

**Development Review Committee  
Staff Report  
June 15, 2016**



<b>Case No:</b>	16Cell1002
<b>Request:</b>	Cell Tower
<b>Project Name:</b>	Greenwood Sylvania
<b>Location:</b>	6500 Greenwood Road
<b>Owner:</b>	Fusion Properties, LLC, Mark McAdams
<b>Applicant:</b>	Crown Castle, Bryan Brawner
<b>Representative:</b>	Christopher King
<b>Size:</b>	155 feet total height 5,727 square foot compound area
<b>Existing Zoning District:</b>	C-1, Commercial
<b>Existing Form District:</b>	Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	12 – Rick Blackwell
<b>Case Manager:</b>	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 within a 5,727 square foot compound area, an 8 foot high chain link fence with 'barrier shields' for a screen and no landscaping.

**Case Summary / Background/Site Context**

**The application was submitted on April 19, 2016. 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 18, 2016).**

The proposed site is located in a C-1 Zoning District within a Neighborhood Form District.

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 a total of four (4) carriers.

Signage will be limited to applicable law requirements.

The tower will have a galvanized steel finish.

No lighting will be installed on the tower.

Screening will consist of an 8 foot high chain link fence with "barrier shields" on all four sides.

Landscaping is not proposed.

Staff has received one negative statement concerning the proposal.

**Land Use / Zoning District / Form District Table**

	Land Use	Zoning	Form District
<b>Subject Property</b>			
Existing	Vacant Field	C-1	Neighborhood
Proposed	Same with Cell Tower	C-1	N
<b>Surrounding</b>			
North	Car Wash	C-1	N
South	Wooded Area, Ditch, Single Family Residences	R-4	N
East	Rite-Aid Pharmacy	C-1	N
West	Field, Wooded Area, Ditch, Single Family Residences	C-1, 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 is approximately 7,225 square feet that will contain the cabinets, equipment and the monopole within the C-1 zoned property.

#### **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 will be screened with an 8 foot high chain link fence with barrier shields

#### **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. In addition to the above mentioned screen, the existing car wash will help buffer the proposal from Greenwood Road to the north. An existing stand of trees and vegetation on the southern part of the property will provide a buffer between the proposal and the residential area to the south. The Rite Aid Pharmacy and its dumpster enclosure will some of the view from the east side of the proposal. Existing trees and vegetation separate the proposal from the residential area to the west.

#### **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 is located within a C-1 zoning district that is concentrated at the Greenwood/Terry roads intersection and is behind an existing car wash.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS TO ALLOW A REDUCTION IN THE LANDSCAPE BUFFER AND TO ALLOW A CHAIN LINK FENCE WITH BARRIER SHIELDS AS A SCREEN, Section 10.2.4**

### **BUFFER**

The applicant is not proposing any type of landscaping.

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will adversely affect the adjacent property owners to the south. Although buffered with existing trees and vegetation, the compound area needs to be buffered all year. If approved, the chain link fence with barriers will conceal the compound area, but the site still needs to be buffered.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will violate specific guidelines of Cornerstone 2020, such as visual impact and buffers.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The waiver is the maximum extent for relief to the applicant, since no landscaping is being proposed.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The applicant has implied that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant.

## **SCREEN**

The applicant is proposing a chain link fence with “shielding barriers”, some revised elevations/site plans refer to an 8 foot high chain link fence with dark brown vinyl slats.

Section 10.4.9 states that “Chain link fencing may not, under any circumstances be used to meet any screening requirements of this regulation, nor shall slats installed as part of a chain link fence be allowed to satisfy screening requirements.”

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect the adjacent property owners, **if** the shielding barriers are secure and able to withstand wind and debris, otherwise, staff is not able to support.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will violate specific guidelines of Cornerstone 2020, since the fence will be providing a screening device to the compound area.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The waiver is the minimum necessary to provide some type of screening for the compound area.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The applicant has implied that the strict application of the provisions of the regulation, (wooden privacy fence) would create an unnecessary hardship on the applicant.

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 a C-1 zoning district. The monopole is approximately 160 feet from the property line and roughly 230 feet to the nearest residence at 6507 Tearose Drive. The compound area is somewhat buffered by the existing car wash on the Greenwood Road to the north, existing trees and vegetation to the south, the Rite Aid Pharmacy and its dumpster enclosure on the east side and existing trees and vegetation on the west side which is located on a separate parcel. The applicant is requesting that the screen consist of an 8 foot high chain link fence with shielding barriers with no landscaping. Staff is in support of the monopole with the proposed screen, if the “shield barriers” are secure and are able to withstand wind and debris. Staff is not in support of zero landscaping, since the compound area needs to have year round buffering.

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.

**If not approved today, the Planning Commission /DRC needs to enter into a written agreement with the applicant concerning a specific date for the Commission /DRC to issue a decision. If there is no written agreement between the Planning Commission/DRC and the applicant to a specific date for the Planning/DRC Commission to issue a decision, the uniform application shall be deemed approved.**

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 along with the waivers as established in the Land Development Code

### **Notification**

<b>Date</b>	<b>Description</b>	<b>Recipients</b>
6.1.2016	Neighborhood Notification Ready	Registered Parties
6.1.2016	APO Notices Ready	Adjacent Property Owners

### **ATTACHMENTS**

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



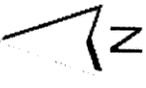
# 6500 Greenwood Road



Louisville Metro, MSD, LWC & PWA © 2016  
 This map is not a legal document and should only be used for general reference and identification.

6/9/2016, 4:56:19 PM

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LOJIC Quickmap

# 6500 Greenwood Road



Copyright (c) 2016 LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

0 200  
\* Distance are in feet

Plot Date 5/11/2016



LORCH NAVILLE WARD LLC

April 18, 2016

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Chester V. Lorch  
(1900-1972)  
Frank E. Lorch, Jr.  
(1905-1951)  
Basil H. Lorch, Jr.  
(1925-1997)  
Herbert F. Naville  
(1919-2010)  
Michael G. Naville  
(1951-2014)

VIA HAND DELIVERY

Louisville Metro Planning and Design Services  
444 S. 5<sup>th</sup> Street, Suite 300  
Louisville, KY 40202

RE: Application for Construction of Cellular Antenna Tower  
Crown Site Name: Greenwood Sylvania  
Location: 6500 Greenwood Road, Louisville, KY 40258

Michael F. Ward  
George W. Gesenhues, Jr.  
Linda B. Lorch  
Robert P. Hamilton  
Timothy J. Naville\*  
Pamela S. Perkinson  
Lisa Garcia Reger  
Gregory M. Reger\*  
Cary J. Hurst  
J. David Agnew\*  
Christopher L. King\*  
Stephen T. Naville  
Claire Lorch Hagedorn

Dear Sir/Madam:

Crown Castle Towers 06-2, LLC and Verizon Wireless (collectively, the “Applicants”) propose to construct a wireless communication facility (“WCF”) to allow for the installation and operation of wireless communications antenna at a facility located at 6500 Greenwood Road, Louisville, KY 40258 on property owned by Fusion Properties, LLC.

The proposed WCF will consist of 150’ monopole (with 5’ lightning arrestor for a total structure height of 155’) within a 69’ X 83’ fenced compound and installation of Verizon Wireless antennae at a height of 145’. The proposed tower will be below the maximum height authorized by the Federal Aviation Administration for this location and will be unlit.

Reasons for the Application: Wireless communications technology has rapidly advanced and the public’s adoption of the new technologies has increased along with it. The public’s increased use of modern wireless voice and data services (4G, LTE, etc.) has resulted in the need for service providers, including Verizon Wireless, to construct more, and more advanced, WCFs to meet this demand and maintain acceptable levels of service. Currently, Verizon Wireless has identified a need for increased system capacity to improve service in the area of the intersection of Greenwood Road and Terry Road, west of US 31W and North of KY-841 in Jefferson County, Kentucky. The Applicants investigated the area to determine if co-location on an existing structure was feasible and determined there is no existing structure on which Verizon Wireless’ antennae could be installed and still meet the radio frequency (“RF”) engineering requirements to provide

Of Counsel  
William C. Moyer\*

\*Also admitted in KY

16 CELL 1002

506 State Street P.O. Box 1343 | New Albany, IN 47151-1343 | Phone: (812) 949-1000 Fax: (812) 949 - 3773 | www.lnwlegal.com

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acceptable coverage and capacity to the area described above. Construction of the WCF at this location will allow Verizon Wireless to meet the increased coverage and capacity needs in the area.

Applicants propose construction of a tower with a design that will allow Verizon Wireless' antennae at the height required as determined by radio frequency analysis, with opportunity for co-location of antennae and equipment for at least three additional service providers in the future as those needs arise.

Uniform Application Elements:

A grid map showing the location of existing and proposed cellular antenna towers within ½ mile outside of the jurisdiction of the Louisville Metro Planning Commission is enclosed in Tab A.

Copies of the easement agreement with Fusion Properties, LLC and vesting deeds are enclosed in Tab B.

The current Certificates of Authority for Applicants are enclosed in Tab C.

The full name and address of the Applicants are: Crown Castle Towers 06-2, LLC, with offices in Kentucky at 10300 Ormsby Park Place, Suite 500, Louisville, KY 40223; and Cellco Partnership d/b/a Verizon Wireless, One Verizon Way, Basking Ridge, NJ 07920.

A geotechnical investigation report, prepared by Power of Design regarding the site is enclosed in Tab D.

Written findings as to the proximity of the proposed site to flood hazard areas are found on the site survey prepared by Mark E. Patterson and included in the site plan drawings as Sheet B-1, which site plan drawings are enclosed in Tab E.

Clear directions from the county seat to the proposed site are found on page T-1 of the site plan drawings enclosed in Tab E.

The tower and foundation plans for the proposed tower, and a description of the standard according to which the tower was designed, are enclosed in Tab F and were prepared by Richard W. Hoffman, PE; a professional engineer licensed in the State of

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A written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "Crown Castle Towers 06-2, LLC proposes to construct a telecommunications tower at this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted and shall remain in a visible location on the proposed site and it will remain until final disposition. In addition, a written notice, at least two (2) feet by four (4) feet in size, stating that "Crown Castle Towers 06-2, LLC proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site.

Notice of the proposed construction was published in the Louisville Courier-Journal, a newspaper of general circulation in Jefferson County, Kentucky on April 16-17, 2016. A copy of the publication order is enclosed in Tab J.

A description of the character of the general area is enclosed in Tab K.

Applicants have considered the likely effects of the installation on nearby land uses and values and concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided and there is no reasonably available opportunity to locate its antennae on another existing structure. A map of the area in which the tower is proposed to be located, drawn to scale and that clearly depicts the necessary search area within which the antennae tower should, pursuant to radio frequency requirements, be located is enclosed in Tab L.

Requested Waivers: The subject property is currently zoned C1 within a Neighborhood overlay district. Strict application of Section 10.2 of the Land Development Code, would require either a) a perimeter landscape buffer area 50' in width with an 8' screen and 3 Type A or B trees per 100 linear feet; or b) a perimeter landscape buffer area 35' in width with an 8' screen and 4.5 Type A or B trees per 100 linear feet. The Applicant requests a waiver of this requirement, and submits the following justifications therefor:

- i. The subject parcel is surrounded by C1 zones to the West, North and East, with R1 located across an MSD drainage ditch to the south.
- ii. The proposed WCF will be located to the rear of an existing car wash (to the North) and Rite-Aid pharmacy to the East.

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- iii. An approximately 2.33 acre vacant parcel adjoins the proposed site on the West and contains existing trees and vegetation sufficient to screen the proposed WCF.
- iv. The size of Applicants' easement is insufficient to allow either a 50' or a 35' perimeter landscape buffer area. Instead, Applicant proposes:
  - a. Enclosing the ground equipment compound and base of the tower with an 8' tall ~~wooden~~ security fence as shown on the Tower Elevation Drawing at page C-3 of the site plan drawings included in Tab E;
  - b. Utilizing a 15' wide landscape buffer on the south edge of the equipment compound, containing nine (9) Type A or B trees.
- v. Applicants submit that the proposed privacy fencing, coupled with the location of the proposed WCF on the parent parcel, its distance from adjoining properties and the existing trees and vegetation on the parent parcel and adjoining parcels will provide at least as much visual screening of the compound from the public roads and neighboring residences as would otherwise be provided by Sec. 10.2 of the Land Development Code.
- vi. Applicants believe the waiver requested is in keeping with the spirit of the Comprehensive Plan and the intent of the Land Development Code.
- vii. The strict application of this requirement would create a hardship to the Applicants by mandating a requirement that is not appropriate in this particular situation, one that is unnecessary and not required in other similar sites in Jefferson County.

In addition, Applicant submits the following information as an aid in evaluating this application.

- i. The site will be enclosed by an 8 foot <sup>CHAIN LINK WITH SHEDDING BARRICADES</sup> high-security fence.
- ii. The site is not within or near a sight triangle.
- iii. Applicant's proposed tower will not require any artificial lighting on the WCF per FAA regulations.
- iv. The site will comply will all FCC regulations.
- v. If the site ever ceases to operate, it will be removed as required by the Code.

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- vi. Only identification signs as required by other local, state and federal agencies, in the manner prescribed, will be permitted on the site.

Thank you for your attention to this application. Please do not hesitate to contact me should you need any additional information to facilitate your consideration of this matter.

Sincerely,

LORCH NAVILLE WARD, LLC

  
Christopher L. King  
cking@lnwlegal.com  
*Counsel for Applicants*

CLK  
Enclosures

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**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

**1. Will the waiver adversely affect adjacent property owners?**

No. The proposed WCF is located in the rear of an existing car wash on a 1.77 acre tract, more than 200' from the nearest residential structure. The WCF will be unlit, unmanned and generate negligible traffic, noise or light. Existing trees vegetation and terrain will screen substantially the proposed ground compound and the base of the tower from adjoining properties.

**2. Will the waiver violate the Comprehensive Plan?**

No. The Comprehensive Plan contemplates the installation and operation of Cellular Towers in the R4 District. The site plan for the proposed WCF allows for co-location (Guideline 15. A. 21.) and is designed to minimize the effects it may have on nearby land uses, including: utilization of a monopole design to reduce visual cross-section, height limitation so as not to require lighting, location in the rear of the 1.77 acre parent parcel to maximize distance from adjoining properties. The WCF will be removed in future if no longer in use. (Guideline 3. A. 30.)

**3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**

Yes. Applicants' easement area is insufficient to allow for the landscape buffer area otherwise required by the Land Development Code. However, Applicants propose to install a visual screen within its easement area consisting of an ~~8' wooden~~ fence installed to screen the interior of the equipment compound from sight ~~as well as a 15' wide landscape buffer on the side of the WCF facing the nearest residences.~~

**4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?**

Strict application of the Landscape Design provisions of the Land Development Code would deprive Applicants of the use of this land. The dimensions of the proposed WCF compound are necessary to allow installation of ground equipment for co-locating service providers, leaving insufficient room within the Applicants' easement area for either a 25' or 50' landscape buffer area.

*APRIL 19, 2016*



May 31, 2016

Chester V. Lorch  
(1900-1972)  
Frank E. Lorch, Jr.  
(1905-1951)  
Basil H. Lorch, Jr.  
(1925-1997)  
Herbert F. Naville  
(1919-2010)  
Michael G. Naville  
(1951-2014)

Louisville Metro Planning and Design Services  
444 S. 5<sup>th</sup> Street, Suite 300  
Louisville, KY 40202  
ATTN: Steve Hendrix

RE: Docket 16Cell1002; Application for Cell Tower at 6500 Greenwood Rd.  
Crown Site Name: Greenwood/Sylvania

Michael F. Ward  
George W. Gesenhues, Jr.  
Linda B. Lorch  
Robert P. Hamilton  
Timothy J. Naville\*  
Pamela S. Perkinson  
Lisa Garcia Reger  
Gregory M. Reger\*  
Cary J. Hurst  
J. David Agnew\*  
Christopher L. King\*  
Stephen T. Naville  
Claire Lorch Hagedorn  
Maxwell W. McCrite

Dear Mr. Hendrix:

Attached is an original and four copies of revised site plans pertaining to the above referenced Cell Tower Application and General Waiver Application (Landscape) filed on April 19, 2016. This document should replace Tab E attached to the original Application. This revised Tab E addresses MSD comments and corrects Flood Plain delineations. In addition, the revised Tab E removes landscaping on the south side of the site and exchanges the 8' high wooden privacy fence with an 8' high chain link fence containing dark brown vinyl privacy slats. An example photo of the proposed fence is attached hereto for your reference and inclusion in your record.

Please let me know if you need anything further to complete the file for this application and also when you believe this application will come before the DRC for its consideration. Thank you for your attention to this matter.

Retired  
William C. Moyer\*

Sincerely,

  
Christopher L. King  
[cking@lnwlegal.com](mailto:cking@lnwlegal.com)  
Counsel for Applicant

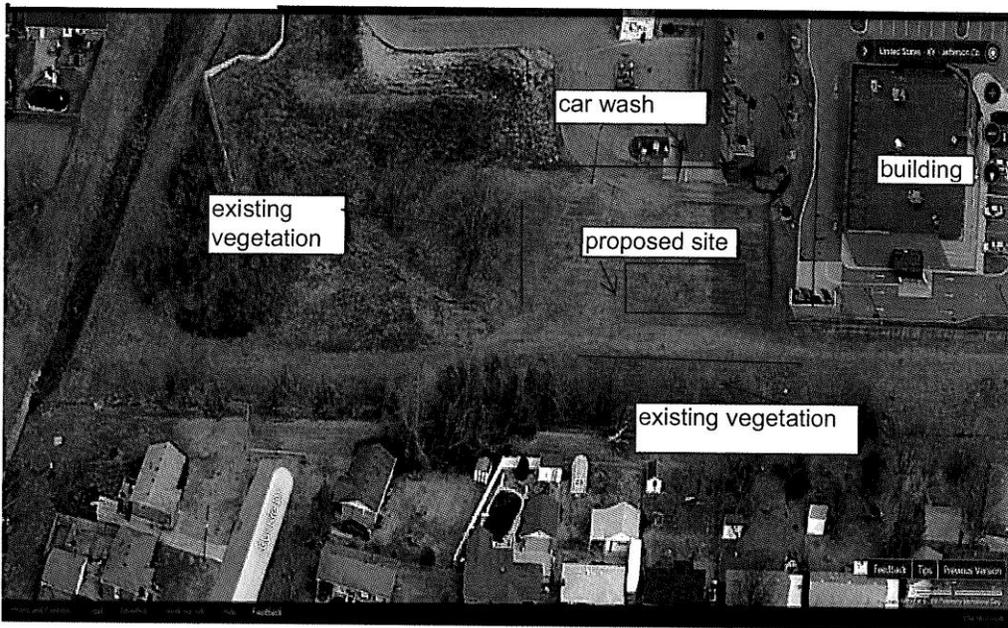
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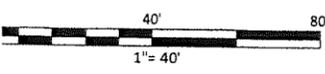
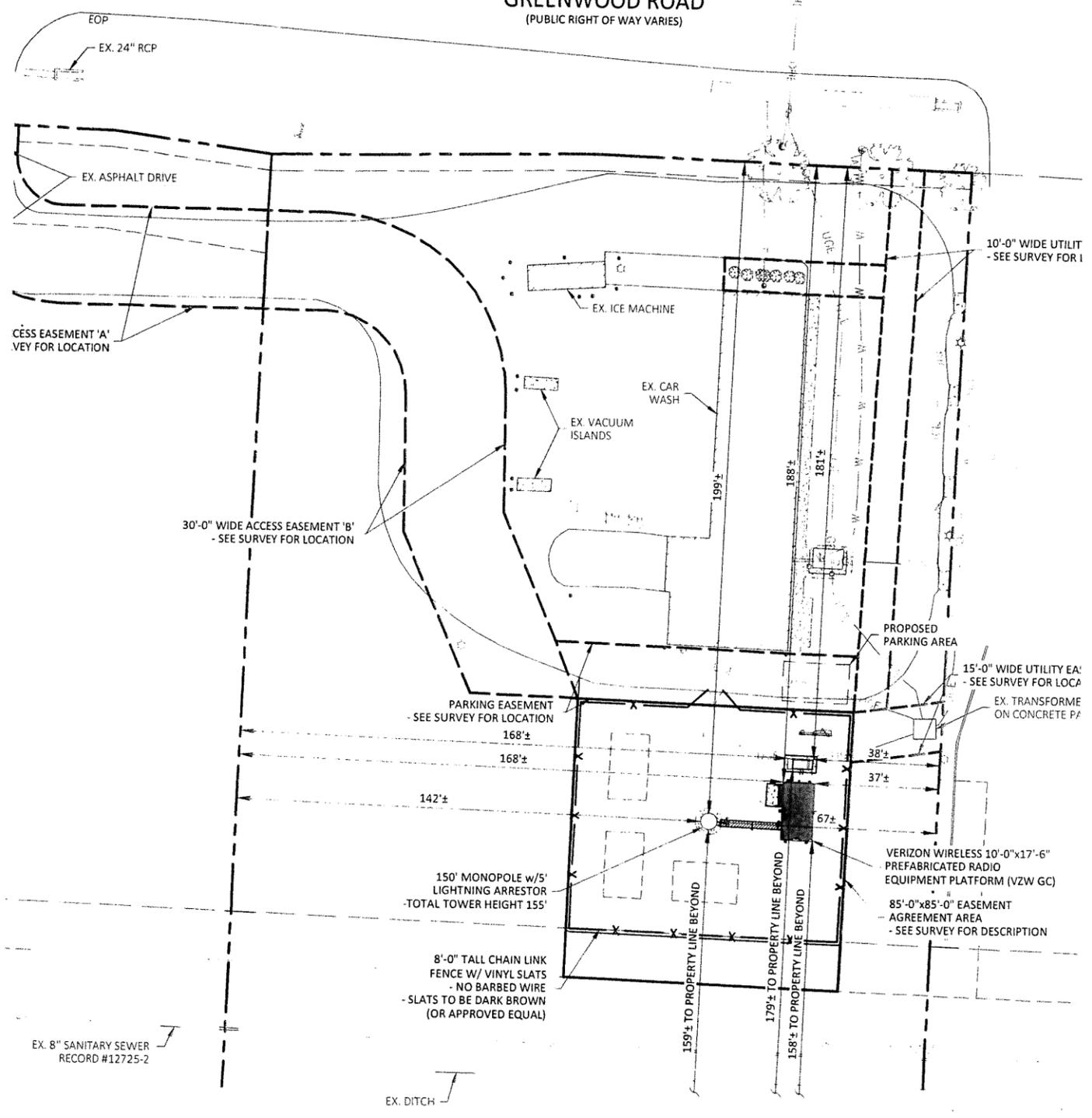
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Example of proposed 8' high chain-link security fence with dark brown vinyl privacy slats installed



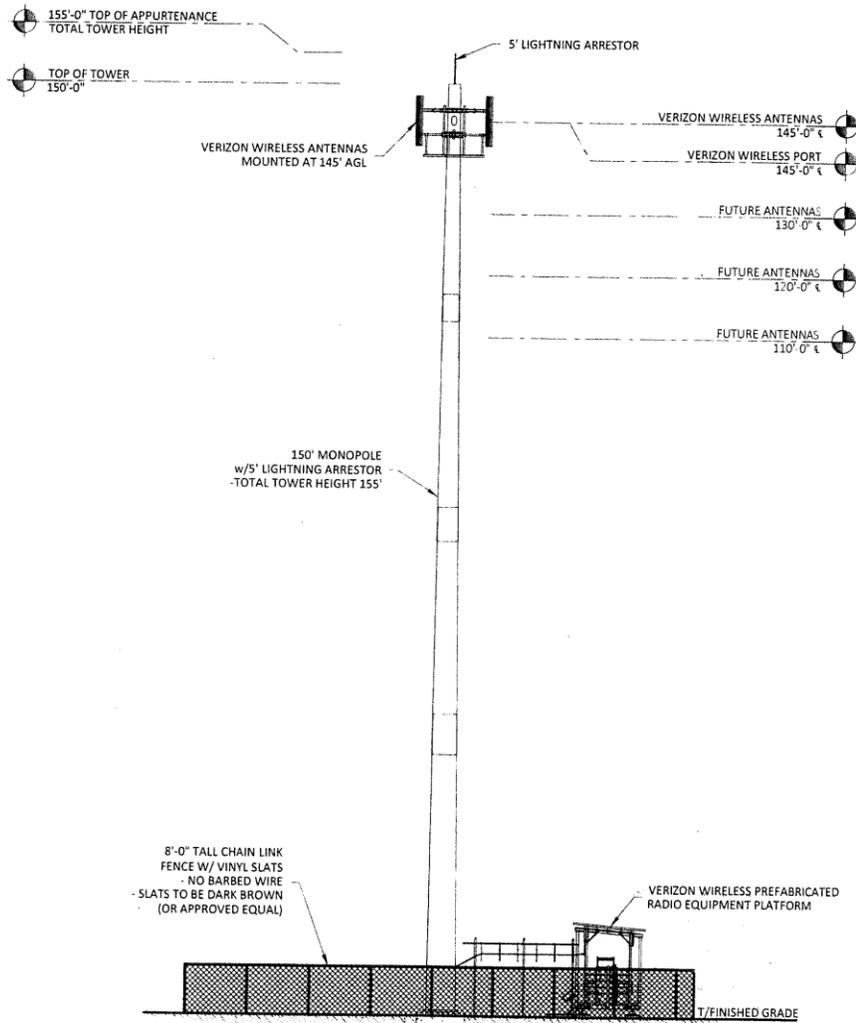
**GREENWOOD ROAD**  
(PUBLIC RIGHT OF WAY VARIES)



**OVERALL SITE PLAN w/DISTANCE TO PROPERTY LINES**

SCALE: 1" = 40'





TOWER ELEVATION

SCALE: N.T.S.

1  
TE-1



Looking north toward Greenwood Road from pole site.

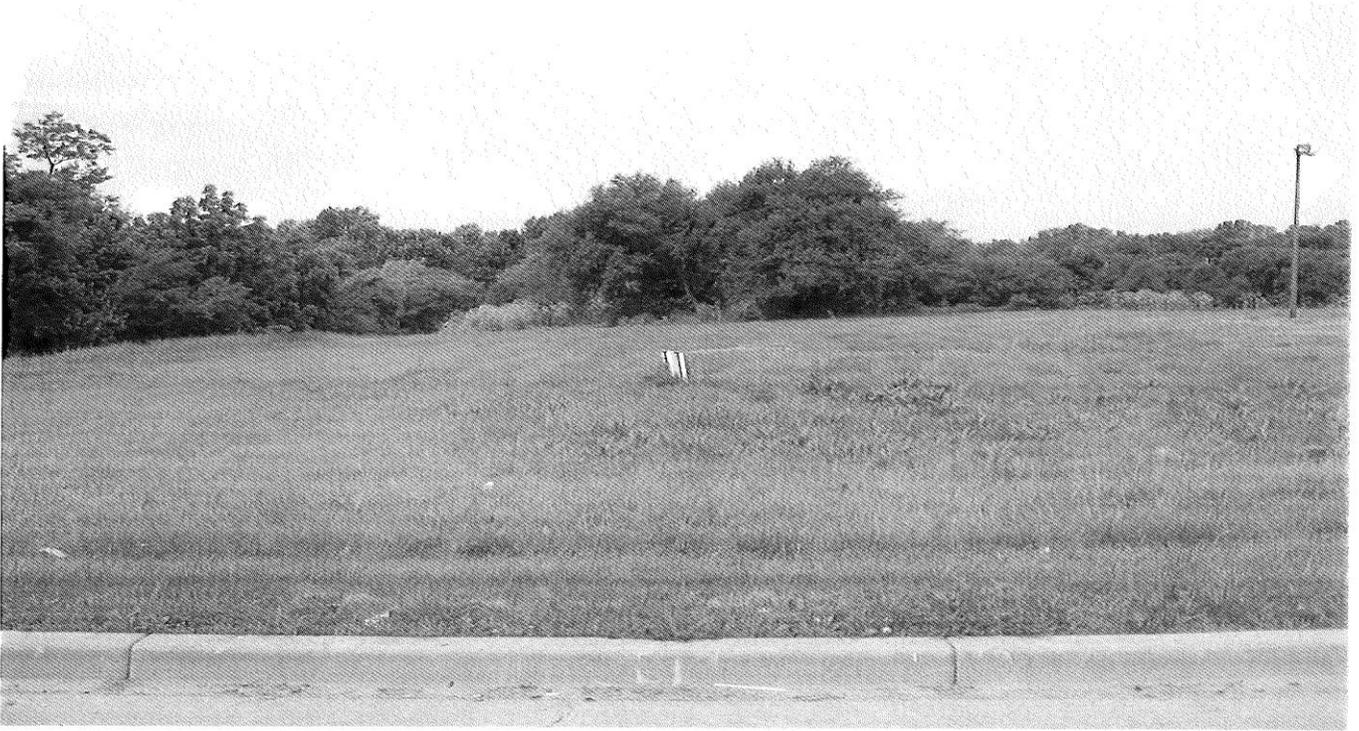
Looking  
south.





Looking east.

Looking  
west.





6509 and 6507 Tearose Drive