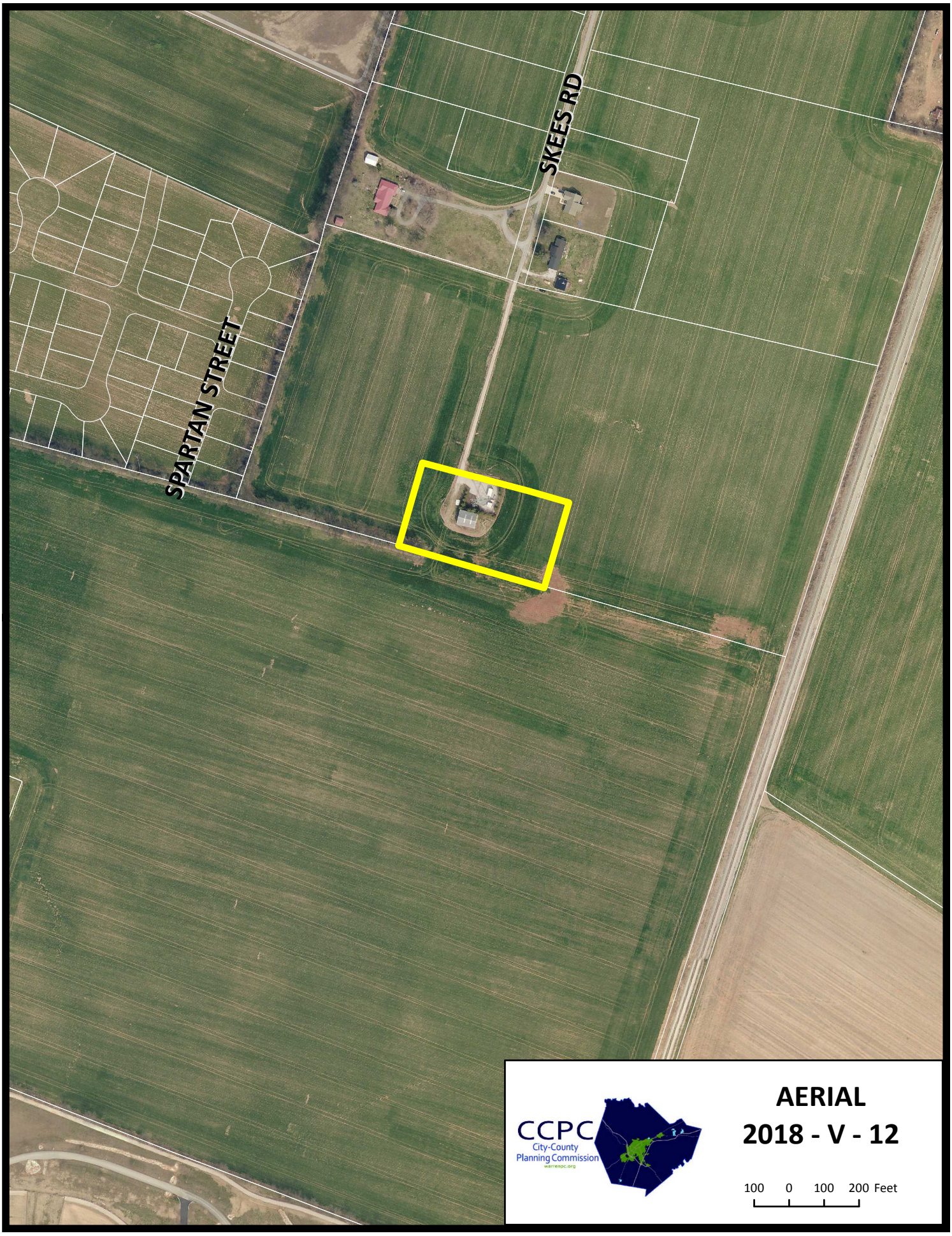
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