

**Development Review Committee
Staff Report
July 15, 2015**



Case No:	15cell1002
Request:	Cell Tower
Project Name:	Gisco
Location:	1408 West Madison Street
Owner:	Gisco Corporation
Applicant:	Powertel/Memphis Inc. d/b/a T-Mobile / Branch, Branch Communications, LLC, and Branch Towers, LLC
Representative:	David Pike, Pike Legal Group, PLLC
Size:	155 foot tower, total height 2,500 square foot compound area
Existing Zoning District:	EZ-1
Existing Form District:	Traditional Workplace
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Steve Hendrix, Planning Supervisor

Request

This is an application for a proposed 150 foot monopole tower with a 5 foot lightning arrestor for a total structure height of 155 feet and a 2,500 square foot compound area and a waiver for the monopole to be 150 feet from the Madison Street property line instead of being within 25 feet of the front property line.

Case Summary / Background/Site Context

The application was submitted on May 22, 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, (July 21, 2015).

The proposed site is located in an EZ-1 Zoning District in a Traditional Workplace within the Russell Neighborhood.

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.

The facility will provide room for other carriers.

Signage will be limited to applicable law requirements.

The facility will have access from Fifteenth Street.

The tower will have a galvanized steel finish and no lighting will be installed on the tower.

Landscaping is not required, since surrounded by existing EZ-1 properties. However, the applicant is retaining the vegetation on the east side of the proposed compound area.

Staff has not received any negative statements concerning the proposal.

Land Use / Zoning District / Form District Table

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant Yard	EZ-1	Traditional Workplace
Proposed	Yard with Monopole Tower	EZ-1	TW
Surrounding			
North	DAE Industries (Manufacturing)	EZ-1	TW
South	Bumper to Bumper Training Center (Office)	EZ-1	TW
East	Storage Building	EZ-1	TW
West	Gisco Office/warehouse	EZ-1	TW

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 proposed tower will be surrounded by existing EZ-1 District (Enterprise Zone) properties which include manufacturing, storage and training center.

3.9 Visual Impacts

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

The monopole will be approximately 150 feet from the street at the rear of the parcel. The applicant intends to retain the existing vegetation on the east side of the proposed compound area.

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. Landscaping is not required, since the proposed site is adjacent to existing EZ-1 properties. The applicant will be retaining the vegetation that is located east of the proposed compound area.

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 proposed site is not within one of the listed preferred sites, the proposal will be located in an existing zoned EZ-1 property within a Traditional Workplace Form District with the monopole being 150 feet from Madison Street.

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 EZ-1 Zoning District and a Traditional Workplace Form District.

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

The monopole will have an overall height of 155 feet.

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

The waiver allows the monopole to be further away from Madison Street which will lessen the impact of the overall facility.

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 and the Comprehensive Plan.

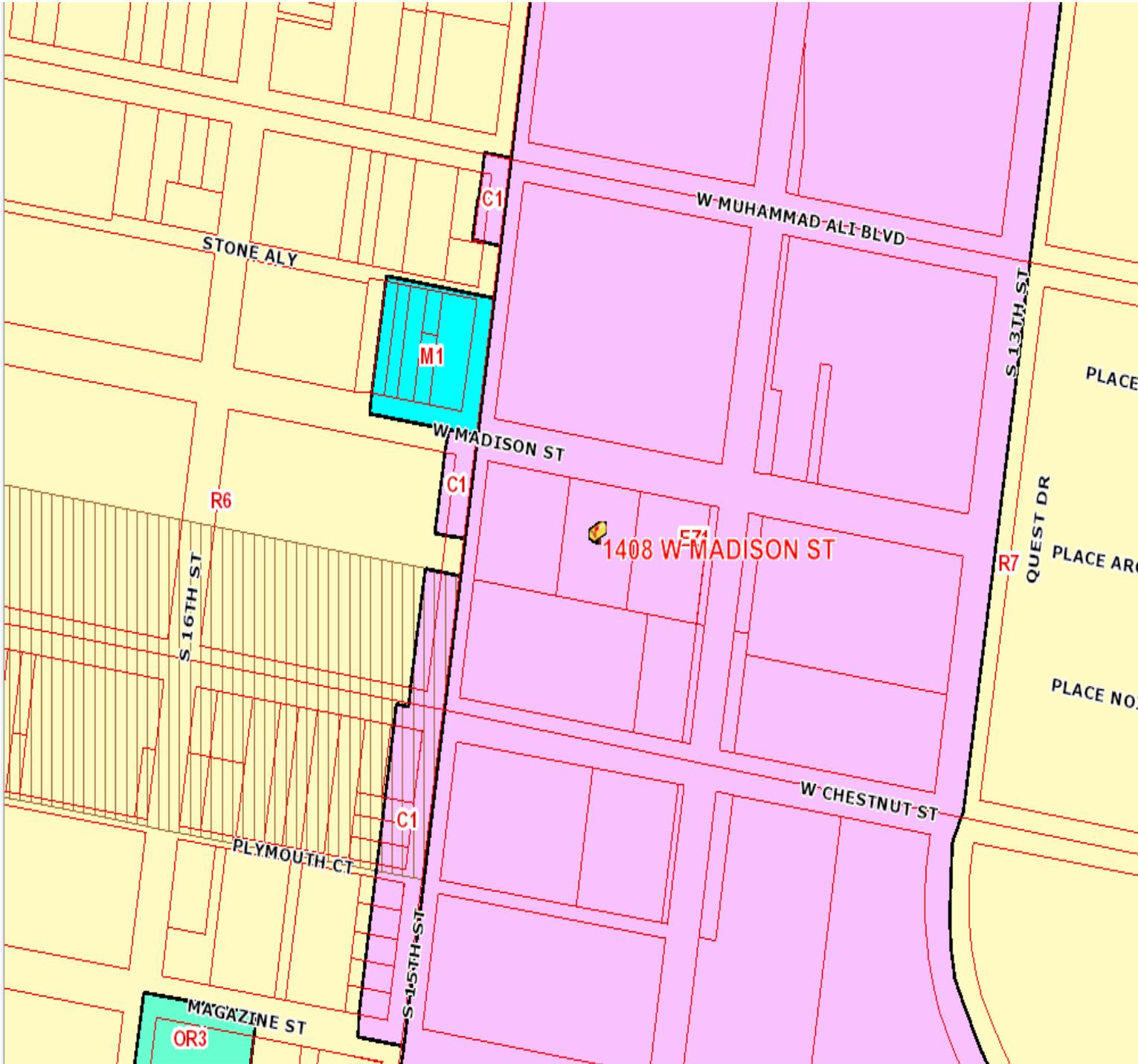
Notification

Date	Description	Recipients
6.30.15	Neighborhood Notification Ready	Registered Parties
6.30.15	APO Notices Ready	Adjacent Property Owners

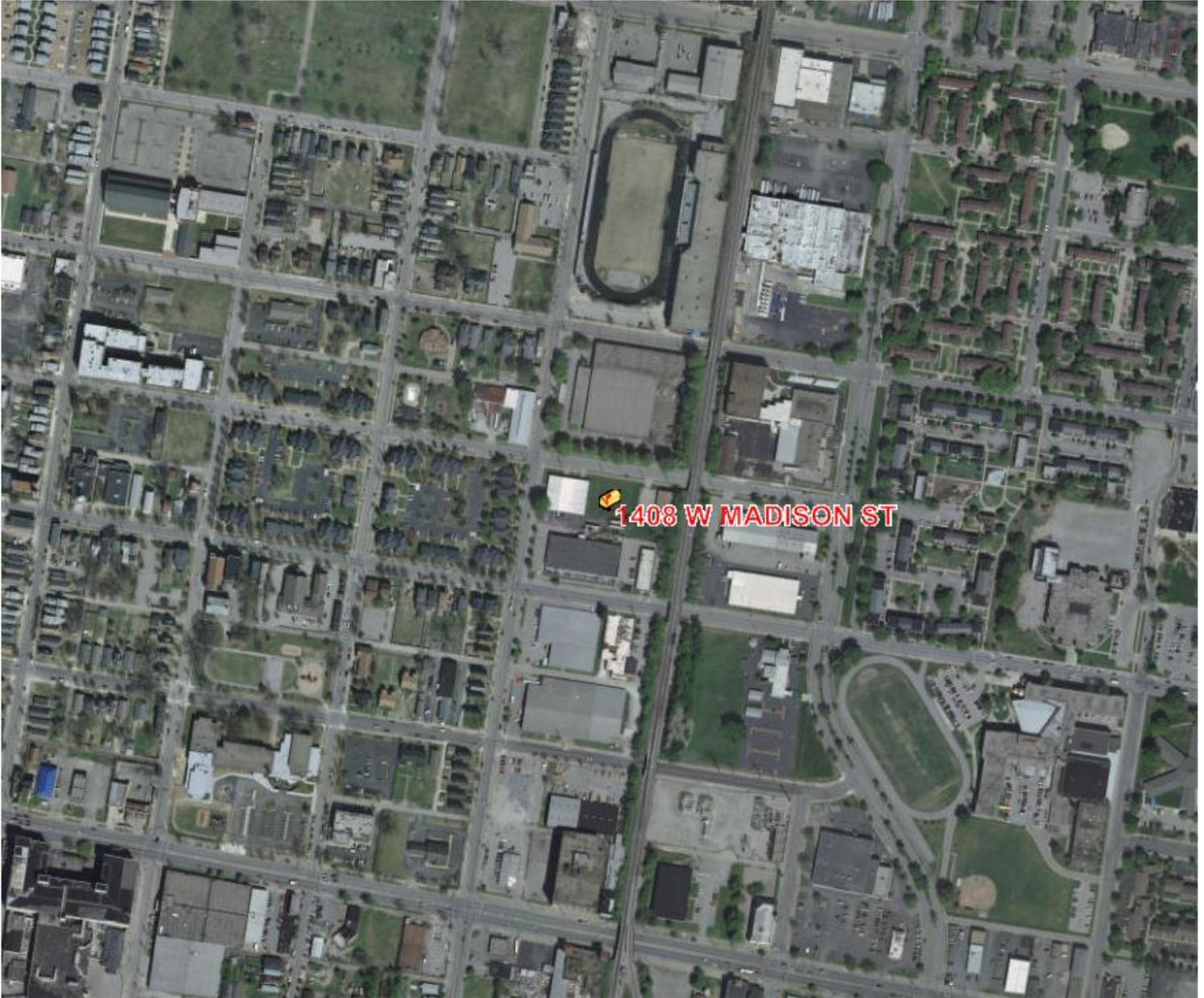
ATTACHMENTS

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

Zoning Map



Aerial Map



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

In the Matter of:

UNIFORM APPLICATION OF)
POWERTEL/MEMPHIS INC, D/B/A T-MOBILE,)
BRANCH COMMUNICATIONS, LLC,)
AND BRANCH TOWERS, LLC)
REQUESTING APPROVAL TO CONSTRUCT)
A WIRELESS COMMUNICATIONS FACILITY)
IN THE COMMONWEALTH OF KENTUCKY)
IN THE COUNTY OF JEFFERSON)
SITE ADDRESS: 1408 WEST MADISON STREET)
LOUISVILLE, KY 40203)
SITE NAME: GISCO)
TOWER HEIGHT/TYPE: 150' MONOPOLE)

UNIFORM APPLICATION

PowerTel/Memphis, Inc, d/b/a T-Mobile, a Delaware Corporation, Branch Communications, LLC, an Oklahoma limited liability company, and Branch Towers, LLC, a Delaware limited liability company (collectively "Applicants"), 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 on property in the EZ-1 (Enterprise) zoning classification.

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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 as contemplated per Section 4.4.2-A-1-c-iv-(c) of the tower ordinance.

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: Powertel/Memphis, Inc, d/b/a T-Mobile, having an address of 11509 Commonwealth Drive, Suite 9, Louisville, KY 40299; Branch Communications, LLC, and Branch Towers, LLC, having a mailing address of 1516 South Boston Avenue, Suite 215, Tulsa, OK 74119.

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. Branch Communications, LLC's Certificate of Formation is attached as part of **Exhibit A** and is hereby incorporated by reference. Documentation of Branch

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Towers, LLC being in good standing with the Delaware Secretary of State is also included and incorporated by reference. The Amended Certificate of Authority filed with the Kentucky Secretary of State for Powertel/Memphis, Inc. and Certificate of Amendment of Articles of Formation issued by the Delaware Secretary of State are attached as part of **Exhibit A** and are hereby incorporated by reference. Said **Exhibit A** also includes documentation from the Kentucky Secretary of State's website that Powertel/Memphis, Inc. is active and in good standing and that T-Mobile is an assumed name for such entity.

4. Powertel/Memphis, Inc. d/b/a T-Mobile operates on frequencies licensed by the Federal Communications Commission ("FCC") pursuant to applicable FCC requirements. A copy of T-Mobile's 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 with one exception. By local ordinance, structures constructed in this zone shall be setback no ~~less~~ ^{more} than 25' from the front property line. *7/8/2015* The Applicants respectfully request that this requirement be waived as the tower will be placed approximately 150' from the front property line of the site parcel. The tower is proposed for placement at this location on the site parcel to minimize the visual impact created by the tower. Any planning basis for locating storefronts or buildings within 25' from the property line would not be appropriate to apply to the location of a 150' tall tower. The construction of the proposed WCF will bring or

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improve T-Mobile's 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 T-Mobile 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 1408 W. Madison Street, Louisville, KY (38°15'5.21" North latitude, 85°46'30.02" West longitude). The proposed WCF will consist of a 150-foot tall tower, with an approximately 5-foot tall lightning arrestor attached at the top, for a total height of 155 feet. The WCF will also include concrete foundations and a shelter or cabinets to accommodate the placement of T-Mobile's 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 sketch of the WCF depicting the tower height and the proposed placement for all antennas.

8. Tower and foundation design plans and a vertical profile sketch of the WCF, signed and sealed by a professional engineer registered in Kentucky, and a

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description of the standards according to which the tower was designed are included as part of **Exhibit C**. The tower design meets or exceeds the minimum requirements of applicable laws and regulations.

9. A geotechnical engineering firm has performed soil boring(s) and subsequent geotechnical engineering studies at the WCF site. A copy of the geotechnical engineering report, signed and sealed by a professional engineer registered in the Commonwealth of Kentucky, is attached as **Exhibit D**. The name and address of the geotechnical engineering firm and the professional engineer registered in the Commonwealth of Kentucky who supervised the examination of this WCF site are included as part of this exhibit.

10. The identities of each person directly responsible for design and construction of the proposed tower are included in tower and foundation design plans attached as part of **Exhibit B** and **Exhibit C**. Construction of the tower will be under the supervision of Branch Communications, LLC and Branch Towers, LLC.

11. The surveyor has determined that the site is not within any flood hazard area, and a notation of this determination is included on the survey drawing attached as part of **Exhibit B**.

12. Clear directions to the proposed WCF site from the County seat are attached as **Exhibit E**. The name and telephone number of the preparer of **Exhibit E** are included as part of this exhibit.

13. Applicants, pursuant to a written lease agreement, have acquired the right to use the WCF site and associated property rights. The Option Site Easement

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Agreement (“agreement”) includes a provision that specifies, in the case of abandonment, a method and timetable for dismantling and removing the tower. A copy of the agreement (or abbreviated form of such agreement recorded with the County Clerk) is attached as **Exhibit F**.

14. **Exhibit B** includes a map drawn to an appropriate scale that shows the location of the proposed tower and identifies every owner of real estate within 500 feet of the proposed tower site (according to the records maintained by the County Property Valuation Administrator). Every structure and every easement within 500 feet of the proposed tower or within 200 feet of the access road, including intersection with the public street system, is shown in **Exhibit B**.

15. Applicants have notified every person who, according to the records of the County Property Valuation Administrator, owns property which is within 500 feet of the proposed tower or contiguous to the site property, by certified mail, return receipt requested, of the proposed construction. Each notified property owner has been provided with a map of the location of the proposed construction, the telephone number and address of the Planning Commission, and has been informed of his or her right to participate in the Planning Commission’s proceedings on this Application. A list of the notified property owners and a copy of the form of the notice sent by certified mail to each landowner are attached as **Exhibit G** and **Exhibit H**, respectively.

16. Applicants have notified the Jefferson County Judge/Executive, the Mayor of Louisville and the Louisville Metro Council by certified mail, return receipt requested, of the proposed construction. A copy of this notice is attached as **Exhibit I**.

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17. Two notice signs measuring at least two (2) feet in height and four (4) feet in width and including all language prescribed by KRS 100.9865 have been posted in a visible location on the proposed site and on the public road nearest to the proposed site and shall remain posted until final disposition of the Application by the Planning Commission. A copy of the notice sign text is attached as **Exhibit J**. Notice of the location of the proposed facility has been published in a newspaper of general circulation in the county in which the WCF is proposed to be located.

18. KRS 100.987 requires the submission of a grid map showing the location of all existing cellular antenna towers and the general position of any proposed construction sites for new cellular antenna towers within the Planning Commission's jurisdiction and one-half mile outside the boundary of such jurisdiction (if that area contains either existing or proposed construction sites for cellular antenna towers). Information as to the locations of existing and proposed cellular antenna towers not owned by the Applicants is not always fully available from public sources. In good faith compliance with this requirement, Applicants submit as **Exhibit K** a map showing the location of the proposed tower and all existing and proposed free-standing or guyed towers within the subject area as identified from public Antenna Structure Registration information available from the FCC.

19. The general area where the proposed facility is to be located is on a parcel with no existing permanent structures. The site parcel and parcels immediately adjacent to the site parcel are zoned EZ-1 (Enterprise).

20. Applicants have considered the likely effects of the installation of the

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proposed WCF on nearby land uses and values and have concluded that there is no more suitable location reasonably available from which adequate services can be provided, and that there are no reasonably available opportunities to co-locate Applicants' antennas on an existing structure. When suitable towers or structures exist, Applicants attempt to co-locate on existing structures such as communications towers or other structures capable of supporting Applicants' facilities; however, no other suitable or available co-location site was found to be located in the vicinity of the site. A map depicting towers within a one-mile radius and discussing the reasons that said towers are an inadequate solution to the coverage gap addressed by this site is included as **Exhibit L**.

21. The process that was used by the T-Mobile's radio frequency engineers in selecting the site for the proposed WCF was consistent with the general process used for selecting all other existing and proposed WCF facilities within the relevant network design area. T-Mobile's radio frequency engineers have conducted studies and tests in order to develop a highly efficient network that is designed to handle voice and data traffic in the service area. The engineers determined an optimum area for the placement of the proposed facility in terms of elevation and location to provide the best quality service to customers in the service area. A radio frequency design search area prepared in reference to these radio frequency studies was considered by T-Mobile when searching for sites for its antennas that would provide the coverage deemed necessary by T-Mobile. A map of the area in which the tower is proposed to be located which is drawn to scale and clearly depicts the necessary search area within which the

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site should be located pursuant to radio frequency requirements is attached as **Exhibit M**.

22. The tower must be located at the proposed location and proposed height to provide necessary service to wireless communications users in the subject area. A report prepared by a radio frequency engineer that describes the need for the proposed facility is attached as **Exhibit N**.

23. All Exhibits to this Application are hereby incorporated by reference as if fully set out as part of the Application.

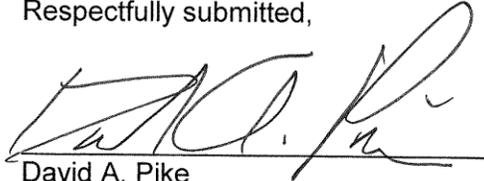
24. All responses and requests associated with this Application may be directed to:

David A. Pike
Pike Legal Group, PLLC
1578 Highway 44 East, Suite 6
P. O. Box 369
Shepherdsville, KY 40165-0369
Telephone: (502) 955-4400
Telefax: (502) 543-4410
Email: dpike@pikelegal.com
Attorney for Applicants

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WHEREFORE, Applicant respectfully requests that the Planning Commission accept the foregoing Application for filing, and having met the applicable requirements of the Zoning Ordinance and all applicable law, approve Applicants' request to construct and operate the proposed WCF at the location set forth herein.

Respectfully submitted,



David A. Pike
Pike Legal Group, PLLC
1578 Highway 44 East, Suite 6
P. O. Box 369
Shepherdsville, KY 40165-0369
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P.O. Box 369
Shepherdsville, KY 40165-0369
Phone (502) 955-4400 or (800) 516-4293
Fax (502) 543-4410 or (800) 541-4410

July 8, 2015

Louisville Metro Planning Commission
c/o Steve Hendrix
Metro Development Center
444 S. 5th Street, Suite 300
Louisville, Kentucky 40202

Re: Docket: 15Cell1002 – Stipulation as to Signage
Applicants: Powertel/Memphis Inc. d/b/a T-Mobile, Branch Communications, LLC and
Branch Towers, LLC
Site Address: 1408 West Madison Street, Louisville, KY 40203
Site Name: Gisco
[For Inclusion in Administrative Record]

Dear Steve:

This correspondence is provided to confirm that no signage will be posted at the proposed site except for such signage and/or notices as may be required to be posted by applicable law.

Sincerely,

A handwritten signature in black ink that reads "D.A.P." in a stylized, cursive script.

David A. Pike
Attorney for Applicants

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1578 Highway 44 East, Suite 6
P.O. Box 369
Shepherdsville, KY 40165-0369
Phone (502) 955-4400 or (800) 516-4293
Fax (502) 543-4410 or (800) 541-4410

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Louisville Metro Planning Commission
c/o Steve Hendrix
Metro Development Center
444 S. 5th Street, Suite 300
Louisville, Kentucky 40202

Re: Docket: 15Cell1002 - Statement of Co-location Availability
Applicants: Powertel/Memphis Inc. d/b/a T-Mobile, Branch Communications, LLC and
Branch Towers, LLC
Site Address: 1408 West Madison Street, Louisville, KY 40203
Site Name: Gisco
[For Inclusion in Administrative Record]

Dear Steve:

This correspondence is provided to confirm that the 150' monopole tower proposed in the above-referenced Uniform Application will be available for co-location for multiple wireless communications carriers. Branch Communications owns, operates, and markets wireless communications infrastructure. It has standard co-location agreements with major wireless carriers, and the company's portfolio consists of more than 575 wireless communications facility sites in 20 states. T-Mobile is planned to be the initial wireless carrier on the Gisco site. However, Branch Communications intends for others to follow to provide service for customers of other wireless carriers.

The Compound Plan (sheet Z3) attached to the Uniform Application as part of Exhibit B shows additional rectangular "easement areas" in the tower compound, which illustrate locations available for shelters or equipment cabinets of co-locating carriers. Also, page 3 of the Structural Report, which is part of Exhibit C, shows spaces for multiple sets of antennas on the monopole. Finally, the Easement Agreement with the property owner, as attached as Exhibit F, allows Branch Communications to assign any part of its interest in the site.

In summary, the site will be available for co-location as supported by Branch Communications' business model, the site design, and the applicable real estate instrument. Please let me know of any questions or comments.

Sincerely,

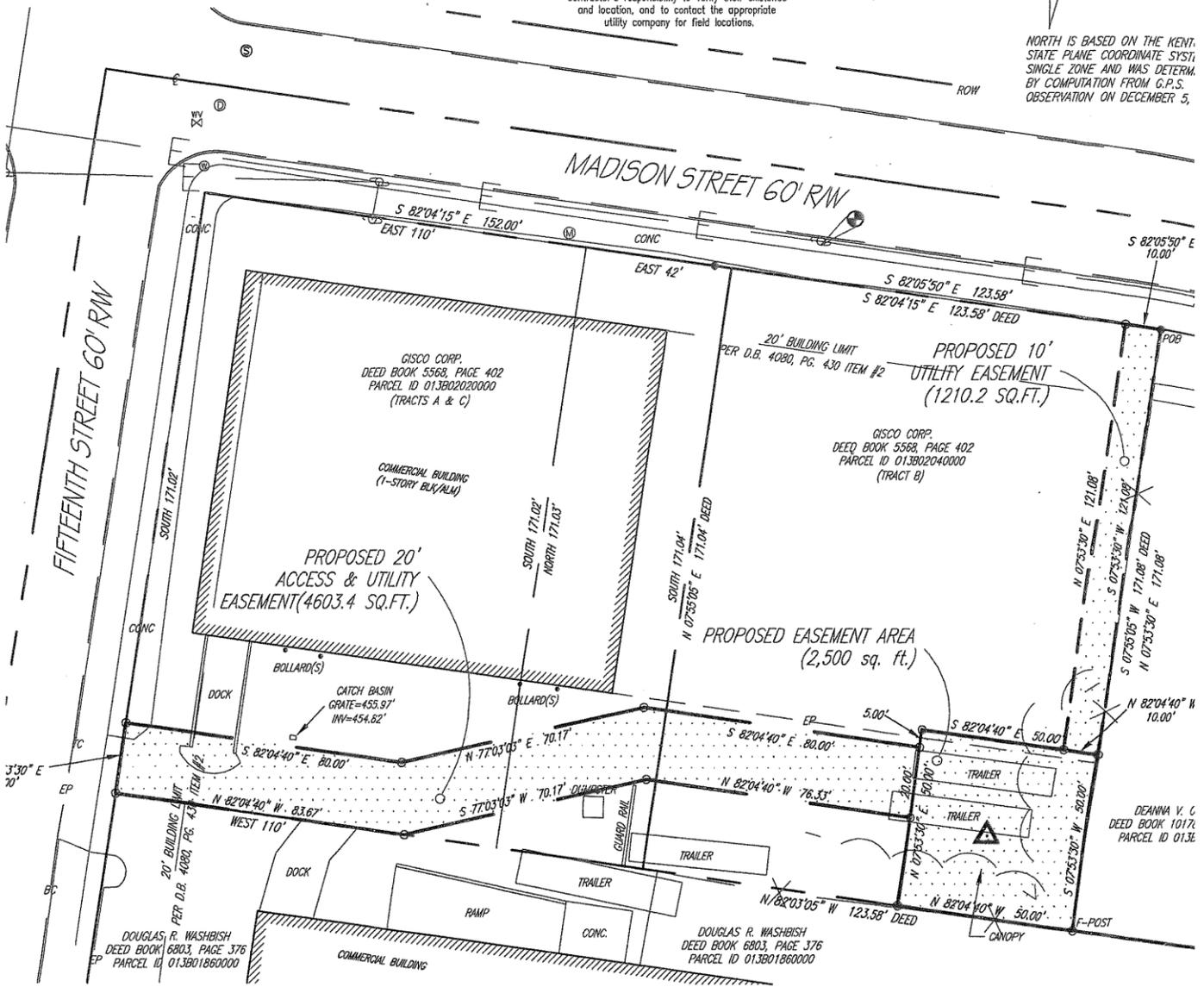
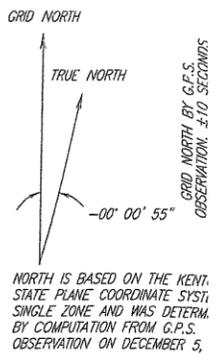
A handwritten signature in black ink, appearing to read "D. A. Pike".

David A. Pike
Attorney for Applicants

www.pikelegal.com

UNDERGROUND UTILITIES
 CALL 2 WORKING DAYS
BEFORE YOU DIG
 INDIANA 1-800-382-5544
 KENTUCKY 1-800-752-8007
 UTILITIES PROTECTION SERVICE
 NON-MEMBERS MUST CALL DIRECTLY

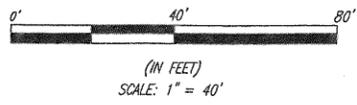
The utility information shown on this plat, prepared by FSIAN was obtained from existing records and/or by field locations. It is the contractor's responsibility to verify their existence and location, and to contact the appropriate utility company for field locations.



Scale: 1 in = 59,900.
 MISES SURVEYED
 made under my
 measurements,
 are true and correct
 minimum standards
 or right

STATE OF KENTUCKY
FRANK L. SELLINGER
 3282
 LICENSED
 PROFESSIONAL
 LAND SURVEYOR

SURVEYORS NOTES
 SOURCE OF BEARING IS A G.P.S. OBSERVATION ON DECEMBER 5, 2014.
 SOURCE OF ROTATION BASED ON THE NORTH PROPERTY LINE OF THE GISCO CORP. PROPERTY HAVING THE RECORDED BEARING OF S 82° 04' 15" E PER D.B. 5568, PG. 402, AND THE CALCULATED BEARING OF S 82° 05' 30" E.
 SITE SHOWN SUBJECT TO RIGHTS OF WAY AND EASEMENTS SHOWN HEREON OR NOT.
 NO SEARCH OF PUBLIC RECORDS HAS BEEN PERFORMED BY THIS FIRM TO DETERMINE ANY DEFECTS AND/OR AMBIGUITIES IN THE TITLE OF THE PARENT TRACT.
 THIS DRAWING DOES NOT REPRESENT A BOUNDARY SURVEY.
 EXISTING CONTOURS ARE AT ONE FOOT INTERVALS.



I HAVE REVIEWED THE FLOOD INSURANCE RATE MAPS (FIRM) MAP NO. 21111C0025E, DATED 12-05-06 AND THE PROPOSED LEASE AREA DOES NOT APPEAR TO BE IN A FLOOD PRONE AREA. THE PROPOSED LEASE AREA IS LOCATED IN ZONE "X".



View from Madison Street (subject location is at the rear).



Property east of the subject site.



Property west of subject site, (owner/applicant).



Property north of the site across Madison Street.



Property south of the site.



Looking east down Madison Street.



Looking west down Madison Street.