

JACOB C. WALBOURN  
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LEXINGTON, KY 40507  
859.231.8780 EXT. 102

July 30, 2019

Gwen R. Pinson  
Executive Director  
Public Service Commission  
P.O. Box 615  
211 Sower Boulevard  
Frankfort, Kentucky 40602-0615

RECEIVED

AUG 01 2019

PUBLIC SERVICE  
COMMISSION

RE: **Horvath Towers V, LLC Application**  
**Site Name: LV Pleasant View**  
**Docket No. 2019-00117**

Dear Ms. Pinson:

Enclosed please find one original and eleven copies of Applicant's Response to the Commission Staff's First Request for Information from Horvath Towers V, LLC, in the above-referenced case. Please return a file-stamped copy to our office in the envelope provided. Any comments or questions regarding the enclosed should be forwarded to the undersigned. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jacob C. Walbourn" followed by a stylized flourish.

Jacob C. Walbourn  
Counsel for Horvath Towers V, LLC

Enclosures  
4844-9626-1790, v. 1

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

THE APPLICATION OF HORVATH )  
TOWERS V, LLC FOR ISSUANCE OF )  
A CERTIFICATE OF PUBLIC CONVEINCE )  
AND NECESSITY TO CONSTRUCT A )  
WIRELESS COMMUNICATIONS FACILITY )  
IN THE COMMONWEALTH OF KENTUCKY )  
IN THE COUNTY OF WHITLEY )

**ORIGINAL**

CASE NO.: 2019-00117

SITE NAME: LV PLEASANT VIEW

\* \* \* \* \*

**APPLICANT'S REPSONSE TO THE COMMISSION STAFF'S  
FIRST REQUEST FOR INFORMATION FROM HORVATH TOWERS V, LLC**

Comes now the Applicant, Horvath Towers V, LLC, and for its response to the First Request for Information from the staff of the Kentucky Public Service Commission, states as follows:

1. In response to Item 1(a), the Applicant confirms that a tower is located on the property identified as "Candidate C Dean Chambers" on the map produced in response to public comments offered by Brian Chinn.

2. In response to Item 1(b), the Applicant identifies the tower on the Chambers property as being located at North Latitude 36° 40' 45.2" by West Longitude 84° 08' 26.2". The distance from the proposed communications tower is approximately 4,119.63 feet from the tower on the Chambers property.

3. In response to Item 1(c), the Applicant states that the tower on the Chambers property was not identified in the Applicant's application as the tower was not registered with the Federal Communications Commission's Antenna Structure Registry.

The exhibit prepared as part of the application noting existing towers was compiled from this registry.

4. In response to Items 1(d) and 1(e), the Applicant states that both it and Verizon Wireless identified and explored numerous properties prior to selecting the site that is the subject of the present Application. The site identified as "Candidate C Dean Chambers" was found to be outside the search area for the proposed tower, and thus determined to be unsuitable for the needs of Verizon and its customers.

5. In response to Items 1(f) and 1(g), the Applicant states that due to the state of disrepair and lack of maintenance of the existing tower, it is unlikely that such tower would meet the technical needs of the applicant and would not be a viable site for colocation. The Applicant has further concern regarding the status of and continued effectiveness of any agreements for the use of the land for the existing tower.

6. In response to Item 2, the Applicant states that the "Candidate B Carolyn Bowman" site was selected over the "Candidate C Dean Chambers" site for the proposed communications tower for numerous reasons, including that the Chambers site was located outside of the search area, that the existing tower was in a state of disrepair and had clearly not been maintained in some time, and due to the uncertain status of the lease or land agreements concerning the Chambers site.

7. In response to Item 3(a), the Applicant states that the proposed tower is 255 feet from the property line of Brian Chinn at its closest point.

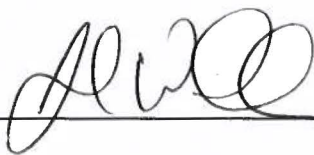
8. In response to Item 3(b), the Applicant states that the proposed tower is 773 feet from the residence on the property of Brian Chinn at its closest point.

9. In response to Item 4, the Applicant states that upon information and belief, the railroad tracks to the southwest of the facilities proposed are still in use. However, the Applicant further states that the facilities have been designed in such a manner as to not disturb or impede use of the railroad tracks.

10. In support of the assertions made in paragraphs 1-9 above, the Applicant directs the Commission and its staff to the Affidavits filed in support of this Response. Attached hereto find Exhibit 1, a sworn affidavit from Jordan Hoepfner, a Project Manager for Horvath Communications, Exhibit 2, a sworn affidavit from Gordon Snyder, a Verizon RF Design Engineer, and Exhibit 3, a sworn affidavit from John Marcelletti, a Site Acquisition Representative for Verizon Wireless.

WHEREFORE, the Applicant respectfully requests that the PSC accept this Response for filing. Having met all relevant legal requirements, the Applicant requests that the Commission grant a Certificate of Public Convenience and Necessity to construct and operate the Facility at the location described herein and in its Uniform Application.

Respectfully submitted,



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Jacob C. Walbourn  
McBrayer PLLC  
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Lexington, Kentucky 40507  
(859) 231-8780 (phone)  
(859) 231-6518 (fax)  
[brice@mcbayerfirm.com](mailto:brice@mcbayerfirm.com)  
[jwalbourn@mcbayerfirm.com](mailto:jwalbourn@mcbayerfirm.com)

## **LIST OF EXHIBITS**

- Exhibit 1      Affidavit of Jordan Hoepner (with attached exhibits)**
- Exhibit 2      Affidavit of Gordon Snyder**
- Exhibit 3      Affidavit of John Marcelletti**



## AFFIDAVIT OF JORDAN HOEPPNER

Comes now the Affiant, Jordan Hoepfner, and being first duly sworn, states and deposes as follows:

1. My name is Jordan Hoepfner and I am a Project Manager for Horvath Communications. Horvath Communications is the parent corporation for Horvath Towers V, LLC, which is the applicant in Case No. 2019-00117 currently pending before the Kentucky Public Service Commission (“the Commission”).
2. By virtue of my employment, I have knowledge concerning the selection of sites for cellular communications towers. I have been involved with and have knowledge concerning the application presently pending before the Commission.
3. I am in receipt of and have reviewed the Commission’s request for clarification dated July 17, 2019 (the “Commission’s request”).
4. With respect to Item 1(a) of the Commission’s request, I can confirm that a cell tower is located on the same property as “Candidate C Dean Chambers” on the map previously produced to the Commission.
5. With respect to Item 1(b) of the Commission’s request, please find attached to this Affidavit maps identified as “Exhibit A.” The maps show the distance between the Horvath proposed tower located at North Latitude 36° 40’ 57.18” by West Longitude 84° 07’ 37.74” and the existing tower on Mr. Chambers’ property located at North Latitude 36° 40’ 45.2” by West Longitude 84° 08’ 26.2”. The distance as measured on Google maps is 4,119.63 feet (approximately 0.78 miles).
6. With respect to Item 1(c) of the Commission’s request, the tower referenced was not included in the application submitted in this matter due to the fact that the tower was not registered with the Federal Communications Commission’s Antenna Structure Registration. A copy of the search results with the Federal Communications Commission are attached hereto as Exhibit B. This registry was utilized to compile the towers identified in Exhibit C of Horvath’s Uniform Application.
7. With respect to Items 1(d) and 1(e) of the Commission’s request, both the applicant and Verizon Wireless identified and explored numerous properties prior to selecting the Carolyn Bowman site as the primary site location. The properties so investigated included properties owned by Mr. Brian Chinn, Mrs. Carolyn Bowman, Mr. Dean Chambers, Ms. Shirley Adkins, and the Whitley County Board of Education. When Mr. Chambers’ property was first presented to Verizon for evaluation, it was determined that his property was outside of the needed search area. Representatives of Verizon confirmed that the site was evaluated and that it was outside of the search area, and thus, would not suit the needs of Verizon or its customers. Please find attached email correspondence confirming the same attached hereto as Exhibit C.

8. With respect to items 1(f) and 1(g) of the Commission's request, the applicant learned through discussion with John Marcelletti, Verizon's Site Acquisition representative that the tower referenced had been abandoned for a period of approximately seven (7) years. Mr. Marcelletti visited the site and provided the photographs attached hereto as Exhibit D to the applicant. It appears that the tower has not been maintained during the period of its abandonment. Per TIA-222-G, effective January 1, 2006, a guyed tower is to be provided maintenance and condition assessments in three (3) year intervals. Additionally, the age of the tower is estimated to be in excess of twenty (20) years. Occupational Safety and Health Administration ("OSHA") guidelines require the applicant to provide for and ensure the appropriate safety of the applicant's employees and contractors who would or will work on a proposed or existing tower site. Due to the period of abandonment and lack of records concerning maintenance and condition assessments, the applicant is unable to conclude that the tower on Mr. Chambers' property is within compliance. Accordingly, the applicant has deemed it unsafe. Mr. Chambers further advised the applicant that he has not received monthly or annual income in several years, and therefore, there is an assumption of default of the underlying land lease or agreement and concern that the lease has been terminated. Given the age of the tower and compound, safety concerns, and uncertain lease status, Verizon and Horvath determined that this site was not viable for colocation.

9. With respect to Item 2 of the Commission's request, Horvath selected "Candidate B Carolyn Bowman" over the "Candidate C Dean Chambers" for the reasons articulated in paragraphs 7 and 8 of this Affidavit, including its location outside of the search area, the safety concerns, and the uncertain lease status.

10. With respect to Items 3(a) and (b) of the Commission's request, please see the site plan attached hereto as Exhibit E. As indicated on this document, the proposed tower is approximately 255 feet from Mr. Chinn's property line at its closest point, and approximately 773 feet from the residence on Mr. Chinn's property at its closest point.

11. With respect to Item 4 of the Commission's request, the applicant did not investigate, prior to filing of its application, whether the railroad tracks were still in use. The applicant has designed the tower and its site plan in such a way as to not disturb or impede the railroad right-of-way. Upon information and belief, it is believed this rail line is still in operation and likely owned by CSX Transportation.

12. It is my professional opinion that the applicant has selected the best and most viable candidate for this cellular communications tower.

Further, the Affiant sayteth naught.

Jordan Hoepner  
Jordan Hoepner

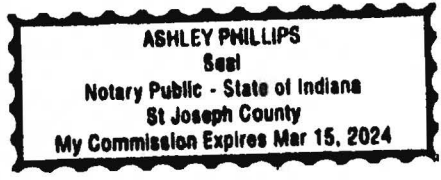
STATE OF Indiana )  
COUNTY OF St. Joseph )

The foregoing was acknowledged and subscribed to and sworn before me by Jordan Hoepner, this the 23 day of July, 2019.

Ashley Phillips  
NOTARY PUBLIC

My Commission Expires:

3/15/24





# EXHIBIT A



# EXHIBIT A





## Antenna Structure Registration

[FCC Site Map](#)

[FCC](#) > [WTB](#) > [ASR](#) > [Online Systems](#) > ASR Search

ASR Registration Search

### Registration Search Results

[ADVANCED SEARCH](#) [HELP](#)

[New Search](#) [Refine Search](#) [Printable Page](#)

Displayed Results

**No matches found**

**PA** = Pending Application(s)

To try again, you can perform a [new search](#) or [refine your existing search](#).

#### Specified Search

Latitude='36-40-45.2 N', Longitude='84-08-26.2 W', Radius=1 Kilometers

#### ASR Help

#### ASR Online Systems

#### About ASR

#### Registration Search

[ASR License Glossary](#) - [FAQ](#) - [Online Help](#) - [Documentation](#) - [Technical Support](#)

[TOWAIR](#) - [CORES](#) - [ASR Online Filing](#) - [Application Search](#) - [Registration Search](#)

[Privacy Statement](#) - [About ASR](#) - [ASR Home](#)

By Registration Number ▼

**SUBMIT**

[FCC](#) | [Wireless](#) | [ULS](#) | [CORES](#)

[Help](#) | [Tech Support](#)

Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Phone: 1-877-480-3201  
TTY: 1-717-338-2824  
[Submit Help Request](#)

## EXHIBIT B



**From:** [Snyder, Gordon Bruce](#)  
**To:** [Rerecich, Mike](#)  
**Cc:** [Erin Horvath](#); [Jordan Freeze](#); [Marcelletti, John](#)  
**Subject:** Re: [E] RE: LV Pleasant View - Zoning Response  
**Date:** Thursday, July 25, 2019 10:07:06 AM

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John- Dean Chambers tower location is outside the demand area of customers, hence falls out of the search ring(Document attached). Therefore Verizon does not feel this site meets our customer's needs and is not viable.

Dean Chambers



Looking West from Proposed Site



Looking East from Proposed Site

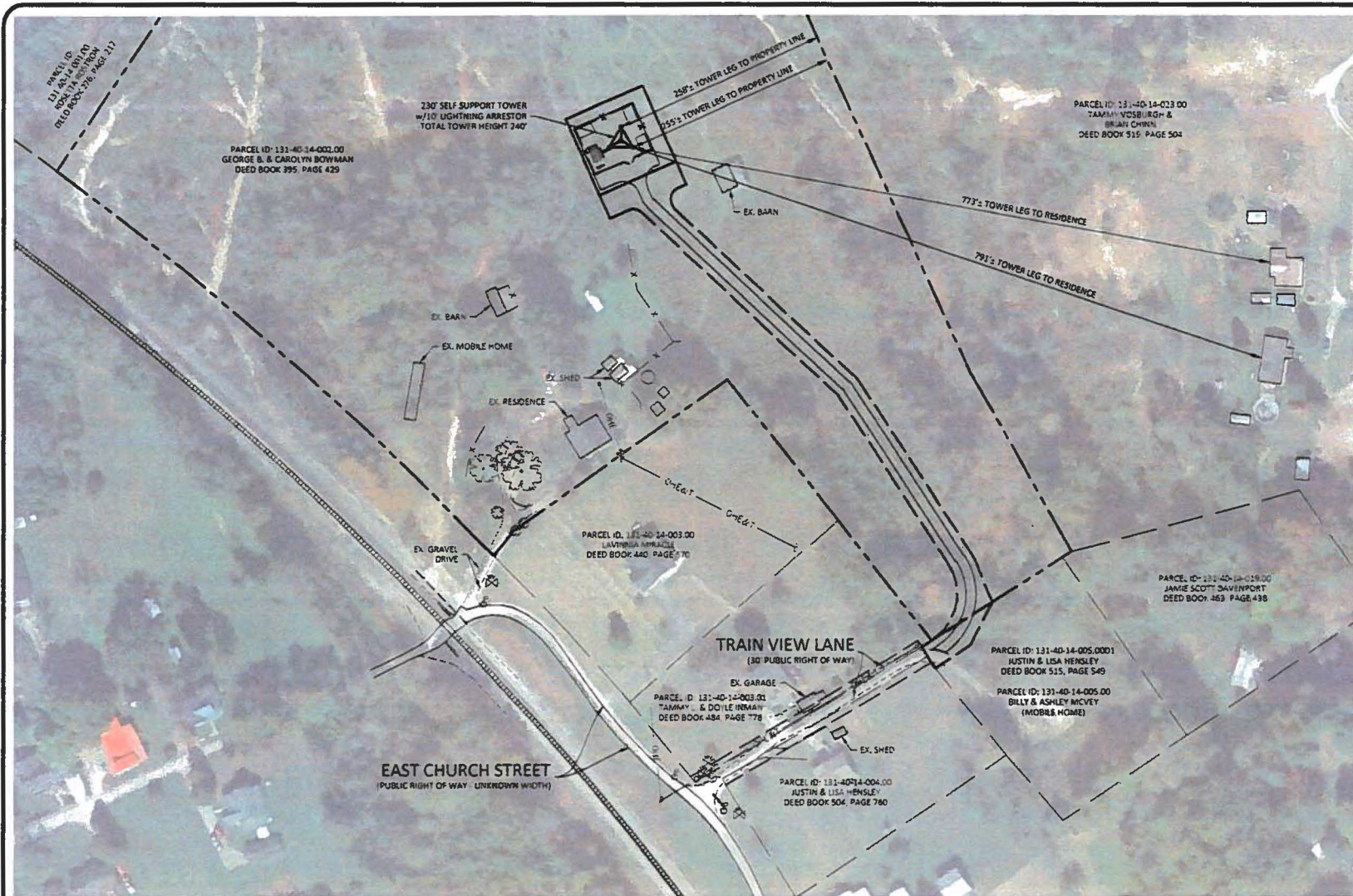
Dean Chambers



Looking North from Proposed Site at old equipment shelter



Looking South from Proposed Site



ZONING DRAWINGS

REV.	DATE	DESCRIPTION
A	7.18.19	ISSUED AS ZONING AMMENDMENT

SITE INFORMATION:  
**PLEASANT VIEW**  
 195 TRAIN VIEW LANE  
 WILLIAMSBURG, KY 40769  
 WHITLEY COUNTY

HORVATH COMMUNICATIONS SITE NUMBER:  
**HV1363**

VERIZON WIRELESS SITE NAME:  
**LV PLEASANT VIEW**

POD NUMBER: 18-32362  
 DRAWN BY: MEP  
 CHECKED BY: MEP  
 DATE: 01.23.19

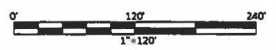
SHEET TITLE:

**OVERALL SITE PLAN W/AERIAL OVERLAY**

SHEET NUMBER:  
**C-1**



Call today for more information  
**1-800-752-6007**



**OVERALL SITE PLAN W/AERIAL OVERLAY**

SCALE: 1" = 120'



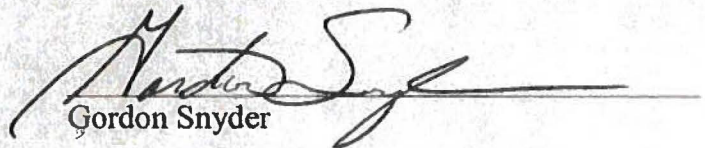
AFFIDAVIT OF GORDON SNYDER

ALL-STATE LEGAL  
2

Comes now the Affiant, Gordon Snyder, and being first duly sworn, states and deposes as follows:


1. My name is Gordon Snyder and I am a RF Design Engineer for Verizon Wireless. Verizon is a proposed tenant for the proposed cellular communications tower, which is the subject of the application in Case No. 2019-00117 currently pending before the Kentucky Public Service Commission ("the Commission").
2. By request of Horvath Towers V, LLC, the applicant in the above-referenced case, I have re-evaluated the site identified as "Candidate C Dean Chambers" on the map provided to the Commission in response to the comments of Brian Chinn.
3. Based on my review, it is my conclusion that the site identified as "Candidate C Dean Chambers" falls outside the demand area for Verizon's customers, and hence falls out of the search ring. Therefore, it is my conclusion that this site would not meet Verizon's customer needs and hence is not viable.
4. I have communicated this conclusion to Horvath Towers V, LLC via electronic mail.

Further, the Affiant sayeth naught.

  
Gordon Snyder

STATE OF Ky )  
COUNTY OF Jefferson )

The foregoing was acknowledged and subscribed to and sworn before me by Gordon Snyder, this the 25 day of July, 2019.

  
NOTARY PUBLIC

My Commission Expires:

KAREN L. WILSON  
Notary Public  
Kentucky - State at Large  
My Commission Expires Jun 4, 2022



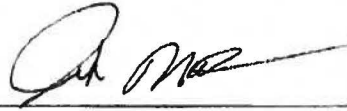


## AFFIDAVIT OF JOHN MARCELLETTI

Comes now the Affiant, John Marcelletti, and being first duly sworn, states and deposes as follows:

1. My name is John Marcelletti, and I am a Site Acquisition Representative for Verizon Wireless. Verizon is a proposed tenant for the proposed cellular communications tower, which is the subject of the application in Case No. 2019-00117 currently pending before the Kentucky Public Service Commission ("the Commission").
2. As part of my job duties, I visited the potential sites for the proposed tower that is the subject of the above referenced application. I specifically visited the site identified as "Candidate C Dean Chambers" as indicated on the map provided to the Commission in response to the comments of Brian Chinn.
3. Based on my observations, I have concluded that the guyed wire tower on Mr. Chambers' property appears abandoned. I observed that the tower and the surrounding area is not currently maintained, and appears to have been abandoned for a period of several years.
4. In my conversations with Mr. Chambers, he indicated to me that he has not received rental income of any time for several years. Based on my experience, I have concluded that this could mean that any land lease or other agreement could be expired, or has been breached.
5. I took several photographs of the site identified as "Candidate C Dean Chambers" and provided them to the applicant.

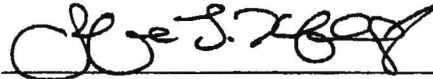
Further, the Affiant sayteth naught.



John Marcelletti

STATE OF Kentucky )  
COUNTY OF Wenton )

The foregoing was acknowledged and subscribed to and sworn before me by John Marcelletti, this the 24 day of July, 2019.



NOTARY PUBLIC

My Commission Expires: 2.12.23

Jennifer L Kauffung  
Notary Public-State At Large  
Kentucky-Notary ID # 616858  
My Commission Expires February 12, 2023