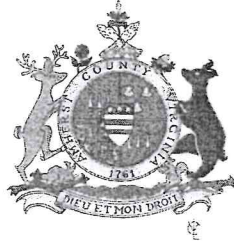


NOTICE OF MEETING

AMHERST COUNTY BOARD OF ZONING APPEALS

The Amherst County Board of Zoning Appeals will hold a public hearing on Thursday, October 13, 2011, in the Amherst County Administration Building, 153 Washington Street, Amherst, VA, at 7:00 PM on the following request. Information pertaining to the request is on file and available for public review at the Planning Department in the Amherst County Administration Building weekdays, between 8:30 AM and 5:00 PM. Accommodations for persons with a sight, speaking or hearing disability will be made by this office if notified a minimum of four working days prior to the hearing date. Telephone 434-946-9303, TDD 434-946-9335.

2011A-03 Request by Global Tower Assets, LLC, for approval of a variance from Sections 914.03(6) and 914.03(7) of the Zoning & Subdivision Ordinance to increase the maximum permitted wireless communication tower height from fifty (50) feet to one-hundred and ninety-five (195) feet and decrease the required tower setback from one-hundred and ninety-five (195) feet to sixty (60) feet, in order to construct a monopole cellular tower. The request is referenced by a site plan submitted by Velocitel, Inc., dated 9/8/11. The property is located at the intersection of Cedar Gate Road and Iron Bridge Road in Monroe, VA, within the Norfolk Southern Railroad property right-of-way.



Amherst County
Department of Planning and Zoning
Matthew D. Rowe, Assistant Zoning Administrator / Planner

Variance Review
Staff Report
September 20, 2011

RE: Case #: 2011A-03
Tax Parcel #: Norfolk Southern Railroad Property (Tax Map 137)
Magisterial District: Elon
Lot Size: N/A (Lease Area: 0.1626 Acres)
Zoning: M-1 Industrial District

Applicant:
Global Tower Assets, LLC
750 Park of Commerce Blvd.
Boca Raton, FL 33487

Property Owner:
Southern Railroad Company
C/O Norfolk Southern Railroad
1200 Peachtree Street
Atlanta, GA 30309

Request:
A variance request from Sections 914.03(6) and 914.03(7) of the Zoning & Subdivision Ordinance to: 1.) Increase the maximum permitted wireless communication tower height from fifty (50) feet to one-hundred and ninety-five (195) feet and; 2.) Decrease the required tower setback from one-hundred and ninety-five (195) feet to sixty (60) feet, in order to construct a monopole cellular tower.

Summary:

In accordance with Section 1006 of the Zoning & Subdivision Ordinance of Amherst County, Global Tower Assets, LLC, has submitted a formal variance application to request a variance from Sections 914.03(6) and 914.03(7) of the Ordinance. The variance request is to: 1.) Increase the maximum permitted wireless communication tower height from fifty (50) feet to one-hundred and ninety-five (195) feet and; 2.) Decrease the required tower setback from one-hundred and ninety-five (195) feet to sixty (60) feet, in order to construct a monopole cellular tower located on railroad property within the M-1 Industrial District. The tower would consist of a one-hundred and ninety-five (195) foot tall monopole wireless communication tower with an attached four (4) foot tall lightning rod; resulting in an aggregate tower/structure height of one-hundred and ninety-nine (199) feet. The proposed 0.1626 acre leased area is located within the Norfolk Southern Railroad property at the intersection of Cedar Gate Road and Iron Bridge Road. The applicant conducted a public information session for adjacent and nearby property owners on October 11, 2011.

Staff Comment(s):

It is important to note, that the variance request before the Board of Zoning Appeals is regarding waiving the height and setback of the proposed tower only. If the variance is approved, the applicant will still be subject to the Major Site Plan requirements, as given in Section 1103.03 of the Ordinance.

In addition, 47 U.S.C. § 322(c)(7)(B) subparagraph (iv) of the Telecommunications Act of 1996, preempts localities from regulating the placement, construction and modification of wireless facilities on the basis of environmental effects of radio frequency emissions if those facilities comply with the Federal Communications Commission's regulations concerning emissions. **The proposed facility will comply with FCC regulations.**

Procedure for Review:

Under §15.2-2309 of the Code of Virginia, 1950, as amended, and Sec. 1402.03 (b.) of the County Code, no variance shall be authorized by the Board unless it finds:

- a. That the strict application of the ordinance would produce undue hardship.

The property in question is zoned M-1 Industrial District, which permits "by-right" wireless communication facilities as provided in Section 914. The proposed lease area is located close to the corner of the Cedar Gate Road and Iron Bridge Road intersection, and restricts the tower setback to the State's right-of-way. However, the applicant does have the ability to construct a fifty (50) foot tall tower "by-right" within the lease area without the granting of a variance.

- b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity.

The County's wireless communication facilities Ordinance applies to all parcels and zoning districts within the County. All proposed and existing wireless communication facilities within the County must meet the requirements of the wireless communication facilities Ordinance.

- c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

The property/lease area is located at the intersection of Cedar Gate Road and Iron Bridge Road on an industrial zoned right-of-way/property. The proposed project area is located in a twenty (20) to thirty (30) foot deep basin and is over seven-hundred and fifty (750) feet from the nearest residence. Surrounding properties are zoned A-1 Agricultural Residential and R-2 General Residential, and are comprised of single family dwellings, pasture land, and mixed hardwood forest. Staff believes that the granting of the variance request will not change the character of the district nor be of substantial detriment to adjacent property.

Additional Considerations:

1. It is important to note, that § 15.2-2309 of the Code of Virginia, 1950, as amended, also declares that the requesting property owner must have "*acquired the property in good faith*";

As shown on the submitted site plan, the applicant has yet to formally lease the proposed project site. However, since both, the proposed area does not contain an outstanding violation and the variance request is not for an existing structure in violation, the property must be considered to have been acquired in good faith. (Per *Zoning Law for the Virginia Zoning Official*; Zoning Officials Certification Test Preparation Program; written by Greg Kamptner, Deputy County Attorney, County of Albermarle; July 29, 2010)

2. And that the hardship must be caused by “*reason of the exceptional narrowness, shallowness, size or shape*” of the parcel (including topographic conditions).

The property and proposed lease area is located in a twenty (20) to thirty (30) foot deep basin, and is affected by two State road right-of-ways. A “by-right” fifty (50) foot tall tower would only be approximately twenty (20) feet above the surrounding land elevation. In addition, due to the narrowness and shape of the lot, the setback for the proposed one-hundred and ninety-five (195) foot tall tower would not be met; however, a “by-right” fifty (50) foot tall tower would meet the minimum tower setback from applicable property lines and right-of-ways.

In addition, no variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of general regulation to be adopted as an amendment to the ordinance.

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

Should the Board of Zoning Appeals approve this request; Staff recommends the following conditions:

1. The Variance is granted for the lease area and property identified as “Southern Railroad Company Property Located South and East of the Intersection of Cedar Gate Road and Iron Bridge Road, Found within the Elon Magisterial District, in Monroe, Virginia, on County Tax Map Grid 137”.
2. The Variance is granted to: 1.) Permit a one-hundred and ninety-five (195) foot tower; and 2.) Allow said tower to have a minimum setback of sixty (60) feet.
3. The tower and its associated facilities shall be located as given in the “Site Plan” for Global Tower Assets, LLC (Global Tower Partners), certified by William Panek and dated September 8, 2011.
4. The granting of this variance shall not be construed to vest in the applicant a right to the variance until all necessary local, State and Federal plan application, review and approval processes have been completed.
5. This approval may be revoked by the County of Amherst or its designated agent for failure by the applicant or its assigns to comply with any of the listed conditions or any provision of Federal, State or local regulations.

Attached:
Notice to Adjacent Property Owners
Tax Parcel Map
Site Plan
Variance Request Application

ZONING PUBLIC NOTIFICATION

Case: 2011A-03

Board/Commission: Planning Commission
Board of Zoning Appeals

Meeting Date: October 06, 2011 - Planning Commission
Public Hearing Date: October 13, 2011 - Board of Zoning Appeals

Applicant: Global Tower Assets, LLC
750 Park of Commerce Blvd.
Boca Raton, FL 33487

Property Owner Southern Railroad Co.
C/O Norfolk Southern Railroad
1200 Peachtree St
Atlanta, GA 30309

Adjoining Property Owners:

Tax Map # 137-A-103, 104, 189A	Tax Map #137-5-1	VDOT
Norfolk Southern Railroad	Donald & Tonya Brooks	Raine Rosado
110 Franklin Rd S E	POB 1642	Location & Design
Roanoke, VA 24042	Amherst, VA 24521	4219 Campbell Ave
		Lynchburg, VA 24501
Tax Map # 137-A-92	Tax Map # 137C4-A-27	
E P Taylor	Ralph & Robin Harrison	
284 Iron Bridge Rd	217 Cedar Gate Rd	
Monroe, VA 24574	Monroe, VA 24574	
Tax Map # 137-A-93	Tax Map # 137C2-A-36	
Jeannie Lawhorne	Lawrence B & Ann Ford	
POB 384	POB 484	
Monroe, VA 24574	Monroe, VA 24574	

I hereby make affidavit that the notices of public hearing for this case as required by Section 15.2-2204 of the Code of Virginia, 1950, as amending, have been sent by first class mail to the last known address of the owners of abutting property as shown on the current real estate tax assessment books.

Stacy Skinned
Administrative Assistant
9-23-11

(Signature)
(Title)
(Date)

Signatures

The undersigned Applicant hereby affirms that all information contained herein is accurate to the best of his/her knowledge and confirms that he/she has read the Application and its Instructions and has paid all fees currently due and is aware of costs which may be assessed to Applicant related to this Application process. The undersigned Applicant (and Landowner, if applicable) also authorizes entry onto the subject property by the Zoning Administrator, Planning Director and/or PC or BZA during the normal discharge of their duties regarding the above Applicant.

Malcolm G. Roof 9/15/11
Property Owner Signature Date

Property Owner Signature Date

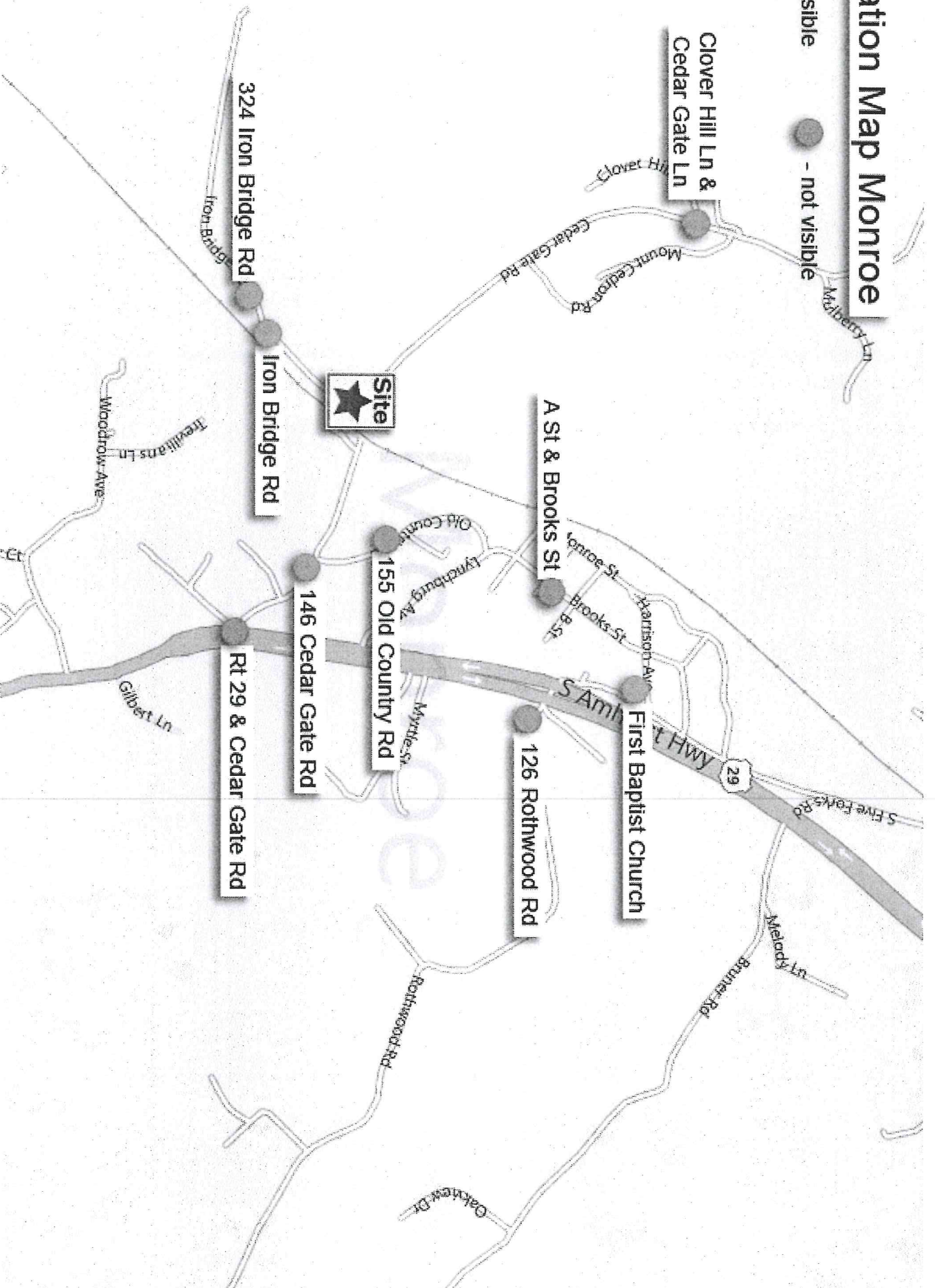
[Signature] 9/15/11
Agent Signature Date

Agent Signature Date

Location Map Monroe


● - visible

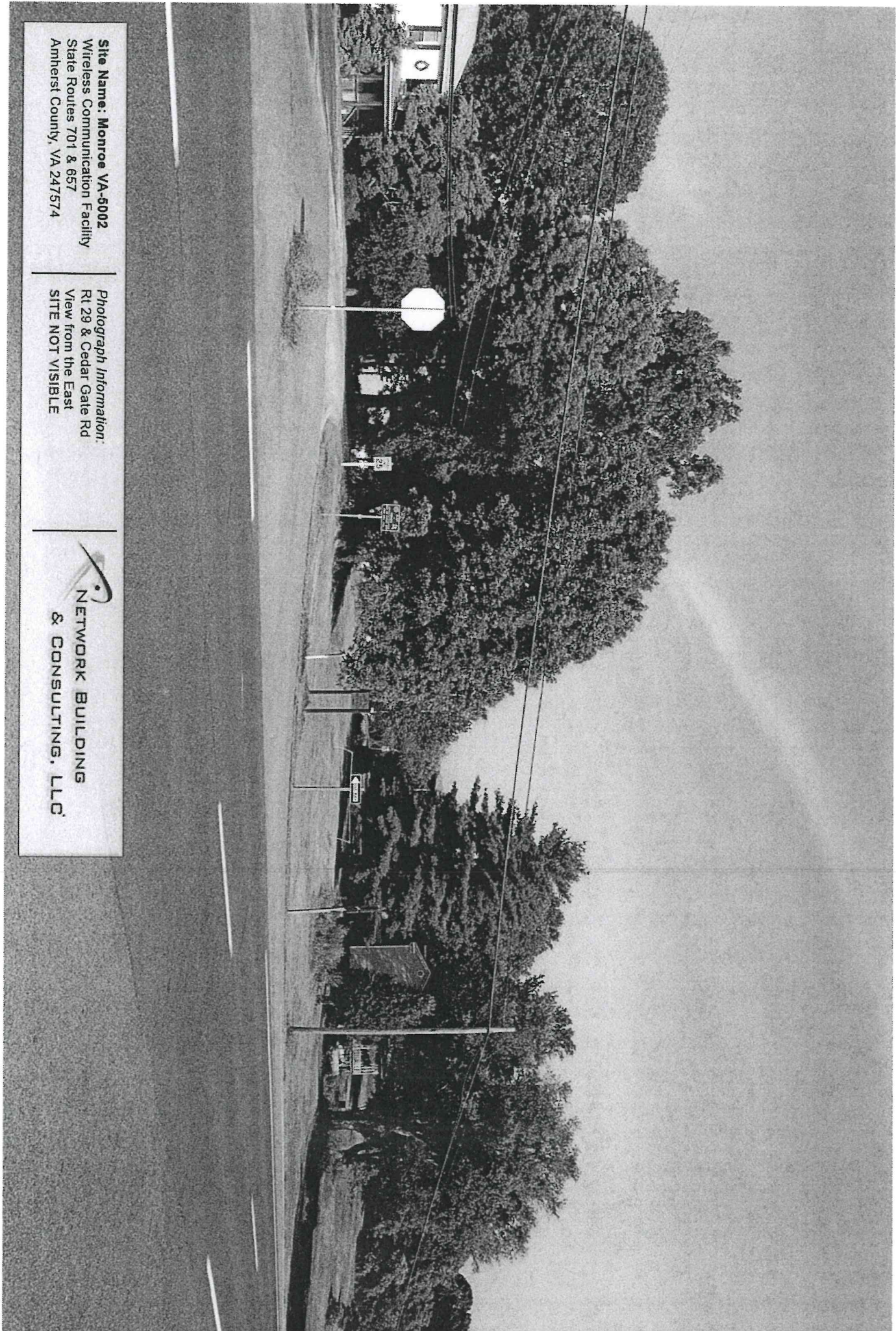
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Site Name: Monroe VA-5002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574


Photograph Information:
Rt 29 & Cedar Gate Rd
View from the East
SITE NOT VISIBLE

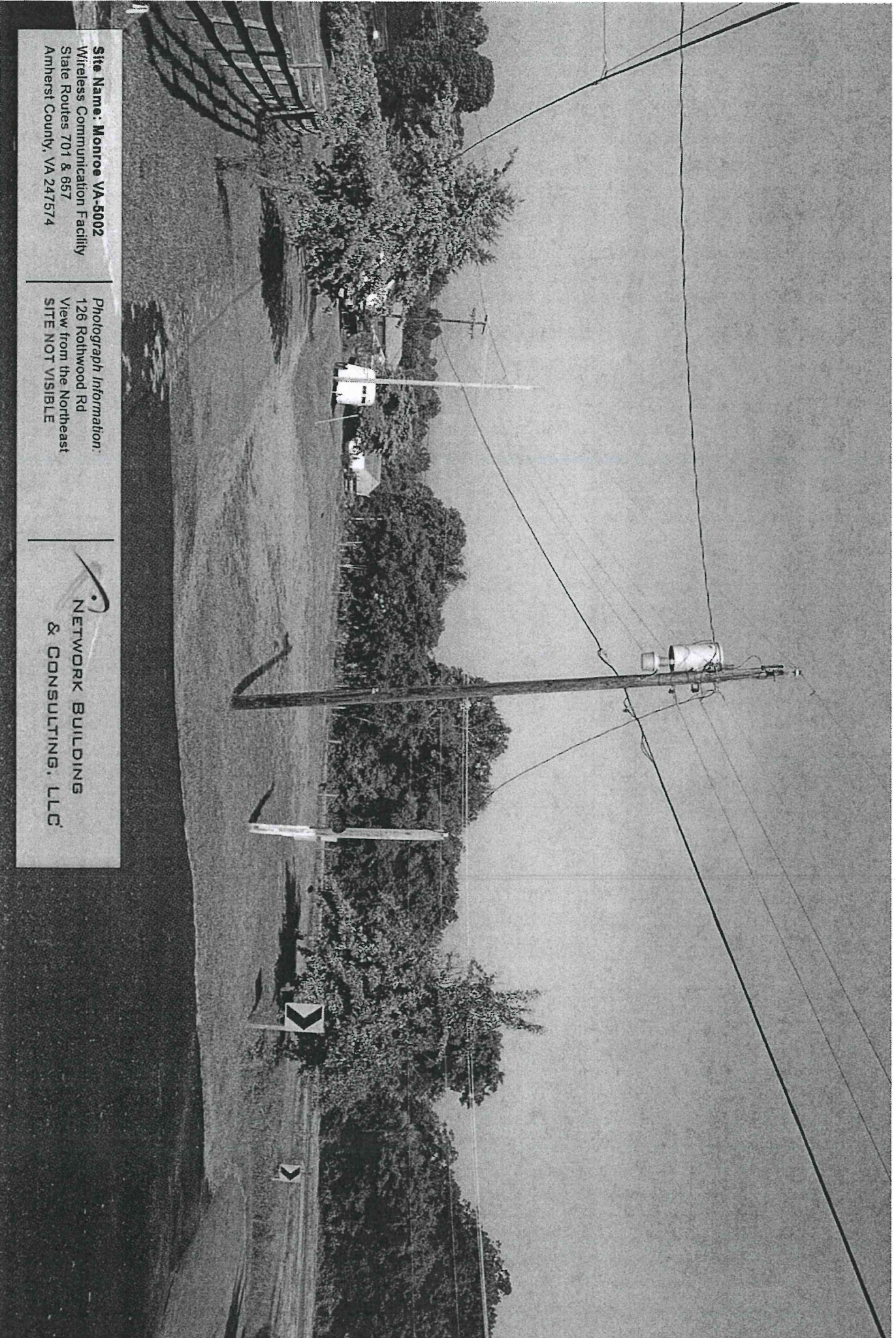

NETWORK BUILDING
& CONSULTING, LLC



Site Name: Monroe VA-5002
Wireless Communication Facility
State Routes 701 & 667
Amherst County, VA 247574


Photograph Information:
126 Rothwood Rd
View from the Northeast
SITE NOT VISIBLE

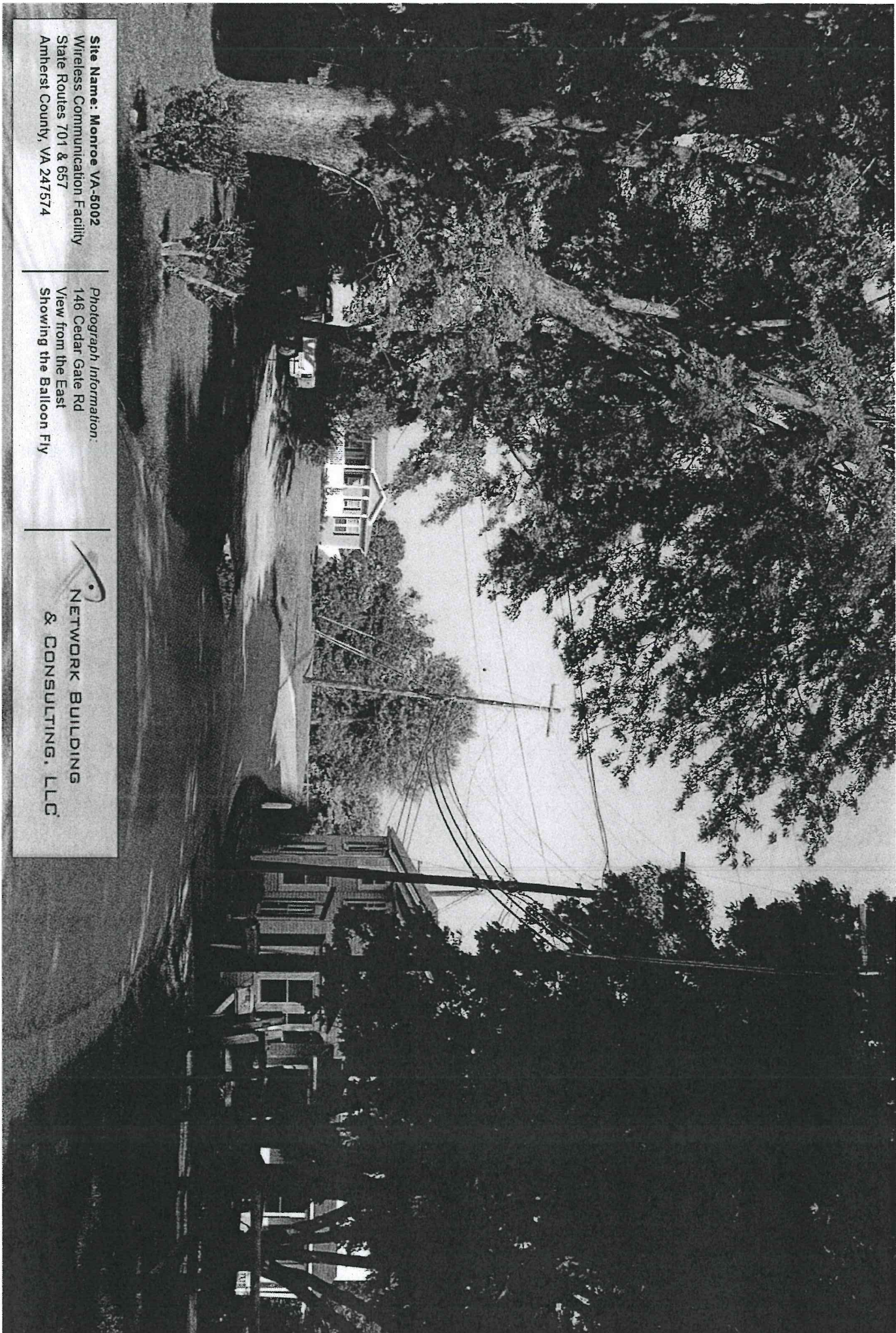

**NETWORK BUILDING
& CONSULTING, LLC**



Site Name: Monroe VA-5002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574


Photograph Information:
146 Cedar Gate Rd
View from the East
Showing the Balloon Fly

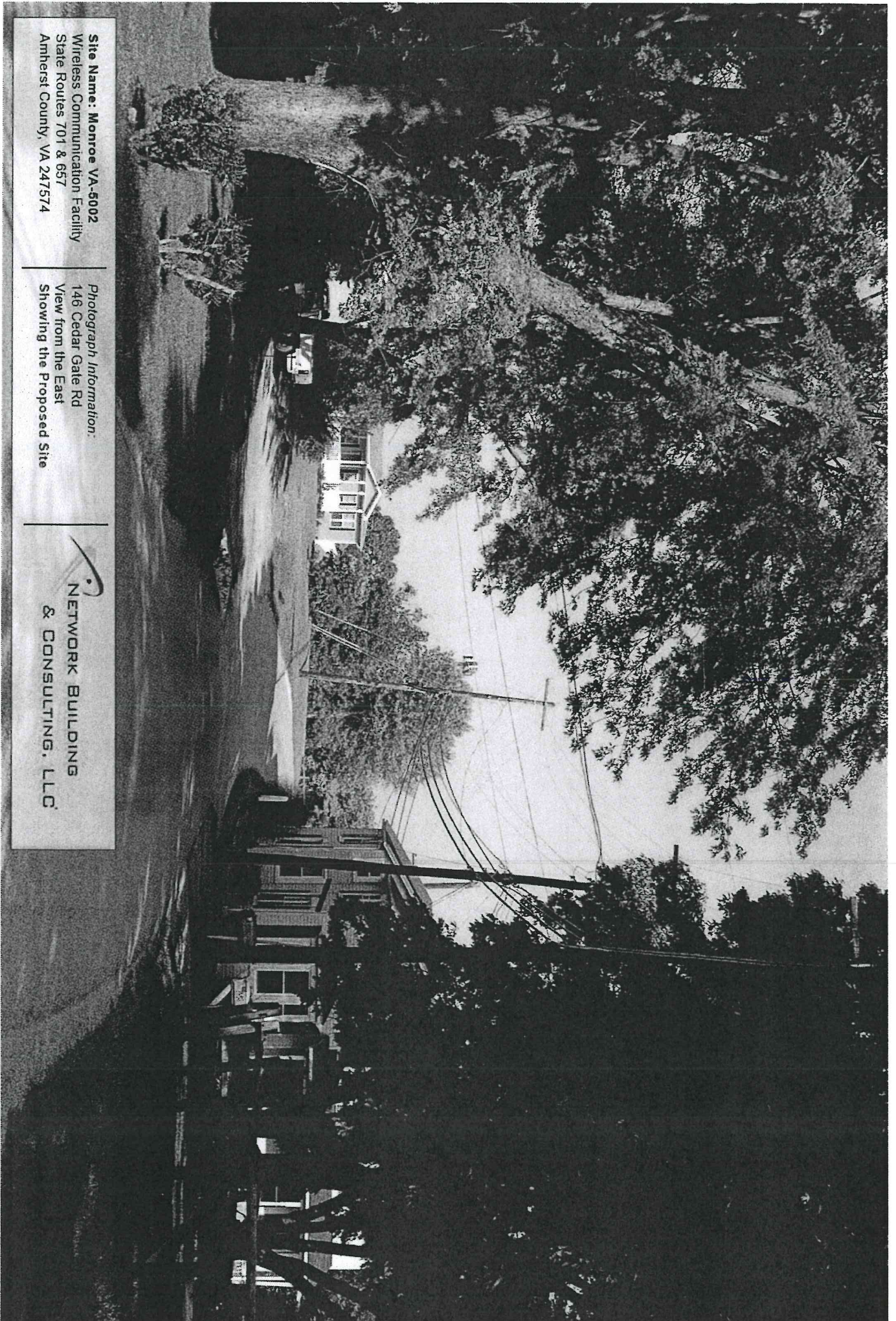

NETWORK BUILDING
& CONSULTING, LLC



Site Name: Monroe VA-5002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574


Photograph Information:
146 Cedar Gate Rd
View from the East
Showing the Proposed Site

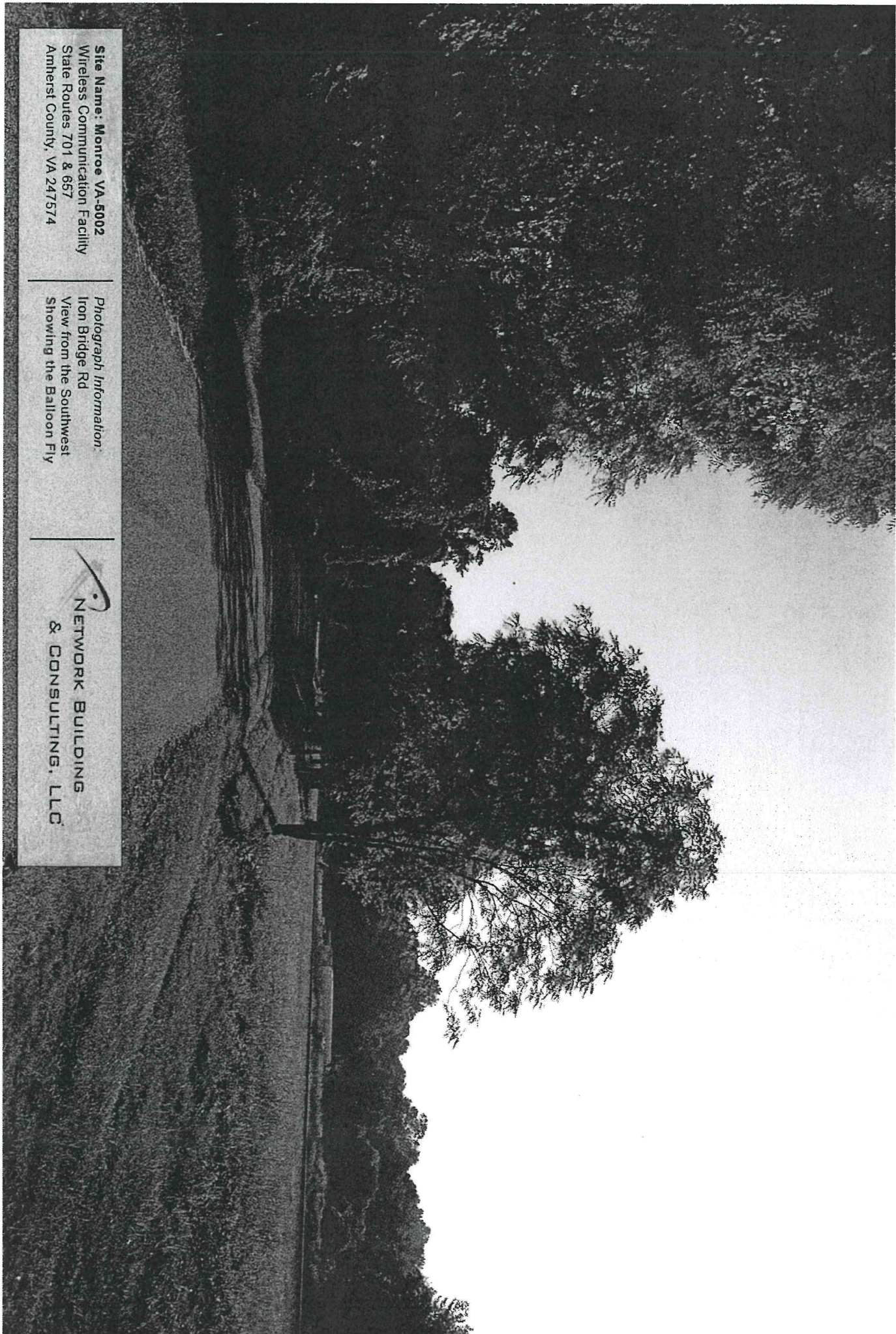

**NETWORK BUILDING
& CONSULTING, LLC**



Site Name: Monroe VA-5002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574


Photograph Information:
Iron Bridge Rd
View from the Southwest
Showing the Balloon Fly

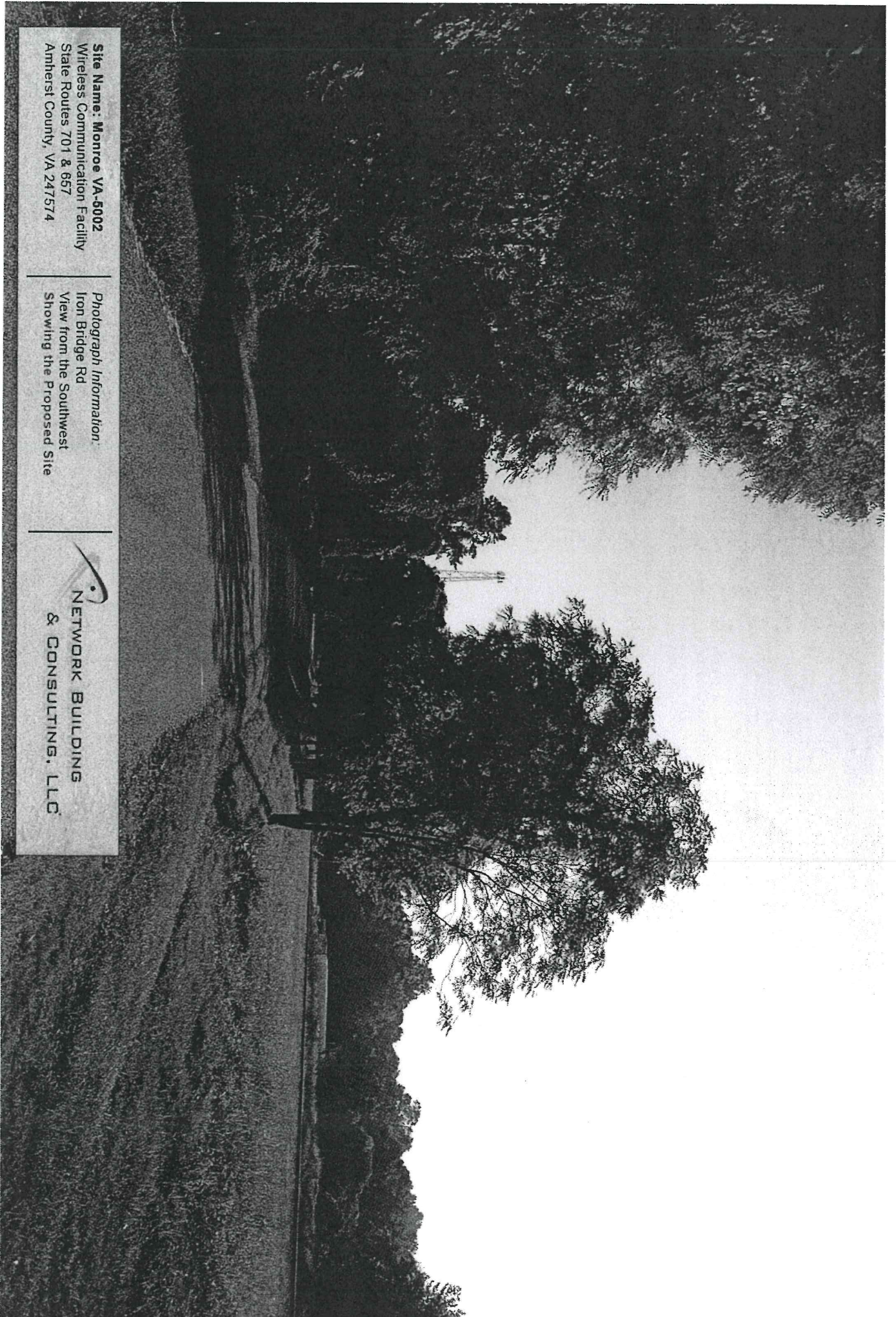

NETWORK BUILDING
& CONSULTING, LLC



Site Name: Monroe VA-5002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574

Photograph Information:
Iron Bridge Rd
View from the Southwest
Showing the Proposed Site


NETWORK BUILDING
& CONSULTING, LLC



Site Name: Monroe VA-6002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574


Photograph Information:
324 Iron Bridge Rd
View from the Southwest
Showing the Balloon Fly


**NETWORK BUILDING
& CONSULTING, LLC**

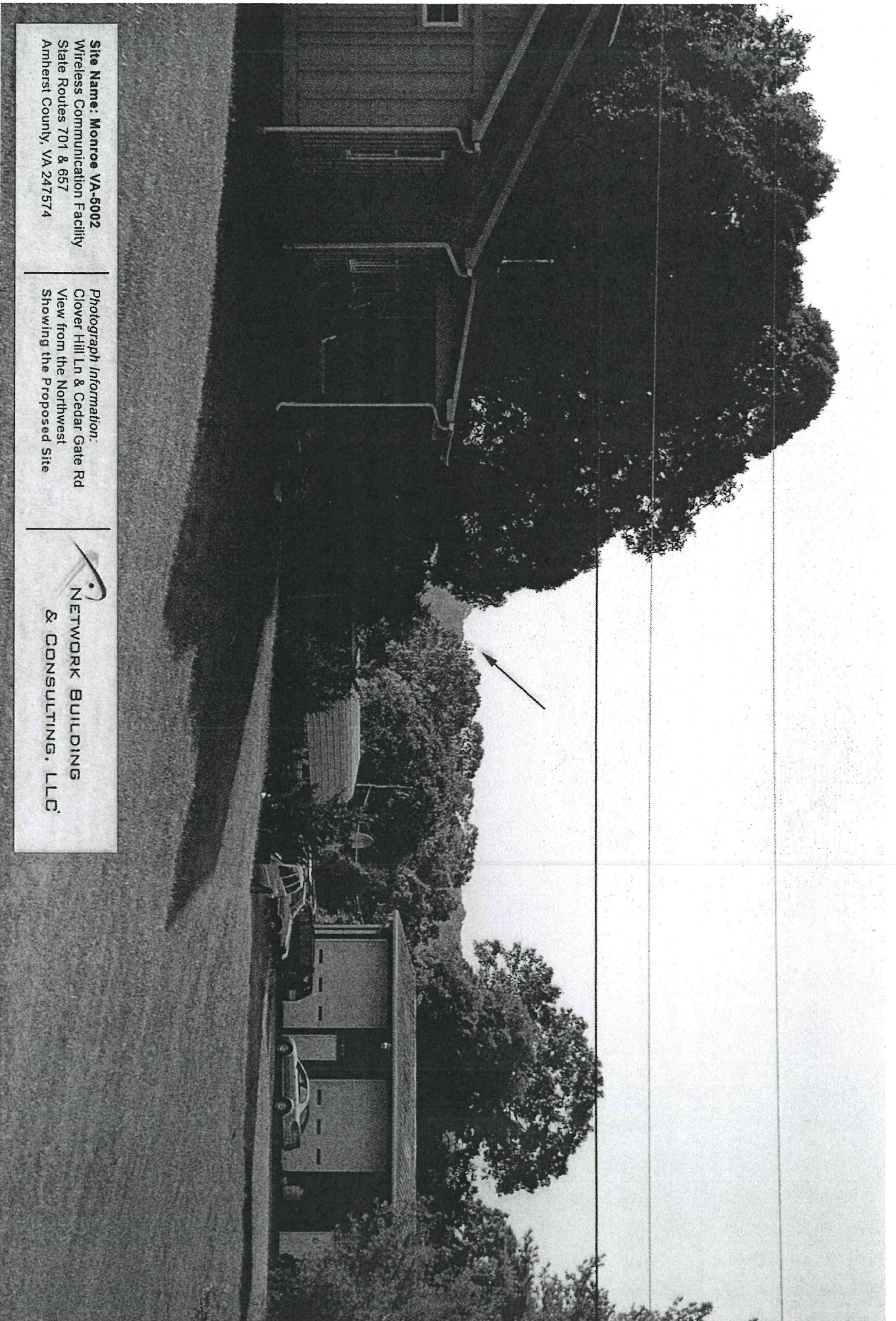


Site Name: Monroe VA-6002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574

Photograph Information:
324 Iron Bridge Rd
View from the Southwest
Showing the Proposed Site



**NETWORK BUILDING
& CONSULTING, LLC**

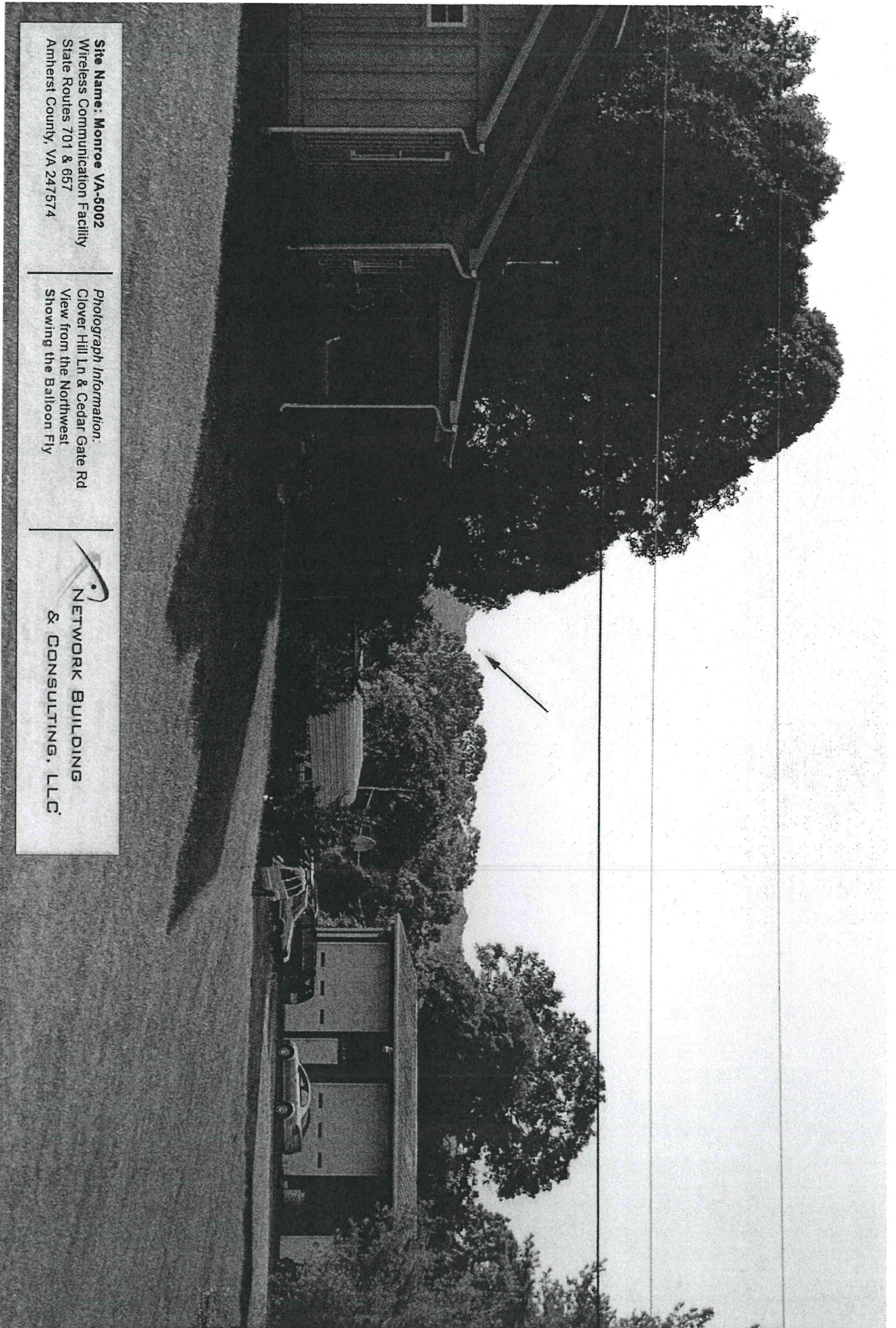




Site Name: Monroe VA-6002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574


Photograph Information:
Clover Hill Ln & Cedar Gate Rd
View from the Northwest
Showing the Proposed Site


NETWORK BUILDING
& CONSULTING, LLC




Site Name: Monroe VA-5002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574

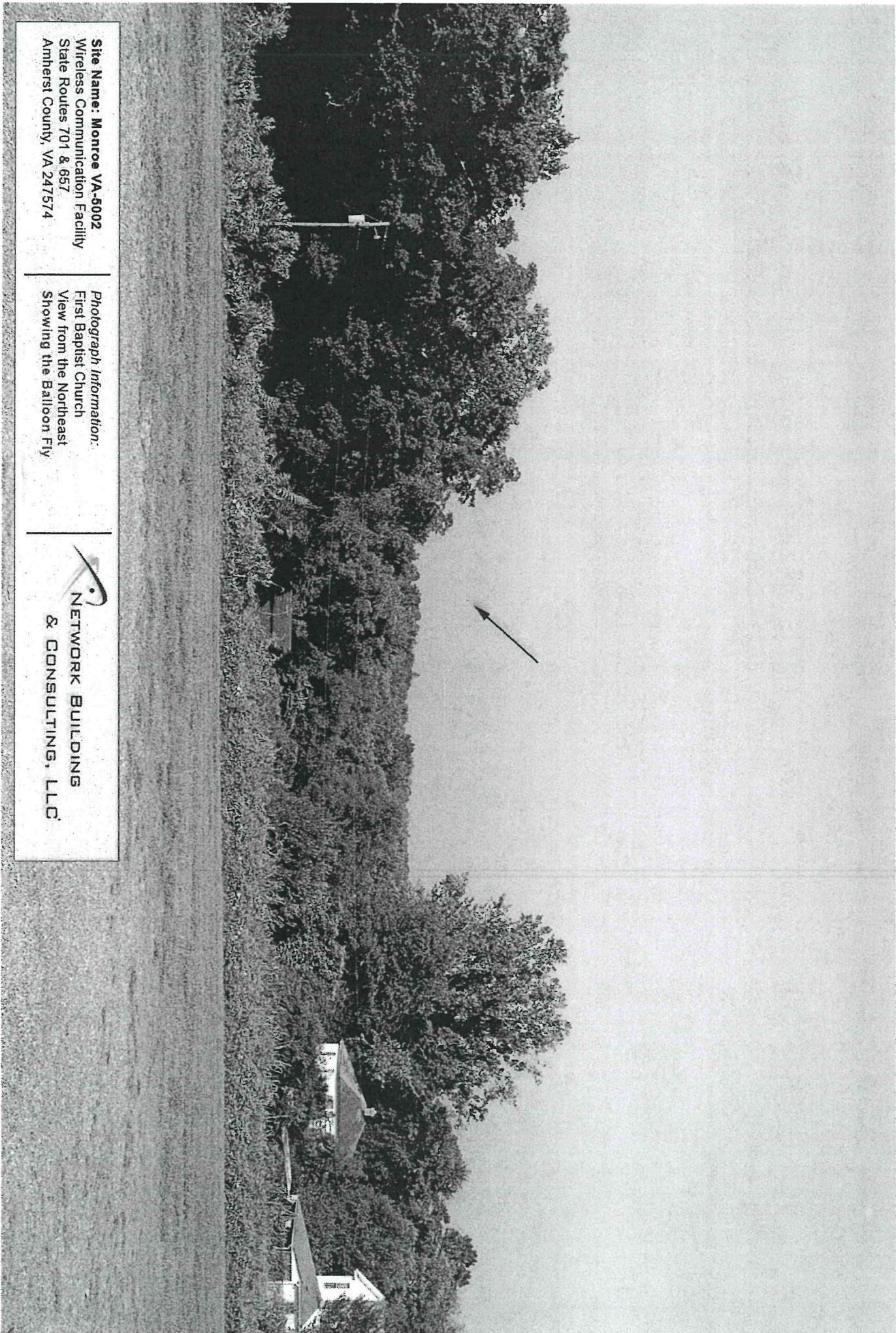
Photograph Information:
Clover Hill Ln & Cedar Gate Rd
View from the Northwest
Showing the Balloon Fly


NETWORK BUILDING
& CONSULTING, LLC

Site Name: Monroe VA-5002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574


Photograph Information:
First Baptist Church
View from the Northeast
Showing the Balloon Fly

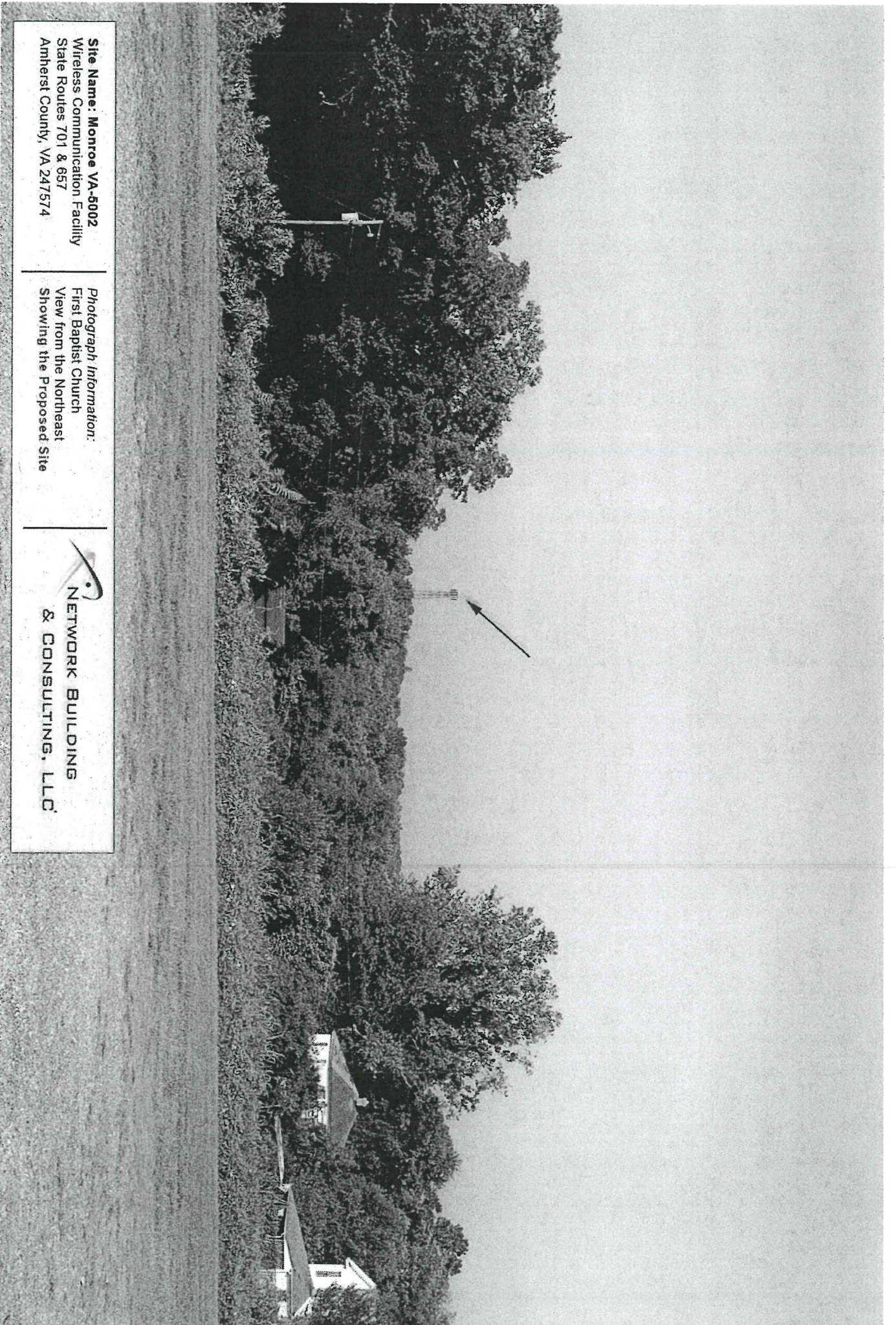

**NETWORK BUILDING
& CONSULTING, LLC**

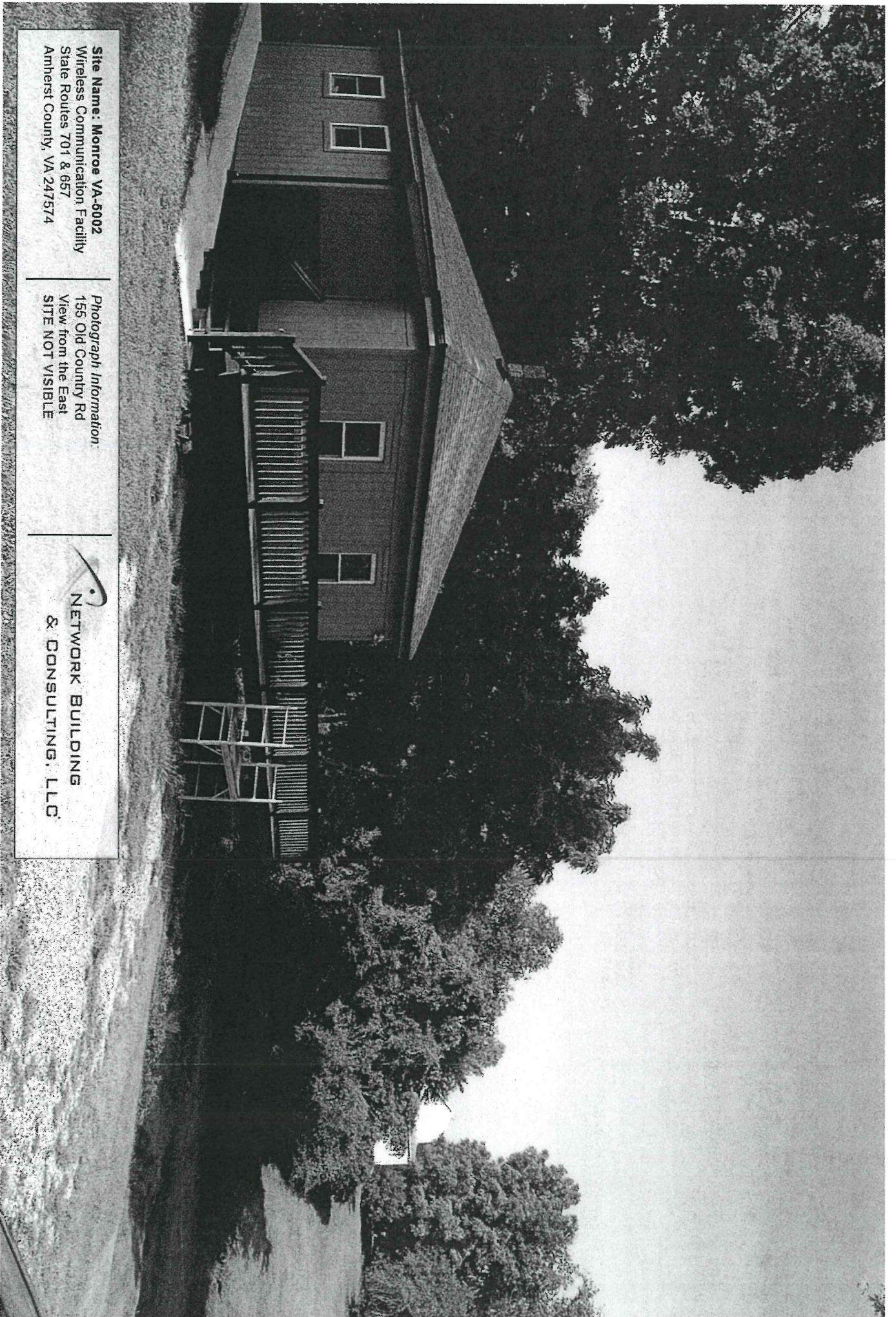


Site Name: Monroe VA-5002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574

Photograph Information:
First Baptist Church
View from the Northeast
Showing the Proposed Site



**NETWORK BUILDING
& CONSULTING, LLC**






Site Name: Monroe VA-6002
Wireless Communication Facility
State Routes 701 & 667
Amherst County, VA 247574

Photograph Information:
155 Old County Rd
View from the East
SITE NOT VISIBLE


NETWORK BUILDING
& CONSULTING, LLC

Site Name: Monroe VA-5002
Wireless Communication Facility
State Routes 701 & 657
Amherst County, VA 247574

Photograph Information:
A Street & Brooks St
View from the North
SITE NOT VISIBLE


**NETWORK BUILDING
& CONSULTING, LLC**

