

# COMMUNICATIONS ATTORNEY REVIEW

SUTTONS BAY TOWNSHIP PLANNING COMMISSION

APPLICATION FOR SPECIAL LAND USE PERMIT

TELESITE WIRELESS / VERIZON WIRELESS

BAHLE ROAD

OCTOBER 17, 2023

# DANEMAN & ASSOCIATES

ATTORNEY & CONSULTANT

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2557 FOREST BLUFF DR., SE • GRAND RAPIDS, MICHIGAN 49546  
PHONE: 616-450-0110 • E-MAIL: MARC@MARCDANEMAN.COM  
MARC DANEMAN

## MEMORANDUM

October 5, 2023

TO: Sutton Bay Township Planning Commission

Via Email:

zoningadmin@suttonbaytwp.com

FROM: Marc Daneman, Attorney *MD*

RE: Verizon Tower Application Comments

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I have been asked to give my comments regarding the Verizon Wireless application for a 197-foot telecommunications tower proposed for Brandt Trust property off of E. Bahle Road. I have reviewed the materials submitted by the applicant and those items now appear to be in order. In addition to reviewing Verizon's application and hearing their position along with that of the general public, you are receiving opinions and comments from your Township's Attorney, a Radio Frequency (RF) Telecommunications expert, and your Zoning Administrator. I am providing my comments in this memorandum. With these, your review of the relevant zoning ordinance provisions and any other public comments is now in your hands for a final decision.

A decision should be made based on both public policy and the needs of the community. The impact on the applicant is secondary. The Sutton Bay Township Zoning Ordinance's Wireless Telecommunications Services' Section 15.2 provides the general policy and regulatory guidance. Specifically, Section 15.2.1.B provides the Intent of Section 15.2 *et seq*, which encourages the selection of an appropriate location that minimizes "*the adverse effects of such facilities through careful design and siting; maximize the use of existing and future communication Wireless Towers and encourage the multiple uses of such facilities and protect the character of residential areas throughout the Township by limiting Wireless Towers to non-residential zoning districts.*" This is in addition to promoting "*the public health, safety, and welfare of the Township.*" (Section 15.2.1.C). There is no question regarding the location in a non-residential zoning district (the property is zoned Agricultural). And as noted above the applicant has addressed all the relevant provisions of Sections 15.2.5 - 15.2.15. You should evaluate each of those provisions in your finding of facts.

The apparent open issue at this point is how the location of the County's Emergency Services telecommunication tower, located about 0.9<sup>th</sup> of a mile away at the County's complex, should be addressed. The ordinance is silent on a specific isolation distance between towers. But it does require a finding that there is not available other "*suitable locations to accommodate system design or engineering on an existing wireless tower or other structures.*" (Section

15.2.8.B). This evaluation should consider both the public policies and standards identified in the zoning ordinance, as well as the materials provided in the application.

To evaluate the "availability" of the County tower you should consider both RF impacts, coverage in the area(s), and market considerations of why that tower was not determined viable by Verizon. Of particular relevance are the propagation maps provided by the County and Verizon, and your RF consultant's comments. I am not qualified to opine on the radio frequency impact of both towers' locations. Your RF expert has addressed this and has found the Verizon site a better site for the Township in general and for other potential telecommunication providers (cell phone companies and others). Verizon claims that their location better meets the needs of underserved areas in the township and for their FCC license. Your attorney suggests that the County site may now serve more developed areas; while Verizon's serves some of the less undeveloped areas of the Township (primarily due to topography). But the township should consider its future development possibilities which are required under Verizon's License.

There is also a question regarding Verizon's financial reasons for why the County's tower was not considered. Financial considerations are not generally relevant unless they are clearly unreasonable. Verizon asserts that the County's rental rates were not financially reasonable. They assert that the County's rental demands were clearly out of line with the area's market range (\$4,000/month with a 7%/year escalator). However, I believe those negotiations were made earlier. The County says that Verizon has not made a recent request concurrent with this application. Even if so, I acknowledge that the rent demand may be at the high end but not unconscionably excessive. Especially if Verizon is collocating. But if they were to build their own site, they would expect substantially lower rents (to cover their development costs). Either way, based on what Verizon has stated, an annual rent escalator of 7% is well out of line. If that is still the case, then that can reasonable be a basis to eliminate the County site.

The final question for you is whether the community is better served by one fewer tower or whether the two towers will better serve both Sutton Bay Township and well as the general county -- now and into the future. That is the policy decision you must make. If you have any further questions, please feel free to contact me. I am also planning to attend your Planning Commission meeting. Thank you.

# RADIO ENGINEERING REVIEW

SUTTONS BAY TOWNSHIP PLANNING COMMISSION

APPLICATION FOR SPECIAL LAND USE PERMIT

TELESITE WIRELESS / VERIZON WIRELESS

BAHLE ROAD

OCTOBER 17, 2023

# **DREW WIRELESS, LLC**

495 COLLINDALE NW  
GRAND RAPIDS, MICHIGAN 49504  
616-453-7200

October 12, 2023

Steve Patmore  
Suttons Bay Township  
95 W. 4th St.  
Suttons Bay, Michigan 49682

Re: Verizon Bahle Road Tower

Dear Mr. Patmore,

We have been asked to review propagation studies submitted by the applicant for a new tower to be located on Bahle Road. The maps submitted were of the Current Verizon Coverage, Verizon Coverage utilizing an existing tower at the County Complex, and Coverage utilizing the proposed tower on Bahle Road.

Upon initial review of the maps, it was striking clear that there was just too much information being displayed rendering the maps difficult to interpret by most people. We then generated our own propagation studies inhouse. We contacted the Verizon RF Engineer and asked him to rerun the studies with only the two sites being evaluated in order to identify the coverage capabilities of both sites on their own merits.

We asked the Verizon Engineer to run the studies initially with no tuning adjustments to the antennas to reveal all the coverage difficulties caused by the undulating terrain in the area. We then asked him to run one more with the antennas azimuths and elevations adjusted to Verizon's desired system parameters which they labeled "Optimized". We attempted to Optimize the County site, but terrain shadowing limited the sites' ability to gain much more coverage.

Our first and foremost observation when conducting the studies was the enormous ground elevation difference between the two sites. There is approximately a +235-foot advantage at the Bahle site. Further review of the terrain shows that the Bahle site (~1010' AMSL) is situated almost at the peak (~1069 AMSL) of the ridge which divides the peninsula. This fact affords the Bahle site a very generous coverage capability to many different frequency bands and service providers.

Comparing the two sites, the Bahle site obviously covers more of the area Verizon depicted as in need of improved coverage. Both sites will cover M-204 and CR 643 where it's needed. The Bahle site does a better job covering CR 641 and the roads immediately south of this proposed site. The County site is more heavily impacted by the terrain. The ridge at Luna Rosa Farms on the West side of N Eagle Highway blocks the County tower coverage to Leland. The Bahle site also has the ability to cover Leland and Stony Point. Depending on the Carrier, frequency bands utilized and antenna configurations some of North Manitou Island and some of Old Mission

The County site falls a little short of filling Verizon's current operational plans. If Verizon chose to utilize the County site rather than the Bahle site, Verizon or some other carrier would need to build additional towers when/if time and money are available. All of the Carriers and other wireless service providers' business models and target markets might be different today compared to pre-pandemic.

**DREW WIRELESS SYSTEM CONSULTING**

Computer algorithms can achieve a close approximation, but due to the foliage and terrain variations in, those calculated results can be skewed and final adjustments will be made after initial construction.

We believe that other carriers would also be inclined to utilize the proposed Bahle tower site due to the sheer quantity of square miles of coverage availability. With the lower population density and traffic count, carriers would find it beneficial to achieve the best return on their investment. Further, we believe that the Bahle site would be of greater benefit to all carriers, First Responders, residents and visitors.

Sincerely,

The Drew Design Team

## About Drew Wireless Tower Consulting

Drew Wireless, LLC has been designing and building wireless systems serving the Michigan area for over 23 years. DWTC designs systems as small as 4 units to wide area systems with thousands of units. Our clients range from police, fire, DPW, state, federal government, and large corporations to the small neighborhood business with a base and 3 service trucks. Drew Wireless was formed strictly to address community needs, and is not affiliated with any cellular service provider. The majority (98%) of our work is for federal, state or local governments.

### Drew Wireless's Experience:

Conducting computerized Radio Frequency Coverage studies in Michigan conducting computerized propagation modeling for over 25 years.

Mapping hundreds of sites, elevations and towers heights over across every square mile of Michigan.

Intimate knowledge of the traffic and usage patterns of the people who live and work in the area, the commercial, industrial, retail building locations and composition, as well as the terrain characteristics.

First-hand experience of how radio waves behave in the Michigan area.

Education continues to be a weekly if not daily requirement as the rapid pace of new developments in the wireless arena make continuing education mandatory.

As a previous member of the Michigan Society of Planning, the Association of Public Safety Communication Officers and other such forums and groups, staying in touch with others is a priority and allows in the sharing of their ideas, needs and desires.

Outline critical aspects of tower placement; ability to determine the validity of new tower requests and maximize the utilization of existing ones.

System Design and Maintenance of 911 Public Safety and Municipal Communications Systems.

Extensive computerized RF coverage propagation modeling.

Excellent relationship with Site Acquisition agents.

Quality rapport with the carriers' RF Engineers.

Intimate knowledge of local Public Safety frequencies and systems.

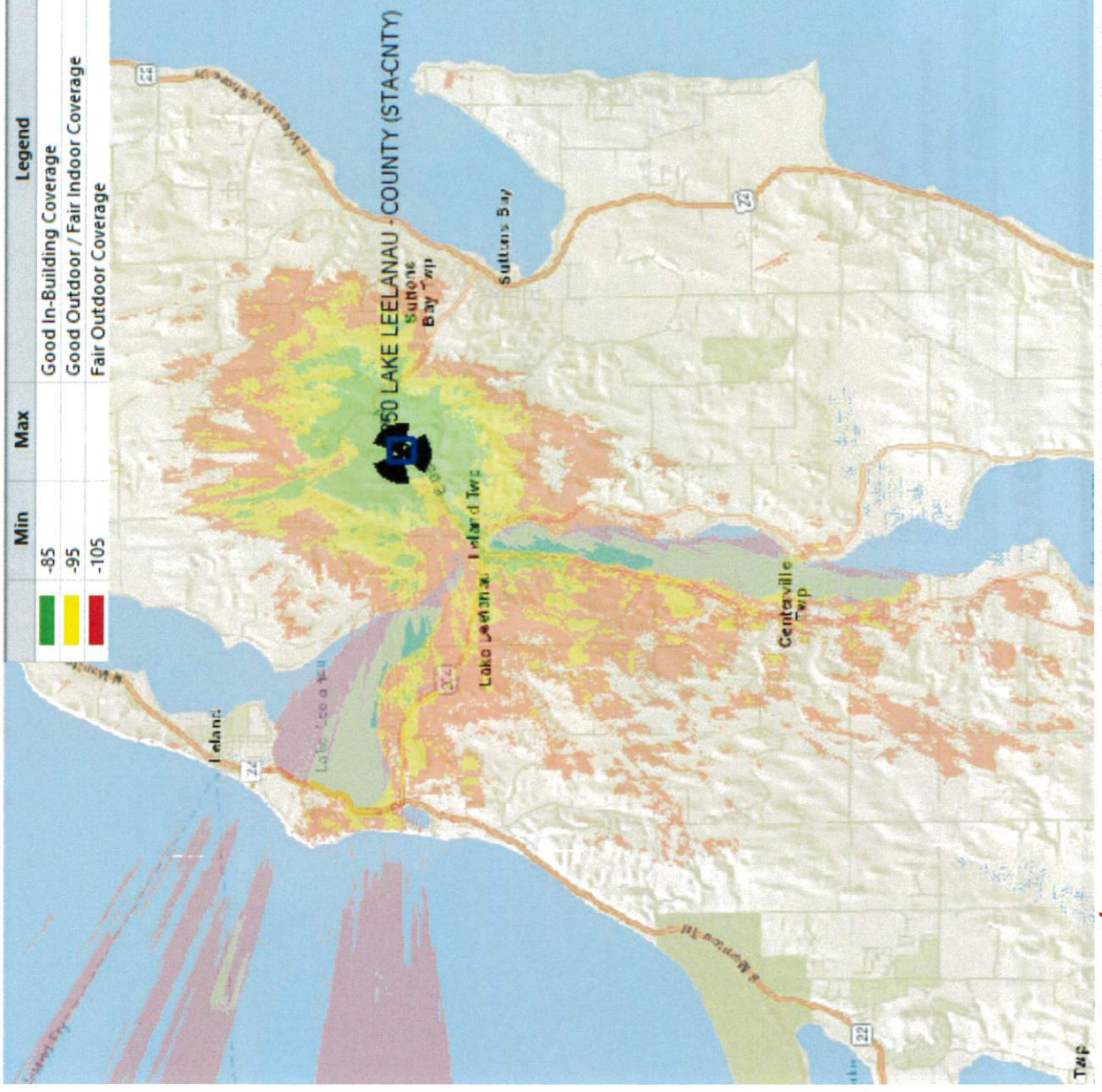
Experience with tower construction and Maintenance.

Tower planning for many communities.

On-Call 24/7 for Emergencies

Available for Technical, Zoning and Planning consultation by phone 7 days, 7am-7pm

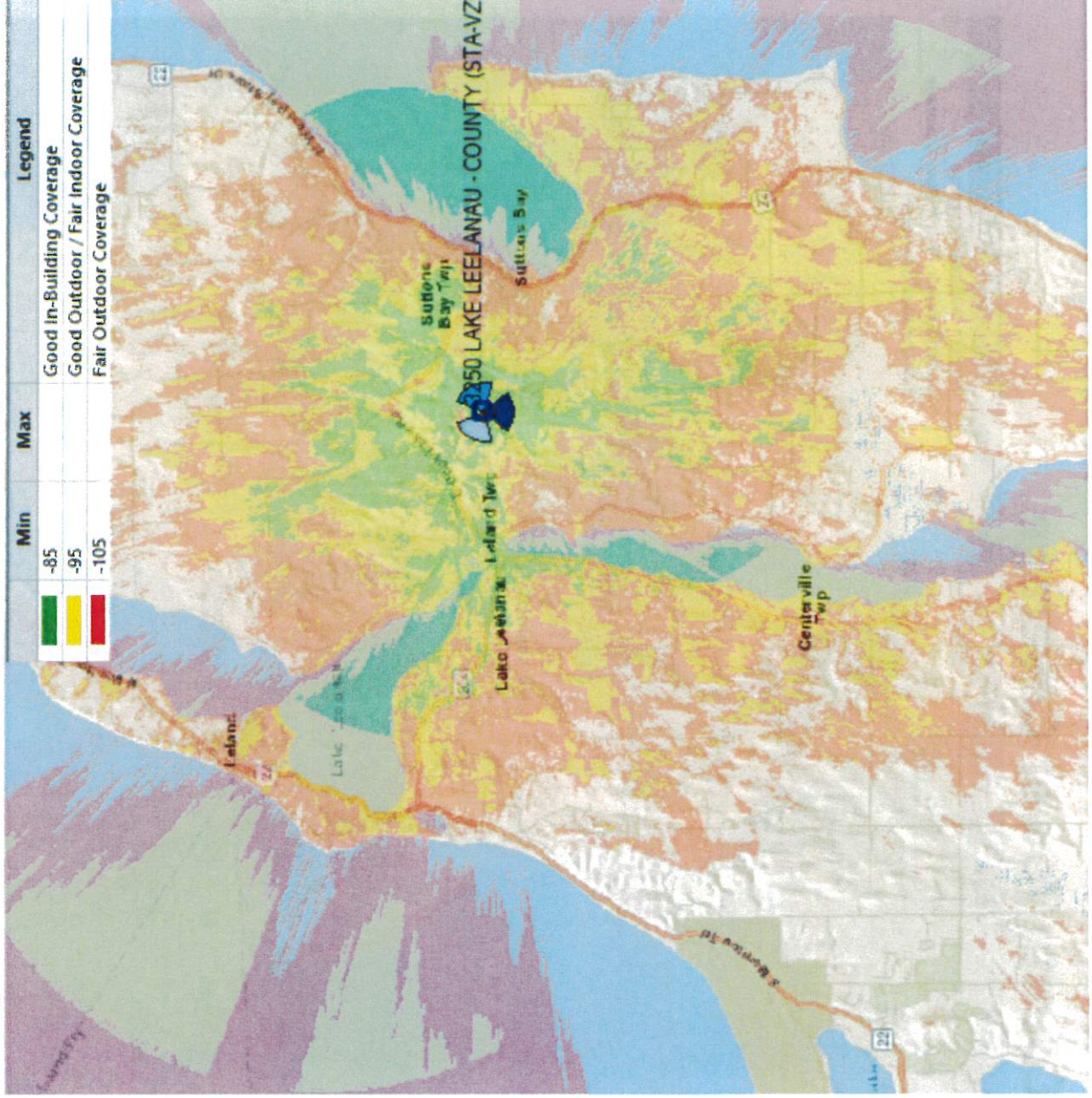
# County Tower Coverage



Confidential and proprietary materials for authorized Verizon personnel and outside agencies only. Use, disclosure or distribution of this material is not permitted to any unauthorized persons or third parties except by written agreement.

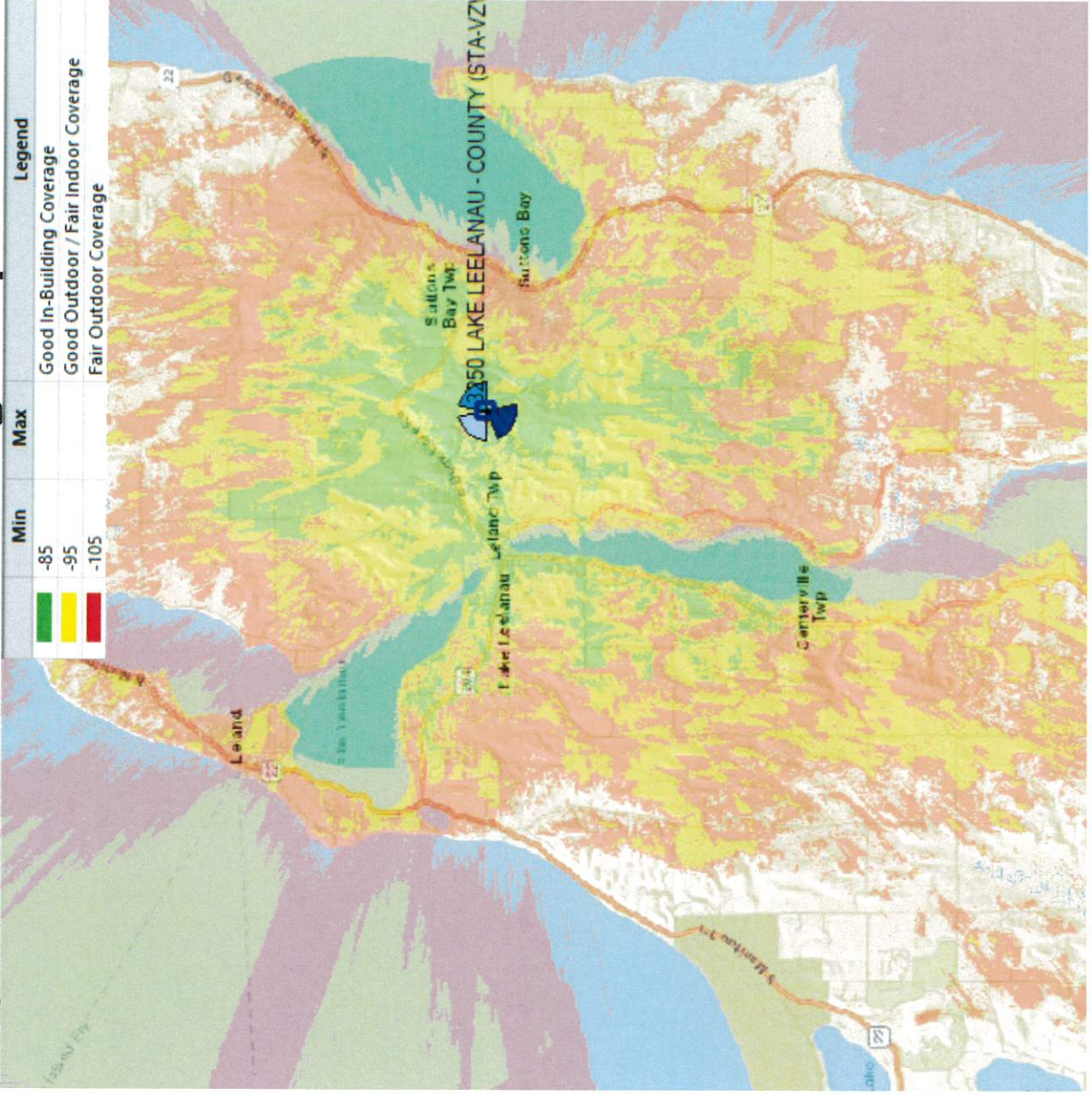


# Proposed VZ Tower Coverage





# Proposed VZ Tower Coverage - Optimized



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CORRESPONDANCE FROM  
LEELANAU COUNTY

SUTTONS BAY TOWNSHIP PLANNING COMMISSION

APPLICATION FOR SPECIAL LAND USE PERMIT

TELESITE WIRELESS / VERIZON WIRELESS

BAHLE ROAD

OCTOBER 17, 2023



From: Matt Ansonge

Sent: Monday, September 18, 2023 1:43 PM

To: [zoningadmin@suttonsbaytwp.com](mailto:zoningadmin@suttonsbaytwp.com)

Cc: Doug Rexroat <[drexroat@leelanau.gov](mailto:drexroat@leelanau.gov)>; Deborah Allen <[dallen@leelanau.gov](mailto:dallen@leelanau.gov)>; Kelly LaCross <[klacross@leelanau.gov](mailto:klacross@leelanau.gov)>

Subject: RE: Proposed Communications Tower - Verizon Wireless - Bahle Rd - Suttons Bay Township

Thank you for the updated information, Steve. I have not heard anything since we last spoke and I have not been contacted by any Verizon representative, consultant, or contractor.

Reading through their zoning responses and propagation maps, they definitely make their case for the tower location off Bahle Road. However, the same was true when they approached the County back in 2018. This location was "the only" site that would solve their service gaps and Verizon needed this specific location to fulfill their business model. That was the main reasoning the County Board took in pursuing construction of this tower when negotiations fell through with the Verizon consultants.

As far as classifying the County tower as a "monopoly", their facts and figures are far off-base. I suspect they are underrepresenting the information on leases with "the major tower operators" and they are definitely misrepresenting the information about County leases.

Currently, Verizon pays around the \$4,000/month rental figure for leases at the Maple City and Central Tower sites. However, that is not comparing apples to apples. The lease agreements starting monthly rent in 2013 was \$3,000 with a 3% annual multiplier at the Maple City site and \$3,600 with a 3% annual multiplier at the Central Tower site. The annual multiplier has never changed, but the monthly rent increases every year. Different antenna configurations were identified at each tower site, so rental figures are not consistent between the two towers. The Tower Fee schedule that is used to determine rental figures for tower leases was established by the County Board in 2011. The only time the Tower Fee schedule was challenged was in 2018 when Internet Service Providers questioned why their equipment was subject to the same standards as cellular equipment since it is substantially smaller and lighter. In response, the County Board accepted an inclusion to their fee schedule to address smaller equipment.

My point is, the County is open to negotiations. Verizon has NOT made any attempt to negotiate and the fact they believe it is a monopoly, in my opinion, is their attempt at not following the township zoning ordinances by pursuing collocation first. I believe Verizon would have been pleasantly surprised about their ability to establish a tower lease agreement at the Government Center site. Perhaps they are swayed by poor information passed along by consultants who turned off County Board members with their arrogance a handful of years ago. In any event, no contact has been made to pursue this option.

As far as the propagation of the County tower not serving their target area as well, I would encourage you to have those maps interpreted by a professional like you stated. I hate to think like this, but since they misrepresented facts with County lease agreements, are we sure the same equipment at the same height is being represented in these propagation maps? I want to believe so, but I'm not sure a professional would be able to tell for sure without running their own study. Which, they would need information on the equipment configuration, direction and tilt of signal projection. Direction of the signal from the tower appears consistent in the propagation maps provided. Verizon very well could consider this information proprietary and at the very least may require a signed Non-Disclosure Agreement.

From my perspective, the difference in coverage provided by the proposed tower site and the Government Center tower site does not improve in-home reception for a large number of residences nor does it improve reception along S Lake Leelanau Drive. Unfortunately, our GIS Analyst is out of the office today, otherwise I would have provided a number of residences served by each tower location. Bottom line, the areas with improved coverage by the proposed tower site are not densely populated. Therefore, the proposed tower site does not provide a substantial improvement in service for the citizens of Leelanau County. If you would like to have those residential figures, I can work with our GIS Analyst in obtaining them as quickly as possible.

Thank you!

-Matt



**From:** Matt Ansorge <mansorge@leelanau.gov>

**Sent:** Tuesday, October 3, 2023 12:49 PM

**To:** zoningadmin@suttonsbaytwp.com

**Cc:** Doug Rexroat <drexroat@leelanau.gov>; Deborah Allen <dallen@leelanau.gov>; Kelly LaCross <klacross@leelanau.gov>

**Subject:** RE: Proposed Communications Tower - Verizon Wireless - Bahle Rd - Suttons Bay Township

Steve,

I was able to work with our County GIS Analyst in order to get an overlay of structures within the target area of coverage that Verizon provided to you. This gives an excellent picture on where residences (and businesses) are situated within their coverage area.

The first attachment is an overlay with the Verizon coverage as it is today. You will see there are substantial areas of red throughout the target area.

The second attachment is the Verizon coverage from the County tower site on E Government Center Drive. The third is the Verizon coverage from the proposed tower site on Bahle Rd. You will see that there is not, in my opinion, a substantial number of structures that move out of the red between the two maps. A few residences off O'Brien Rd and a few more off S Simon Rd. Every other structure seems to be in the same amount of red between the two maps.

The Government Center tower site covers M-204 much better. Neither addresses the gaps on 641 or M-204 east of Marek Rd. Those are the heavily traveled roadways, servicing more of their customers.

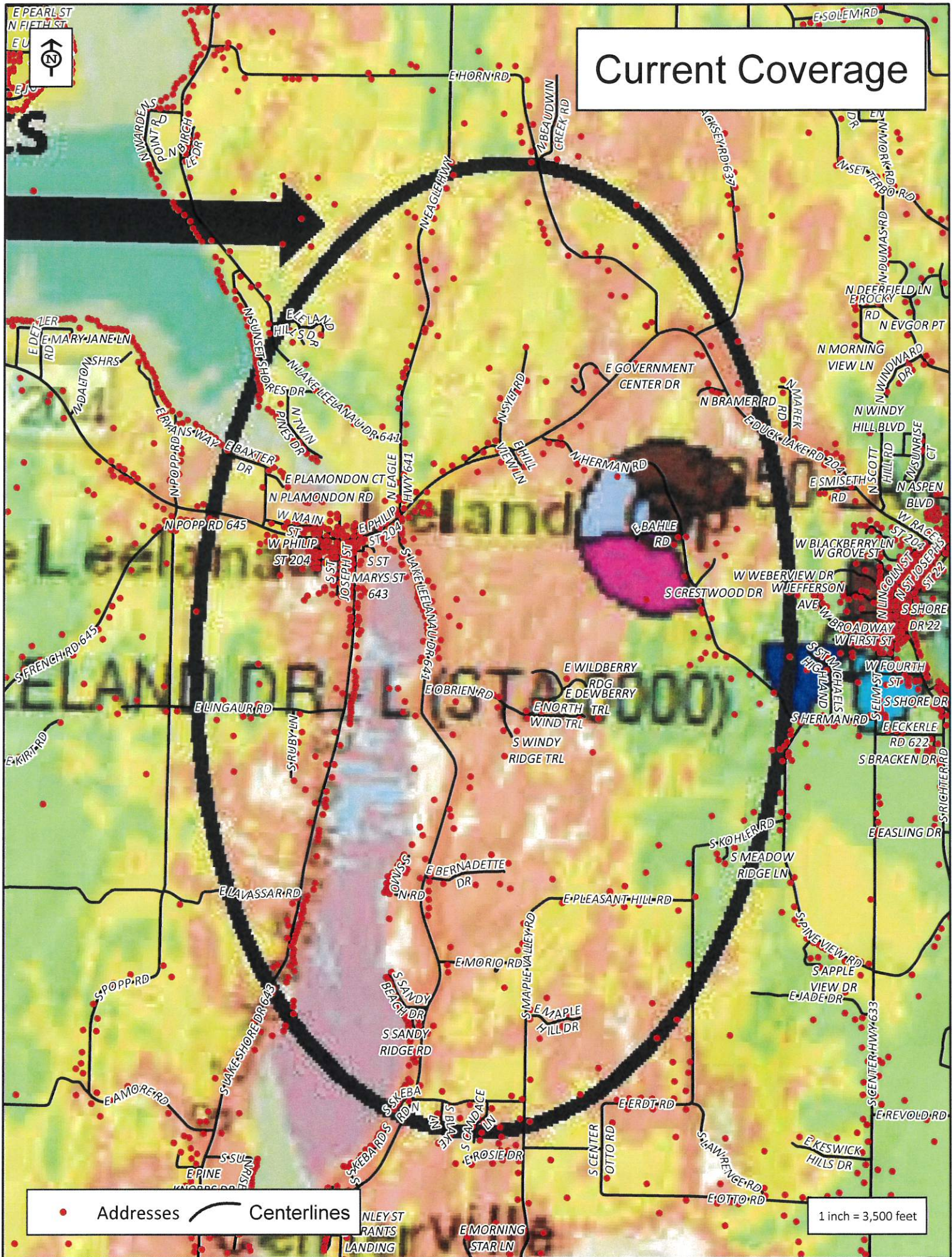
It is my opinion that these maps support the Township Zoning Commission to uphold their ordinances. I believe one of their reasons for not utilizing the County tower was the Bahle site allowed for more interior penetration of residential homes. I can't pinpoint where that was mentioned, but it sticks out in my mind. I find it very difficult to believe the Bahle Rd tower offers a signal that penetrates substantially more residences than the Government Center tower site.

Please let me know if I can be of any further assistance. I still am very open to discussing collocation with Verizon.

Thanks!

-Matt





# Current Coverage

• Addresses — Centerlines

1 inch = 3,500 feet

This map is prepared by Leelanau County for reference purposes only. Leelanau County is not liable for any errors that may be found herein.



# County Tower Coverage

