

**Development Review Committee  
Staff Report  
November 18, 2015**



<b>Case No:</b>	15Cell1005
<b>Request:</b>	Cell Tower
<b>Project Name:</b>	Rehl Road
<b>Location:</b>	13508 West Rehl Court
<b>Owner:</b>	Stephen E. & Sharon Ernst Living Trust
<b>Applicant:</b>	Horvath Towers III, LLC and Cellco Partnership d/b/a Verizon Wireless
<b>Representative:</b>	David Pike, Pike Legal Group, PLLC
<b>Total Height</b>	195 feet
<b>Existing Zoning District:</b>	R-4
<b>Existing Form District:</b>	Campus
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	#20 – Stuart Benson
<b>Case Manager:</b>	Steve Hendrix, Planning Supervisor

**Request**

This is an application for a proposed 190 foot self-support tower with a 5 foot lightning arrestor for a total structure height of 195 feet. The compound area is 5,625 square feet and will be screened by an eight foot high privacy fence and a buffer that has a 35 foot width except for the eastern side next to the Snyder Freeway where the width is 17 feet and 10 inches. The Snyder Freeway is considered a designated parkway with a 50 foot buffer requirement. The structure will be more than 100 feet from the interstate pavement and will have the existing tree line and the proposed fence and white pines for the screening to the east. (Reduction in the 35 foot buffer width to 17 feet, 10 inches on the east side)  
(Encroachment into the 50 required parkway buffer)

**Case Summary / Background/Site Context**

The application was submitted on September 11, 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. Applicant has agreed to extend the deadline date to December 4, 2015.

The proposed site is located in rural eastern Jefferson County adjacent to the Gene Snyder Freeway in a partially wooded area on West Rehl Court. The structure will be approximately 50 feet from the Gene Snyder Freeway right of way, but more than 100 feet from the actual pavement. The tower will not be lighted, will be galvanized steel and painted light gray or light blue, will be unmanned, and will only have the required signage.

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, field	R-4	Campus
Proposed	Same with cell tower	R-4	C
Surrounding			
North	Wooded areas, Single Family Residences	R-4	C
South	Wooded Area	PEC, Planned Employment Center	Suburban Workplace
East	Interstate 265		
West	Wooded Area, Pasture	R-4, PEC	C, SW

**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, a white pine buffer, existing vegetation, and be situated on a slight decline in the topography, but the top of 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 is more than 300 feet from West Rehl Court and more than 100 feet from the Gene Snyder Freeway pavement. Visibility of the compound from West Rehl Court or the interstate is not anticipated due to the existing vegetation, topography, fence and proposed buffer.

#### **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 and no lighting. The compound area will be screened by an eight foot high privacy fence, 32 white pine and should not be visible from the road or the interstate. An existing tree line is located on the eastern edge of the property.

#### **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.

The tower does not meet the siting criteria, since the Snyder Freeway is considered a designated parkway.

However, the compound area will be screened by the existing vegetation, and the proposed buffer of the privacy fence and white pines from West Rehl Court and the Snyder Freeway.

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 tower will not be lighted, will be galvanized steel and painted light gray or light blue, will be unmanned and will only have the required signage.

Existing vegetation, topography and the proposed fence and plantings should screen the compound area from West Rehl Road and the Snyder Freeway.

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.

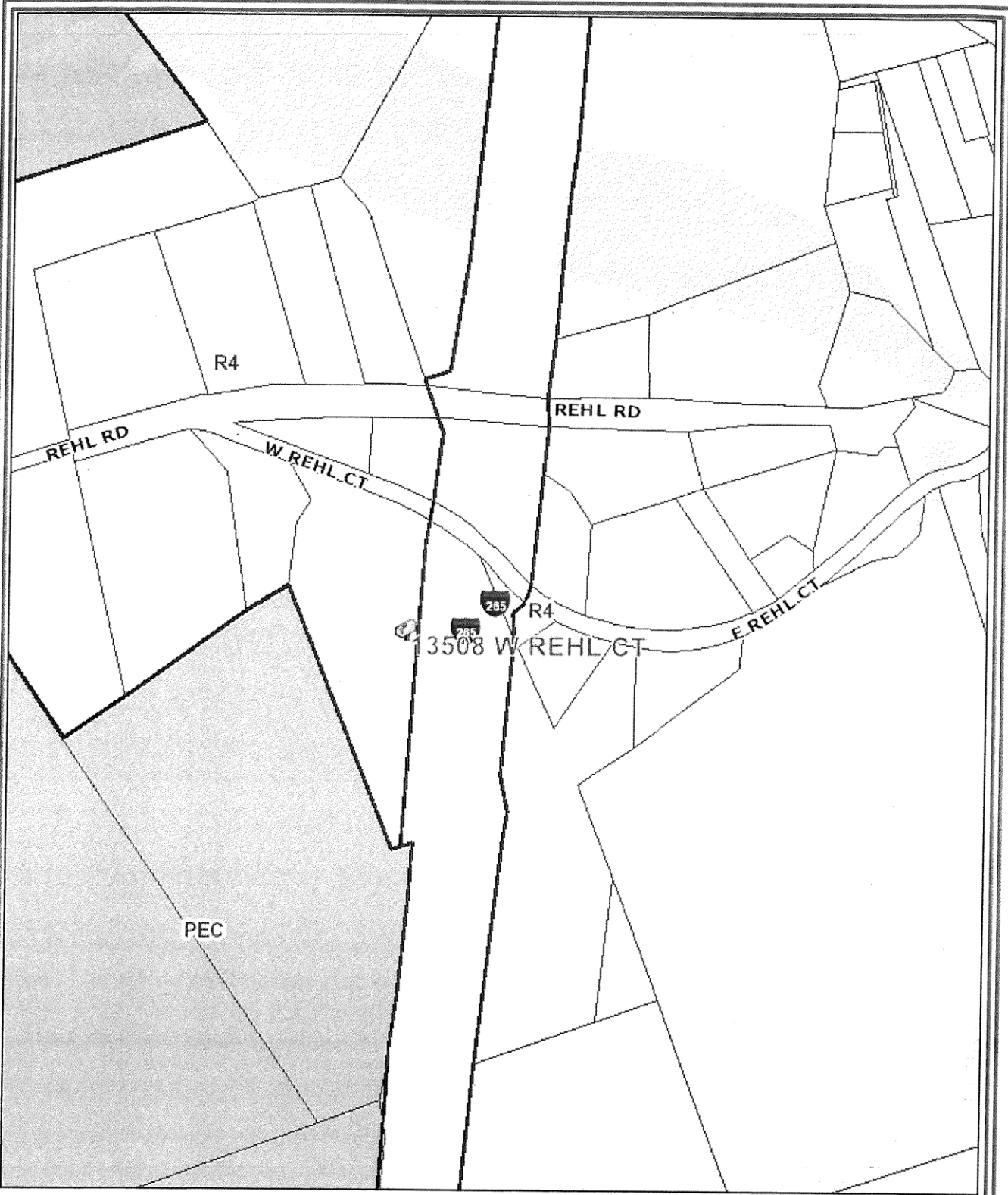
**Notification**

<b>Date</b>	<b>Description</b>	<b>Recipients</b>
November 5, 2015	Neighborhood Notification	Registered Parties
November 5, 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

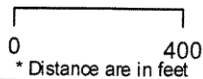




LOJIC Quickmap

# 13508 West Rehl Court

Plot Date 11/5/2015



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13508 W REHL CT

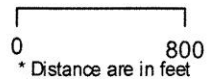


LOJIC Quickmap

13508 West Rehl Court

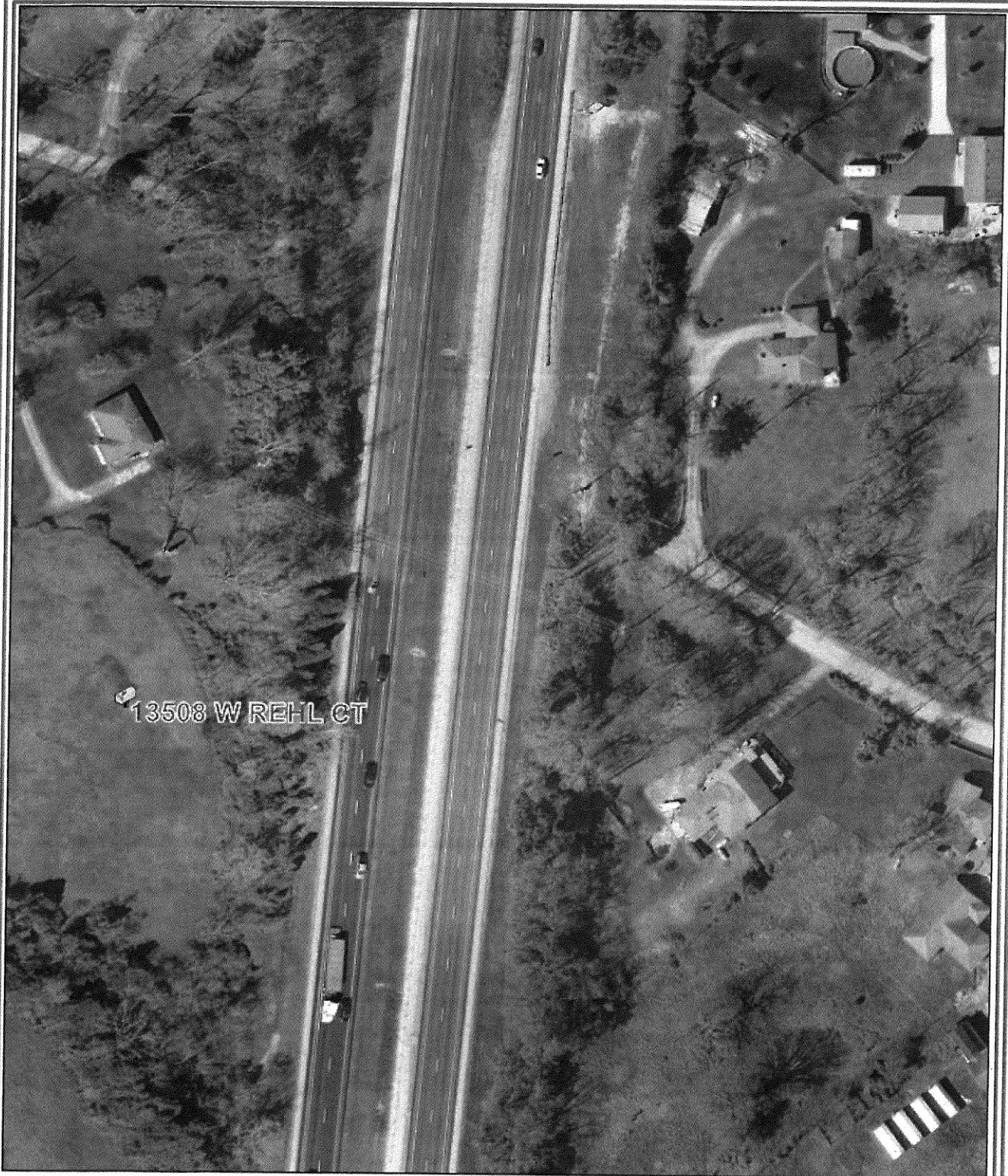


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Plot Date 11/5/2015



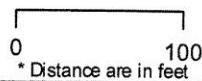


LOJIC Quickmap

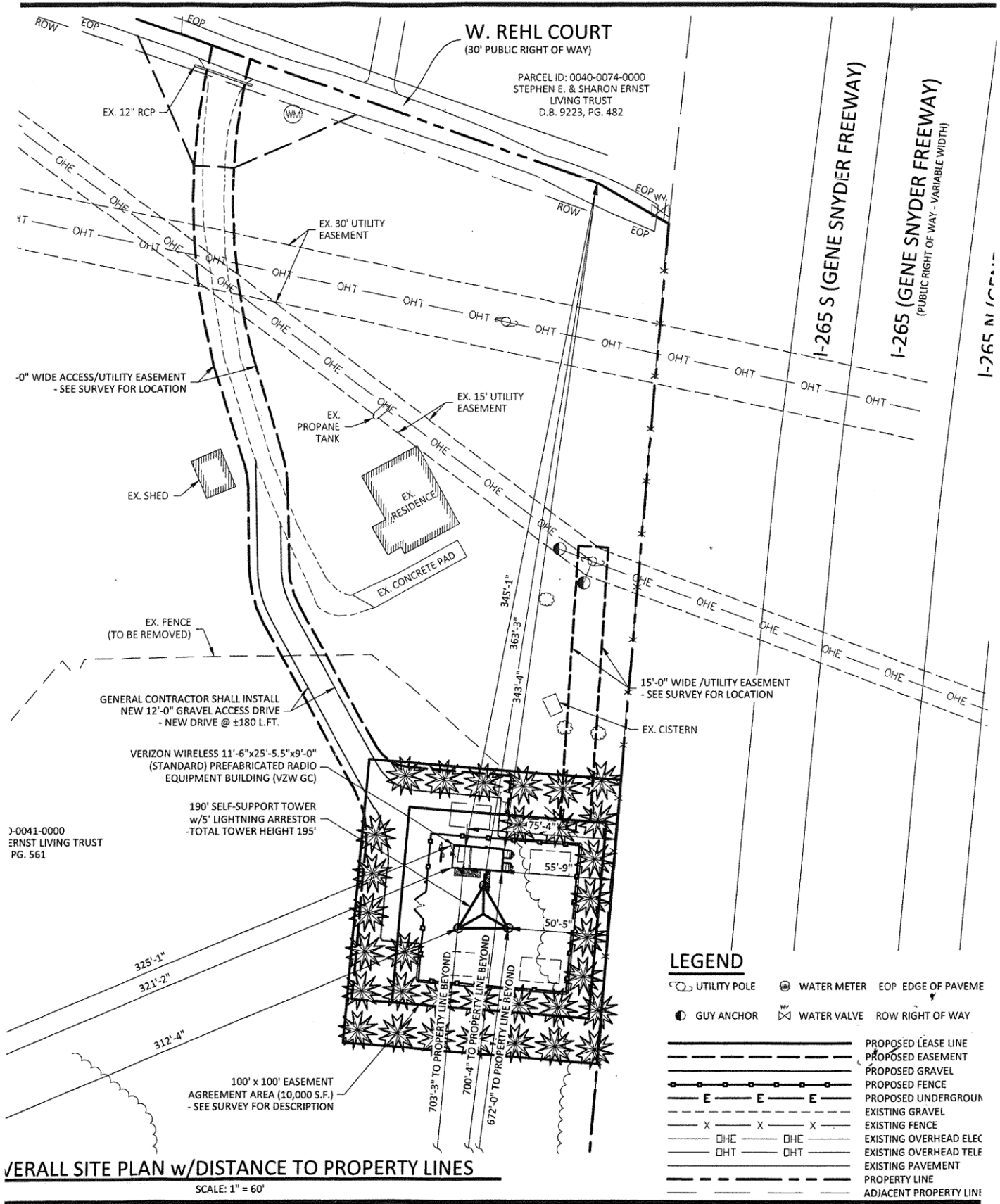
# 13508 West Rehl Court

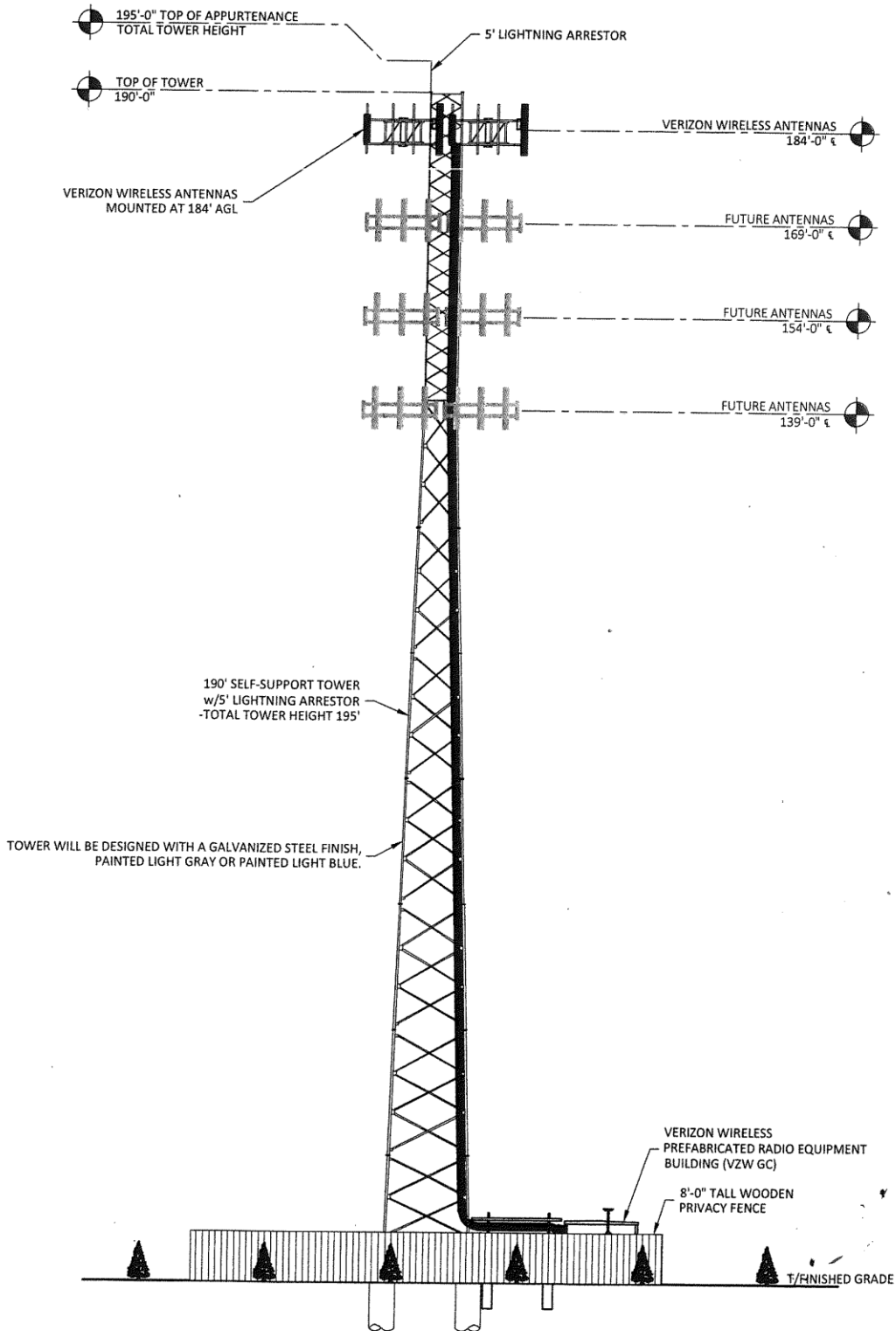


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Plot Date 11/5/2015





TOWER ELEVATION

SCALE: N.T.S.

1  
TE-1



September 2, 2015

Louisville, KY Metro Planning Commission  
444 S. 5<sup>th</sup> Street  
Louisville, KY 40202

RE: Alternate Site Analysis Report  
Uniform Application for a Communications Facility  
Applicant: Horvath Communications III, LLC & Cellco Partnership d/b/a Verizon  
Wireless  
Site Location: 13508 W. Rehl Ct, Louisville, KY 40299  
Site Name: Rehl Road, Louisville, KY

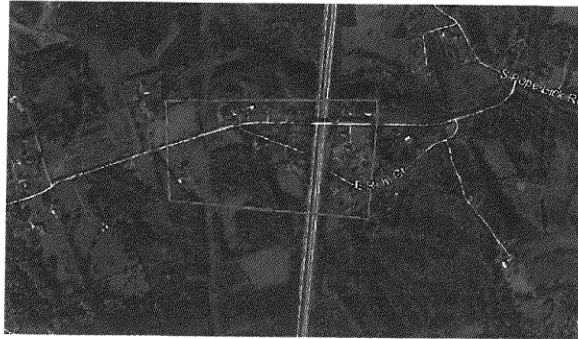
Dear Commission Members:

This report is provided to explain the site development process used by the Applicants to identify the site selected for the new wireless communications facility proposed in the accompanying Uniform Application.

**Horvath Communications III, LLC & Cellco Partnership d/b/a Verizon Wireless  
Site Development Process**

**Step 1: Problem Identification.** Verizon Wireless radio frequency engineers first identified a growing coverage and/or capacity gap in eastern Jefferson County.

**Step 2: Search Area.** To help guide the site development team's task of identifying a suitable location for a new wireless communications facility site, Verizon Wireless' radio frequency engineers identified the geographic area where the antenna site must be located in order to close the gap and issued a map (called a Search Area) that identified the general area in which a new site must be located. In this instance, the search area is located approximately one mile south of the intersection of Interstate 64 ("I-64") and the Gene Snyder Freeway. A map of the search area is shown below.



**Step 3: Co-location Review.** The site development team first reviewed the area within the Search Area for a suitable tall structure for co-location. In this case, there are no existing FCC-registered structures within the search area. Further, there are no existing towers within 0.5 miles of the search area. Antenna placement on towers outside of the search area will not resolve the existing service gap.

**Step 4: Review of the Area's Zoning Classification.** Once the site development team determined that there are no available existing tall structures which are technically feasible and suitable for co-location, the team next reviewed local zoning requirements to identify parcels located within the search area that might be suitable from a land use perspective to host an antenna site. In this case, the search area is primarily zoned Residential (R-4) with two parcels zoned Planned Employment Center (PEC). The Applicants attempt to avoid tower placement in dense residential developments. Thus, areas of dense residential developments located east of the Gene Snyder Freeway and immediately northeast of the intersection of Rehl Road and the Gene Snyder Freeway were avoided.

**Step 5: Preliminary Inspection and Assessment of Suitable Parcels.** Once suitably zoned parcels are identified, the site development team visits the parcels and performs a preliminary inspection. The purpose of the preliminary inspection is: (1) to confirm the availability of sufficient land space for the proposed facility; (2) to identify a specific location for the facility on the parcel; (3) to identify any recognized environmental conditions that would disqualify the parcel from consideration; (4) to identify any construction issues that would disqualify the candidate; and, (5) to assess the potential impact of the facility on neighboring properties. In this case, three parcels were identified as suitable candidates for tower placement.

Thomas Garrity owns a 17-acre parcel (#0040-0207-0000) at 13207 Rehl Road. Site Acquisition vendors contacted Garrity to discuss tower placement. Garrity was not willing to lease ground space at this time.

Site Acquisition vendors also discussed tower placement with Mike McClure, the owner of a parcel at 13300 Rehl Road (#0040-0339-0000). McClure was willing to lease an area for tower placement. The candidate was reviewed by Verizon Radio Frequency Engineers before ultimately being removed from consideration due to the presence of a superior candidate.

The Stephen and Sharon Ernst Living Trust owns the proposed site parcel at 13508 W. Rehl Court (#0040-0041-0000). The proposed site parcel is well screened from all surrounding uses by natural vegetation. Further, the tower has been designed to meet all local regulations related to tower setbacks.

**Step 6: Candidate Evaluation and Selection.** After the preliminary site assessments were performed, the site development team ranked the candidates based on compliance with zoning regulations, the availability of ground space, topography, applicable environmental conditions, construction feasibility and the potential impact of the facility on neighboring properties. In this case, Verizon Wireless Engineers identified the proposed site parcel as the best candidate to resolve the existing service gap. From a zoning perspective, the tower is well screened from surrounding properties. The tower has been placed in compliance with local regulations for tower placement.

**Step 7: Leasing and Due Diligence.** Once a suitable candidate was selected, lease negotiations were commenced and site due diligence steps were performed, as described below.

Leasehold Due Diligence:

- A Title Report was obtained and reviewed to ensure that there are no limitations on the landowner's capacity to lease and to address any title issues.
- A site survey was obtained to identify the location of parcel features, boundaries, easements and other encumbrances revealed by the title search.
- Review of environmental conditions.

Engineering Due Diligence:

- Utility access identified.
- Grounding plan designed.
- Geotechnical soil analysis performed to determine foundation requirements.
- Foundations designed to meet the Kentucky Building Code lateral and subjacent support requirements.
- Site plan developed.

Federal Regulatory Due Diligence

- Federal Aviation Administration ("FAA")
- Federal Communication Commission ("FCC")

In this case, no candidates were eliminated for regulatory reasons.

**Step 8: Application.** Once a lease is obtained and all site due diligence is completed, Verizon Wireless and Horvath Communications prepared and filed the accompanying uniform application to construct, maintain and operate a communications facility.

**Conclusion**



Applicant's site identification and selection process aims to identify the least intrusive of all the available and technically feasible parcels in a service need area. In this case, the Ernst property at 13508 W. Rehl Court is well screened from surrounding properties. Further, the tower will comply with setback requirements. Finally, Verizon Engineers identified this candidate as the optimum available location to resolve the existing service gap.

Sincerely,



Jessica Geers  
*Leasing and Zoning Manager*

**Horvath Communications**  
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South Bend, Indiana 46601  
C: 231.282.3577  
O: 574.237.0464



Looking East





Looking East





Looking south.





Looking west.





Looking north.