

# Development Review Committee

## Staff Report

November 4, 2015



<b>Case No:</b>	15MOD1016
<b>Project Name:</b>	14Cell1004, conditions
<b>Location:</b>	5811 Lovers Lane (Billtown Road access)
<b>Owners:</b>	Virginia M. Bland (J. Michael Bland POA)
<b>Applicant:</b>	Cellco Partnership d/b/a Verizon Wireless
<b>Representative:</b>	Brent Rice
<b>Project Area/Size:</b>	22 acres, total site
<b>Existing Zoning District:</b>	R-4, Residential Single Family District
<b>Existing Form District:</b>	Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	22 – Robin Engel
<b>Case Manager:</b>	Steve Hendrix, Planning Supervisor

### REQUEST

Amendment to Binding Element (conditions of approval for a cell tower).

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The cell tower application was approved by the Planning Commission on December 18, 2014 with one of the conditions being that a six-foot tall wood or vinyl privacy fence be installed on the homeowner's side along approximately one-third to one-half the length of the Bauer property line (beginning at Billtown Road; exact length to be determined between the applicant and Ms. Bauer/her representative. Since that time, the applicant has not been able to install a fence, since the neighboring property owner does not appear to be willing to cooperate. Staff is not sure a fence on either property will serve much of a purpose, since the privacy fence will only be "screening" a portion of the proposed access road.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant Field	R-4	Neighborhood
<b>Proposed</b>	Vacant Field with Cell tower	R-4	N
<b>Surrounding Properties</b>			
<b>North</b>	Wooded Area, Field	R-4	N
<b>South</b>	Wooded Area, Tree Farm	R-4	N
<b>East</b>	Tree Line, Vacant Field, Residential	R-4	N
<b>West</b>	Field, Applicant's House, Residential	R-4	N

## PREVIOUS CASES ON SITE

### 14Cell1004

On December 18, 2014, the Louisville Metro Planning Commission approved the proposal for a 195 foot tall monopole tower with a waiver for the reduction in the landscape buffer.

### B-17413-12

### B-17801-12

On October 15, 2012, the Louisville Metro Board of Zoning Adjustment approved the Conditional Use Permit request for an athletic facility at this location for St. Gabriel. The development included two (2) baseball fields, football/soccer fields, gymnasium, pavilion, outdoor worship area and a community garden. The proposal had 270 parking spaces access from Lovers Lane and Billtown Road. The facility would have been used by children in kindergarten through the eighth (8) grade and been open until 11:00 pm. ----**EXPIRED**

## INTERESTED PARTY COMMENTS

None Received.

## APPLICABLE PLANS AND POLICIES

Land Development Code for all of Jefferson County, Kentucky

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR AN AMENDMENT TO BINDING ELEMENT

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: Removal of the fence requirement might actually help maintain the rural character and the view from Billtown Road.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Access will still be from Billtown Road with a security gate approved by the Kentucky Transportation Cabinet.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: N/A

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: N/A

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The fence was imposed to provide a screen from the neighboring property/cell tower/road. However, the proposed access road is approximately 60 feet from the neighboring Bauer residence, the tower will be unmanned and will create very little traffic. The compound area is more than 1,000 feet to west of Billtown Road and will be buffered by the existing tree line and proposed landscaping. The upper portion of the cell tower will still be visible, so removal of the fence condition would probably have little impact.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan for the cell tower conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code as approved by the Planning Commission on December 18, 2014.

**TECHNICAL REVIEW**

None

**STAFF CONCLUSIONS**

The proposed amendment appears to be adequately justified based on staff analysis in the staff report.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards established in the LDC for approving the Amendment to Binding Element.

**REQUIRED ACTION**

**APPROVE** or **DENY** the change to the Conditions of Approval.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
10/22/15	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Registered neighborhood groups Speakers at December 18, 2014 meeting

**ATTACHMENTS**

1. Zoning Map
2. Aerials
3. December 18, 2014, Planning Commission Minutes



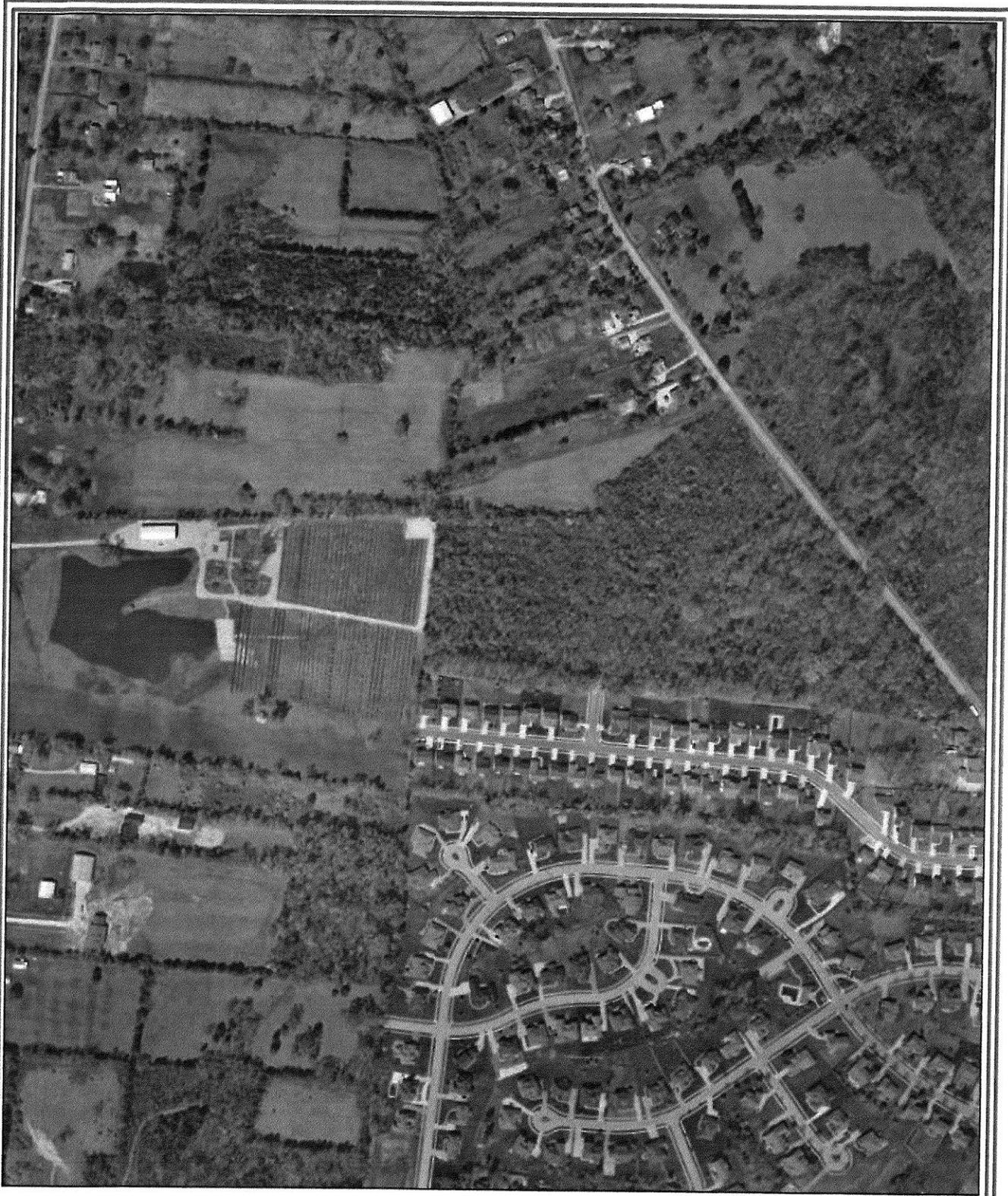
15Mod1016

Plot Date 10/27/2015

0 400  
\* Distance are in feet



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LOJIC Quickmap

15MOD1016

Plot Date 10/27/2015

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\* Distance are in feet



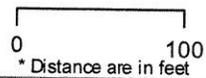
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**Planning Commission Minutes  
December 18, 2014**

**Public Hearing**

**Case No. 14CELL1004**

**\*NOTE: Commissioner Tomes arrived at 1:08 p.m.**

**Request:** Request to construct a 190-foot tall tower with a 5-foot tall lightning arrestor for a total height of 195 feet with a 5,625 square foot compound area.

**Project Name:** Verizon Cell Tower

**Location:** 5811 Lovers Lane with access from Billtown Road

**Owner:** Virginia M. and Joseph Bland  
5811 Lovers Lane  
Louisville, KY 40299

**Applicant:** Cellco Partnership d/b/a Verizon Wireless  
Amy Harper – Contact  
2421 Holloway Road  
Louisville, KY 40299

Cellco Partnership d/b/a Verizon Wireless  
One Verizon Way, Mailstop 4AW100  
Basking Ridge, NJ 07920

**Representative:** Brent Rice  
McBrayer Attorneys at Law  
201 East Main Street Suite 900  
Lexington, KY 40507

**Engineers:** Philip Heid  
BTM Engineering  
3001 Taylor Springs Drive  
Louisville, KY 40220

FStan Land Surveyors & Consulting Engineers  
933 South 3<sup>rd</sup> Street  
Louisville, KY 40203

**Jurisdiction:** Louisville Metro  
**Council District:** 22 – Robin Engel

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**Public Hearing**

**Case No. 14CELL1004**

**Case Manager: Steve Hendrix, Planning Supervisor**

**Agency Testimony:**

00:05:40 Steve Hendrix presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.)

00:17:41 In response to a question from Commissioner Brown, Mr. Hendrix stated tat the Kentucky Transportation Cabinet has addressed the access from Billtown Road but not with a Lovers Lane access.

00:18:27 In response to a question from Commissioner Proffitt, Mr. Hendrix discussed the proposed location of the cell tower to minimize the effect of the installation on the nearby land uses.

**The following spoke in favor of the proposal:**

Brent Rice, McBrayer Attorneys at Law, 201 East Main Street Suite 900,  
Lexington, KY 40507

Gordon Snyder, Verizon Wireless engineer, 2421 Holloway Drive, Louisville, KY  
40299

Joseph M. Bland, 5811 Lovers Lane, Louisville, KY 40299

Philip Heid, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Bill Von Ohlen, 13608 Saddlecreek Drive, Louisville, KY 40245

Martin Brown, P.O. Box 120, Prospect, KY 40059

**Summary of testimony of those in favor:**

00:21:20 Brent Rice, the applicant's representative, presented the applicant's proposal and showed a Power Point presentation. He explained why this location was right to provide cell phone coverage.

00:25:51 Gordon Snyder, Verizon RF Design Engineer, discussed the network design and how it is related to the choice of this site.

00:28:27 Mike Bland, representing his mother who owns the property, described the site and the surrounding area/s and their uses. He discussed why

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**Public Hearing**

**Case No. 14CELL1004**

access would be given to Verizon from Billtown Road rather than Lovers Lane. He stated that Verizon will be maintaining the site, including the access. He said he will be maintaining the remainder of the 22 acres.

00:32:14 Philip Heid, Project Manager, discussed the access road/easement from Billtown Road and the distance from the planned access road to nearby residences.

00:35:00 Bill Von Ohlen, a Construction Project Manager for Verizon, testified about the construction of a cell tower, specifically about trips made to a site for construction and maintenance.

00:36:25 Martin Brown, an associate with Galloway Appraisal, discussed neighborhood impact studies for cell tower projects.

00:38:10 Mr. Rice concluded his presentation.

**The following spoke in opposition to the proposal:**

Lee Walker on behalf of Deborah Bauer, 5808 Billtown Road, Louisville, KY 40299

Robin Heuke, 1101 Glenlake Way, Louisville, KY 40245

**Summary of testimony of those in opposition:**

00:41:16 Lee Walker spoke on behalf of Deborah Bauer (a Billtown Road resident). He specifically discussed the service access road for the cell tower. He suggested a privacy/security fence and landscaping along the Bauer property line; or moving the service road with its access off Lovers Lane.

00:47:44 Robin Heuke, a partner in GRH Properties (a nearby Lovers Lane property owner), said she is opposed to the project because it is in a residential area. She showed a Power Point presentation that included conceptual views of what the tower would look like in the neighborhood. She said nearby utility sites are adjacent to commercial properties, not residences, and that the chosen site is unsuitable.

**The following spoke neither for nor against the proposal:**

No one spoke.

**Rebuttal:**

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**Public Hearing**

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00:54:17 Mr. Rice answered questions from Commissioners, including adding a security gate to the service road entrance, adding a privacy fence along a portion of Ms. Bauer's property, the length of the lease, and what consideration had been given to other sites (or to moving the tower.)

01:08:38 Commissioners Proffitt and Tomes, and Mr. Rice and Mr. Snyder, discussed the possibility of other locations, including commercial sites for sale in the area.

**Deliberation:**

01:13:26 Commissioners' deliberation. Commissioner Blake (and others) requested a security gate and a privacy fence for the adjacent Bauer property.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

01:29:45 On a motion by Commissioner White, seconded by Commissioner Peterson, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the Lovers Lane cell site is necessary to achieve capacity needs in the Fern Creek area of Lovers Lane, Seatonville Rd and Billtown Rd. This site is necessary to provide this capacity that cannot be established in any other manner. Lovers Lane will provide new capacity to offload the S Hurstbourne and Billtown Rd sites. Both sites are currently operating at or near maximum capacity in this area of the Verizon Wireless Network, limiting the ability of customer access to the network. This new tower is required as there is no other means of providing this service in this area; and

**WHEREAS**, the Commission further finds that the site will provide the quality coverage customers rely on; Customers will experience access to mobile voice and wireless data services previously unavailable, and support Homeland Security through enhanced 911 services; and

**WHEREAS**, the Commission further finds that this cell site has been designed, and will be constructed and operated in a manner that satisfies regulations and requirements of all applicable governmental agencies that have been charged with regulating tower specifications, operation, construction, at1d placement, including the FAA and FCC; and

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**WHEREAS**, the Commission further finds that RF emission readings at this site in the accessible areas would be well below the applicable limits for FCC Uncontrolled/General Population and FCC Controlled/Occupational environments as outlined in 47 CFR LI30I through 1.1319. The site would carry appropriate RF emission signage to the public entering the site area; and

**WHEREAS**, the Commission further finds that this site would transmit frequencies within the licensed frequency bands and the power limitations set by FCC regulatory authority. The site would go through the complete regulatory process before it comes on-air to provide service to customers; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the request to construct a 190-foot tall tower with a 5-foot tall lightning arrestor for a total height of 195 feet with a 5,625 square foot compound area, **ON CONDITION** that a security gate be added to the proposed driveway entrance; that the security gate be approved by the Kentucky State Transportation Cabinet; and that a six-foot tall wood or vinyl privacy fence be installed on the homeowner's side along approximately one-third to one-half the length of the Bauer property line (beginning at Billtown Road; exact length to be determined between the applicant and Ms. Bauer/her representative)

**The vote was as follows:**

**YES: Commissioners Blake, Peterson, Jarboe, White, Kirchdorfer, and Turner.**

**NO: Commissioners Brown, Proffitt, and Tomes.**

**NOT PRESENT: Commissioner Butler.**

**ABSTAINING: No one.**