

**Development Review Committee
Staff Report
June 17, 2015**



Case No:	14Cell1005
Request:	Cell Tower
Project Name:	Jeffersontown Ky
Location:	15110 Brush Run Road
Owner:	Paul S. & Susan Driskell
Applicant:	Capital Telecom Acquisition, LLC
Representative:	David Pike, Pike Legal Group, PLLC
Size:	159' Total tower height
Existing Zoning District:	R-4
Existing Form District:	Neighborhood
Jurisdiction:	Louisville Metro
Council District:	#20 – Stuart Benson
Case Manager:	Steve Hendrix, Planning Supervisor

Request

This is an application for a proposed 155 foot monopole tower with a 4 foot lightning arrestor for a total structure height of 159 feet. The compound area is 5,625 square feet and will be screened by an eight foot high privacy fence and 35 white pine.

Case Summary / Background/Site Context

The application was submitted on April 30, 2015. The Commission has sixty (60) days to act upon the uniform application, if not, and there is no written agreement between the Commission and the applicant to a specific date, the uniform application shall be deemed approved. (June 30, 2015 deadline).

The proposed site is located in a section of southeastern Jefferson County that is heavily wooded with mature trees and rural. The compound area will be approximately 400 feet from the neighboring residence and 500 feet from Brush Run Road with the existing trees blocking the view of the compound area. The applicant has stated that no lighting will be installed on the tower.

The applicant has stated the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure.

Land Use / Zoning District / Form District Table

	Land Use	Zoning	Form District
Subject Property			
Existing	Single family residence, wooded area	R-4	Neighborhood
Proposed	Single family residence, woods, cell tower	R-4	N
Surrounding			
North	Wooded Area	R-4	N
South	Wooded Area	R-4	N
East	Wooded Area, Pasture,	R-4	N
West	Wooded Area, Single family residence	R-4	N

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The Planning Commission is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

Standard of Review

Criteria for cellular towers:

- 1) The Planning Commission shall review the application in light of its agreement with the Comprehensive Plan and the Land Development Code;
- 2) The Planning Commission shall make its final decision to approve or disapprove the application;
- 3) The Planning Commission shall advise the applicant in writing of its final decision within 60 days of submittal of the application.

State law precludes the Planning Commission from denying a cellular tower application based upon concerns about electromagnetic field issues so long as the provider adheres to the standards adopted by the FCC.

In addition, the Federal Telecommunications Act of 1996 prohibits a citing decision for a cellular tower based upon the existence of other cellular service in the area.

Staff Findings

Relationship to Comprehensive Plan - Cornerstone 2020 Plan Elements:

3.1 Compatibility

Ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development.

The compound area will be screened with a privacy fence, 35 white pine and the placement is approximately 500 feet from the road within a heavily wooded area, but the tower will still be visible

3.9 Visual Impacts

Protect the character of residential areas, roadway corridors, and public spaces from visual intrusions and mitigate when appropriate.

The compound area has been proposed to be located approximately 500 feet from Brush Run Road within a heavily wooded area and will not be visible from the road.

3.22 Buffers

Protect the character of residential areas, roadway corridors, and public spaces from visual intrusions and mitigate when appropriate. Mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, junk, outdoor storage, and visual nuisances. There will be no signage on the site other than emergency information. The compound area will be screened by an eight foot high privacy fence, 35 white pine and not visible from the road.

3.30 Cellular Towers

Establish and enforce standards for the placement, height, design, and buffering of antenna towers for cellular telecommunications services and personal communications services. Antenna tower location and design must consider the effect of the tower on the character of the general area in the vicinity of the tower and the likely effects of the installation on nearby land uses and values. Issues that must be addressed include the necessity for the tower, co-location possibilities, design, mass, scale, siting, and abandonment and removal of antenna tower structures.

The applicant states that there are no other suitable or willing co-locatable structures or structure owners identified within the vicinity to meet the coverage objectives. The applicant states they have considered the likely effects of the installation on nearby land uses and values and have concluded that there is no more suitable location reasonably available from which adequate service can be provided. The applicant further states that the proposed facility has been designed to accommodate additional wireless telecommunication carriers, thus reducing the need for additional towers in the area in the future.

Community Facilities

15.21 Antenna Towers for Cellular Telecommunications

Cellular towers should be designed to:

--- minimize impact on the character of the general area concerned,

---be sited in order from most preferred to least preferred :

1. highway rights-of-way except designated parkways;
2. existing utility towers
3. commercial centers
4. governmental buildings
5. high-rise office structures

6. high rise residential structures

---minimize the likely effects of the installation on nearby land uses and values;

---be designed to address compatibility issues such as co-location, mass, scale, siting, abandonment and removal of antenna tower structure.

Although the tower does not meet one of the above siting criteria, its placement has been taken into account to minimize the impact on the character of the general area, by its distance from the road, the distance from neighboring residence, the proposed landscaping and the existing vegetation. Unfortunately, the siting criteria did not anticipate the demand and coverage area needed for cell phone use.

Technical Review-- None

Staff Conclusion

The applicant is requesting a wireless communications facility to better serve the public and to provide co-location opportunities for other carriers. The proposed location is within an R-4 zoning district.

The monopole will not be lighted.

The compound area is approximately 400 feet from the neighboring residence and 500 feet from Brush Run Road.

The compound area will have an eight foot high privacy fence with 35 white pine.

The applicant has submitted the required information concerning the reasoning and need for this particular location.

The applicant has met the applicable requirements of the Comprehensive Plan and the Land Development Code.

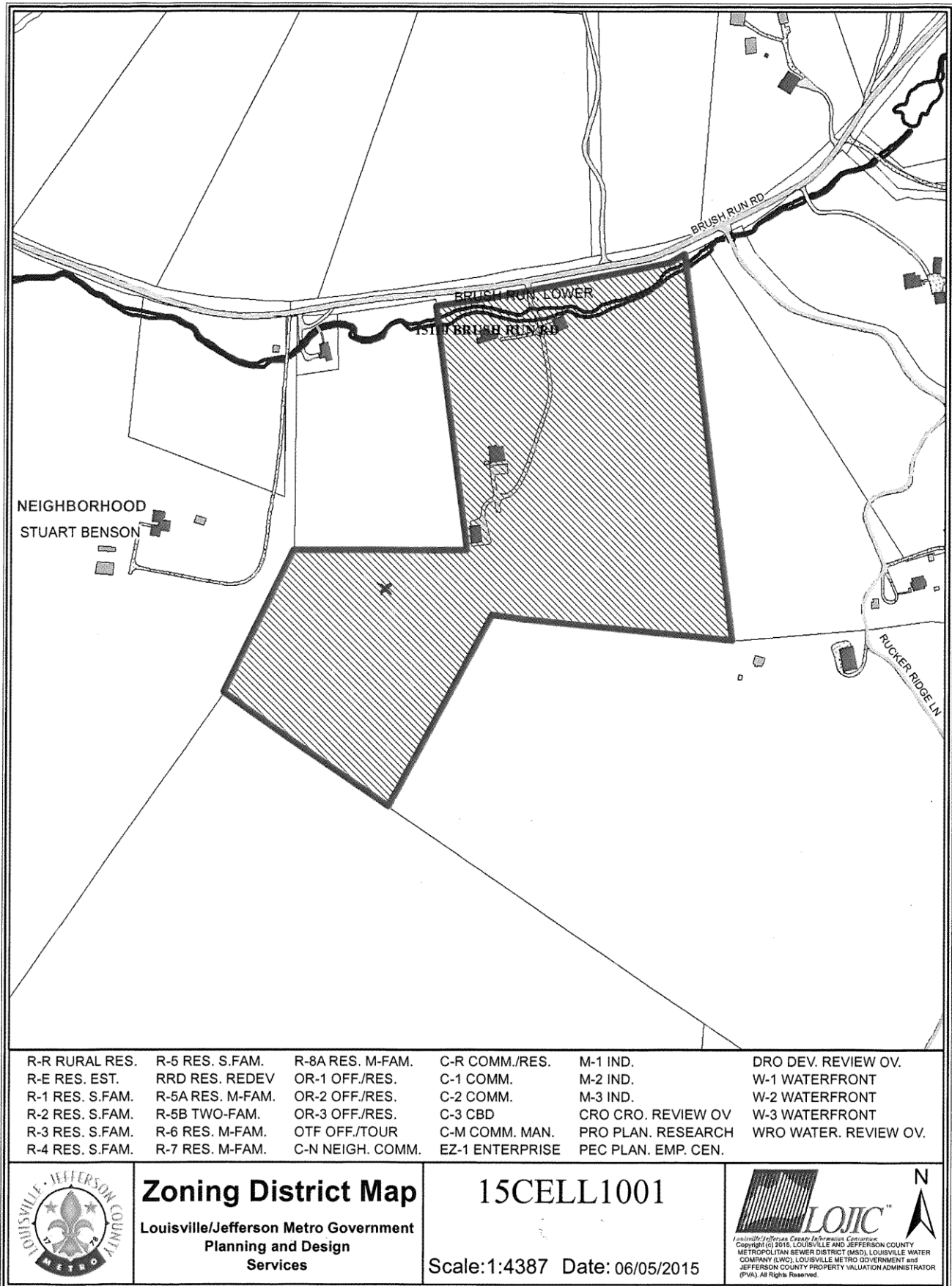
Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the must determine if the proposal meets the standards for granting a cell tower established in the Land Development Code, the Comprehensive Plan and the Uniform Application.

Notification

Date	Description	Recipients
June 12, 2015	Neighborhood Notification	Registered Parties
June 2, 2015	APO Notices Sent	Adjacent Property Owners

ATTACHMENTS

1. Proposed Location/Zoning Map
2. Aerial Photograph Map
3. Applicant's Justification
4. Site Plan
5. Pictures



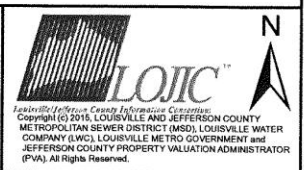


R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
R-1 RES. S.FAM.	R-5A RES. M-FAM.	OR-2 OFF./RES.	C-2 COMM.	M-3 IND.	W-2 WATERFRONT
R-2 RES. S.FAM.	R-5B TWO-FAM.	OR-3 OFF./RES.	C-3 CBD	CRO CRO. REVIEW OV	W-3 WATERFRONT
R-3 RES. S.FAM.	R-6 RES. M-FAM.	OTF OFF./TOUR	C-M COMM. MAN.	PRO PLAN. RESEARCH	WRO WATER. REVIEW OV.
R-4 RES. S.FAM.	R-7 RES. M-FAM.	C-N NEIGH. COMM.	EZ-1 ENTERPRISE	PEC PLAN. EMP. CEN.	



Zoning District Map
 Louisville/Jefferson Metro Government
 Planning and Design
 Services

15CELL1001
 Scale: 1:2594 Date: 06/05/2015



**COMMONWEALTH OF KENTUCKY
BEFORE THE LOUISVILLE METRO PLANNING COMMISSION**

In the Matter of:

UNIFORM APPLICATION OF)
CELLCO PARTNERSHIP, D/B/A VERIZON WIRELESS)
AND CAPITAL TELECOM ACQUISITION, LLC)
REQUESTING APPROVAL TO CONSTRUCT)
A WIRELESS COMMUNICATIONS FACILITY)
IN THE COMMONWEALTH OF KENTUCKY)
IN THE COUNTY OF JEFFERSON)

SITE NAME: LV BRUSH RUN / JEFFERSONTOWN

* * * * *

UNIFORM APPLICATION

Cellco Partnership, d/b/a Verizon Wireless, and Capital Telecom Acquisition, LLC, a Delaware limited liability company, by counsel and pursuant to (i) the Telecommunications Act of 1996, (ii) KRS 100.9865, KRS 100.987 and other statutory provisions, and (iii) the the Land Development Code for all of Jefferson County, Kentucky, specifically the Cell Tower Regulations therein, § 4.4.2 ("Zoning Ordinance"), respectfully submit for review this Uniform Application ("Application") and request approval to construct, maintain and operate the wireless communications facility ("WCF") proposed herein.

I. WAIVER OF CONFIDENTIALITY

Pursuant to KRS 100.987(3), the Application contents are deemed confidential and proprietary. In order to facilitate the orderly and open discussion of the subject proposal by the Louisville Metro Planning Commission ("Planning Commission") and to provide for greater latitude in responding to inquiries from the public, Applicants, by counsel, hereby

waive such confidentiality as to the contents of the within Application, including all submitted exhibit materials, and release the Planning Commission from any and all liability for any breach of such confidentiality. This waiver and release is freely granted as a voluntary accommodation.

II. INFORMATION AND MATERIALS SUBMITTED FOR REVIEW

In support of this Application, Applicants respectfully provide and state the following:

1. The complete name and address of the Applicants: Cellco Partnership, d/b/a Verizon Wireless, having an address of 2441 Holloway Road, Louisville, KY 40299; Capital Telecom Acquisition, LLC, having a mailing address of 1500 Mt. Kemble Avenue, Suite 203, Morristown, NJ 07950.

2. Applicants propose to construct a WCF to be located in an area subject to the jurisdiction of the Planning Commission, and Applicants submit this Application pursuant to KRS §§ 100.9865, 100.987 and other applicable statutory authority.

3. The Certificate of Authorization issued by the Kentucky Secretary of State for Capital Telecom Acquisition, LLC, and the Capital Telecom Acquisition LLC's Certificate of Formation are attached as part of **Exhibit A** and are hereby incorporated by reference. ✓

The Certificate of Authorization issued by the Kentucky Secretary of State for this Verizon Wireless entity is attached as part of **Exhibit A** and is hereby incorporated by reference.

4. Cellco Partnership d/b/a Verizon Wireless operates on frequencies licensed by the Federal Communications Commission ("FCC") pursuant to applicable FCC requirements. A copy of Verizon Wireless' FCC license to provide wireless services is attached to this Application or described as part of **Exhibit A**, and the facility will be

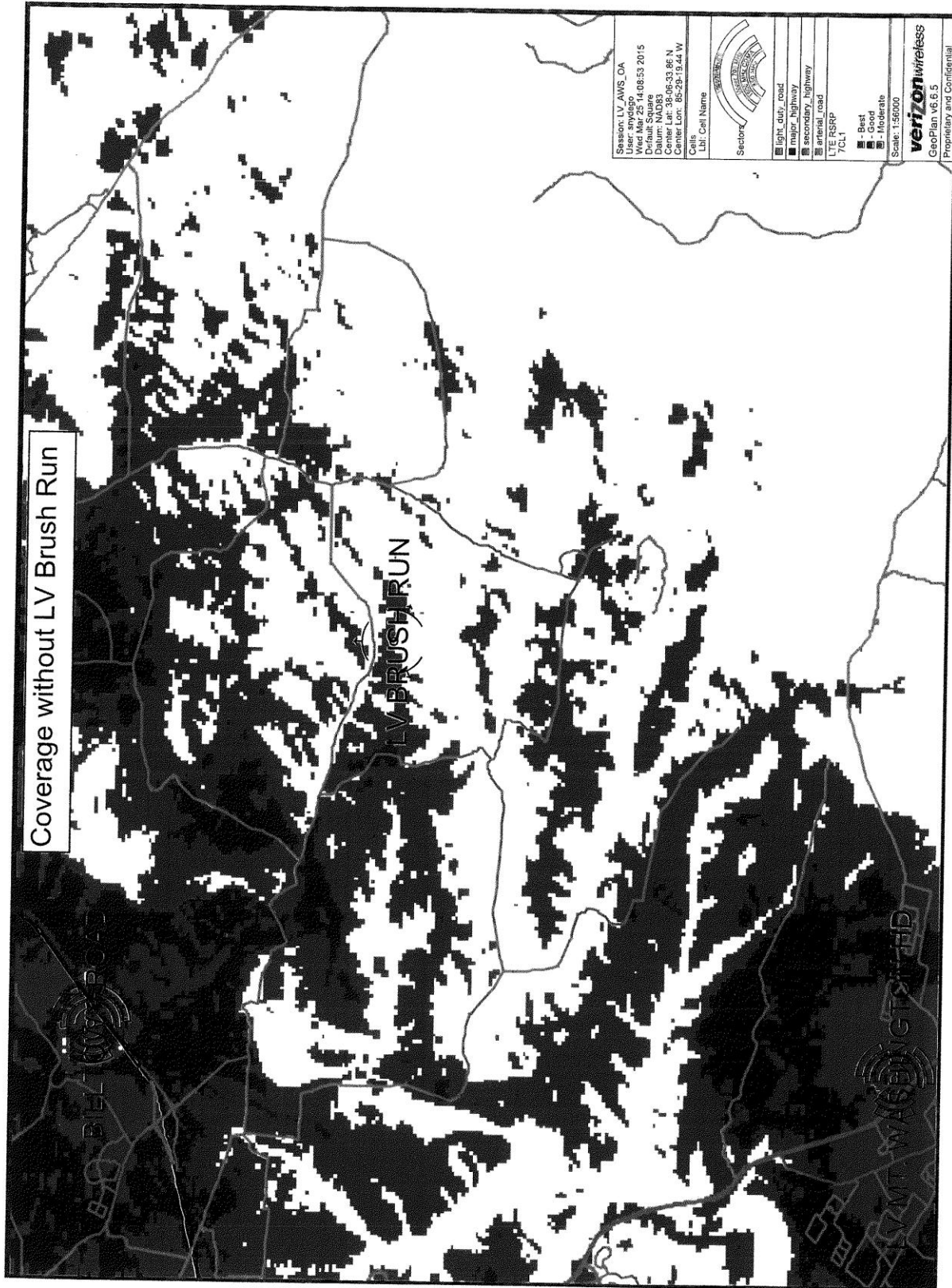
constructed and operated in accordance with applicable FCC regulations.

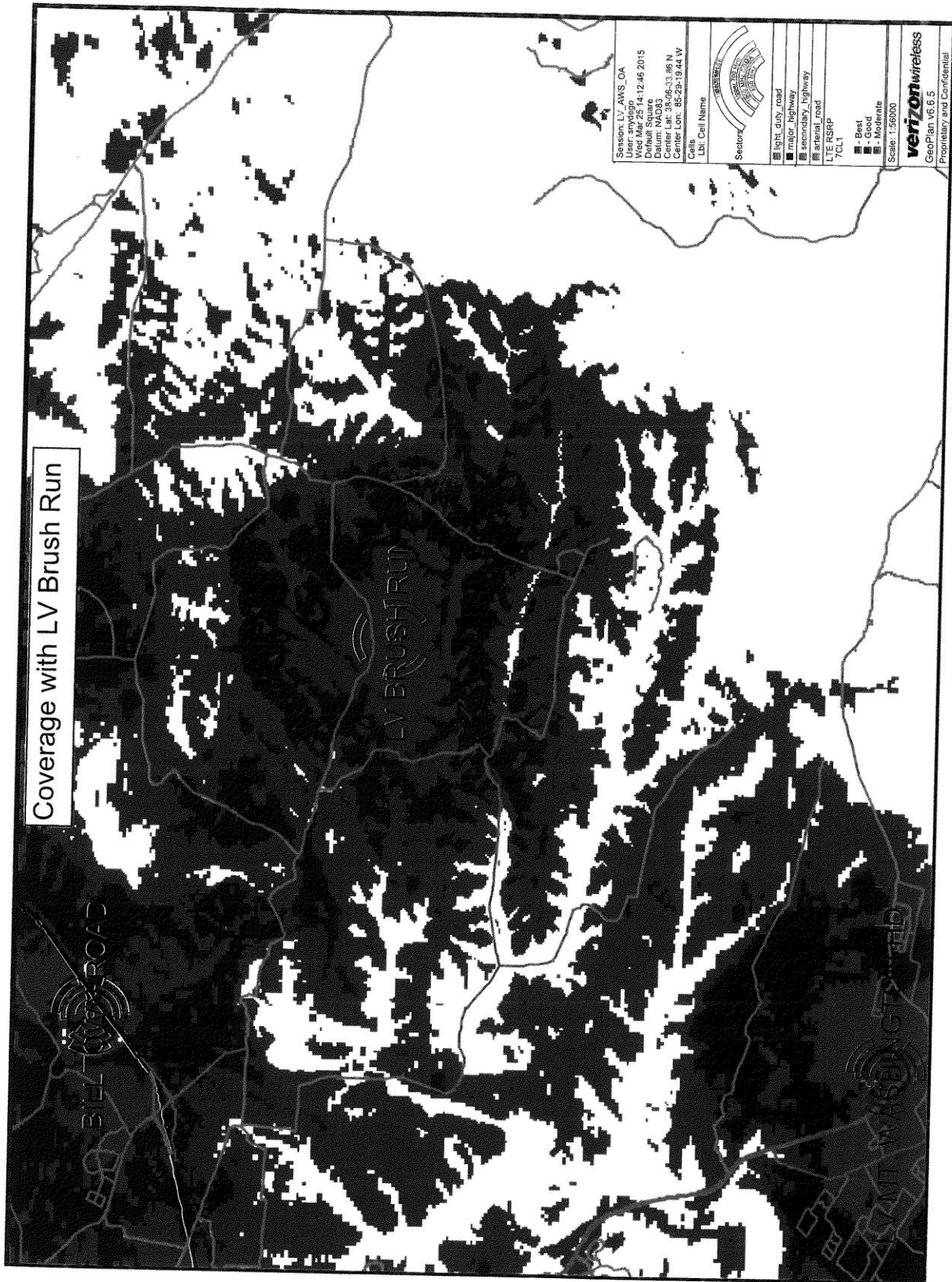
5. The Application is in agreement with the applicable comprehensive plan and locally adopted zoning regulations. The construction of the proposed WCF will bring or improve the Verizon Wireless' services to an area currently not served or not adequately served by its increasing coverage or capacity and thereby enhancing the public's access to innovative and competitive wireless communications services. The WCF will provide a necessary link in the Verizon Wireless communications network that is designed to meet the increasing demands for wireless services in the area.

6. To address the above-referenced service need, Applicants propose to construct a WCF at 15110 Brush Run Road, Jeffersontown, KY (38°07'11.46" North latitude, 85°29'16.30" West longitude). The proposed WCF will consist of a 155-foot tall tower, with an approximately 4-foot tall lightning arrestor attached at the top, for a total height of 159-feet. The WCF will also include concrete foundations and a shelter or cabinets to accommodate the placement of Verizon Wireless' radio electronics equipment and appurtenant equipment. The Applicants' equipment cabinet or shelter will be approved for use in the Commonwealth of Kentucky by the relevant building inspector. The WCF compound will be fenced and all access gate(s) will be secured. A description of the manner in which the proposed WCF will be constructed is attached as **Exhibit B** and **Exhibit C**.

7. A site development plan signed and sealed by a professional engineer registered in Kentucky and a site survey signed and sealed by a surveyor licensed in Kentucky are attached as **Exhibit B**. The site development plan includes a vertical profile

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Entrance to the property.



Looking west down Brush Run Road.



Looking east down Brush Run Road



Looking north from the entrance to the property.



Site of the proposed compound area, looking south.



From the compound area looking east.



From the compound area looking north toward Brush Run Road.



From the compound area to the west, (neighbor's barn).