

**Land, Development & Transportation Committee  
Staff Report  
January 26, 2017**



<b>Case No:</b>	16Cell1009
<b>Request:</b>	Cell Tower
<b>Project Name:</b>	Fern Preston
<b>Location:</b>	3800R Fern Valley Road
<b>Owner:</b>	JOLO Properties LLC, John Overly
<b>Applicant:</b>	Eco-Site and T-Mobile
<b>Representative:</b>	David Pike, Pike Legal Group PLLC
<b>Size:</b>	160 feet total height Approximate 2,500 square foot compound area
<b>Existing Zoning District:</b>	C-M
<b>Existing Form District:</b>	Suburban Workplace
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	2 – Barbara Shanklin
<b>Case Manager:</b>	Steve Hendrix, Planning Supervisor

**Request**

This is an application for a proposed 150 foot monopole tower with a 10 foot lightning arrestor for a total structure height of 160 feet within an approximate 2,500 square foot compound area. A Revised Detailed District Development Plan and landscape waivers are included as part of the submittal.

**Case Summary / Background/Site Context**

**The application was submitted on December 12, 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, (February 7, 2017).**

The proposed site is located in a CM, Commercial Manufacturing Zoning District within a Suburban Workplace Form District at an automotive shop. The pole location is more than 300 feet from Fern Valley Road, 400 feet from Old Fern Valley Road. The monopole will be approximately 700 feet from the front of the Slaughter Elementary School building which is located to the north, across Fern Valley Road.

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, unless required by applicable law.

Screening will include an eight (8) foot wooden fence and landscaping.

The site will not be manned.

## Land Use / Zoning District / Form District Table

	Land Use	Zoning	Form District
Subject Property			
Existing	Automotive shop	C-M	Suburban Workplace
Proposed	Automotive shop with cell tower at the rear of the property.	C-M	SW
Surrounding			
North	Fern Valley Road, Slaughter Elementary School	R-4	N
South	Field, Old Fern Valley Road	CM	SW
East	Vacant Lot	R-4	SW
West	Garage Door/Window Store/Warehouse	CM	SW

**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 cell tower facility will be within a Commercial-Manufacturing zoning classification and a Suburban Workplace Form District. The parcel contains an existing automotive repair shop that faces Fern Valley Road. Surrounding land uses include a garage door office/warehouse to the west within a CM zoning District, a vacant field to the east within an R-4 zoning district and a vacant field to the south within a CM Zoning district. Slaughter Elementary School is located to the north across Fern Valley Road with an R-4 zoning classification.

#### **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 more than 300 feet from Fern Valley Road, 400 feet from Old Fern Valley Road and approximately 1,430 feet from its nearest point from Preston Highway. The base will be screened with an eight, (8) foot high wooden fence and a planting of seventeen, (17) arborvitae or similar plant on the south, east and west sides. However, the monopole will still be visible.

#### **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. As noted above, buffering includes the 8 foot tall wooden fence, the plantings on the south, east and west sides and the fact that the monopole will be approximately 300 feet from Fern Valley Road, behind the existing auto repair shop.

#### **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 four, (4) 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 not meeting the siting order, the proposed monopole/compound area will be placed on parcel that has a Commercial-Manufacturing zoning classification and is within a Suburban Workplace Form District.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DETAILED DISTRICT DEVELOPMENT PLAN

- 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: The cell tower facility will be located behind an existing automotive shop.

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

STAFF: The proposed facility will be located at the rear of the property of the existing automotive business.

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

STAFF: Not applicable.

- 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: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- 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 cell tower will be located at the rear of the property and will be screened by an eight (8) foot high wooden privacy fence and plantings.

- 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: As mentioned earlier, the cell tower facility will be placed at the rear of the property behind the existing automotive repair business.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10. 2 of the LDC to allow the width of the landscape buffer area to be five, (5) feet on the south, east and west sides and zero on the north side facing Fern Valley Road :**

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

STAFF: The waiver will not adversely affect adjacent property owners, since the compound area will be next to a vacant field to the south and an office/warehouse to the west that have the same zoning classification of CM. A vacant parcel is located to the east with an R-4 zoning classification, although a residential use is doubtful. Slaughter Elementary School is located to the north and across Fern Valley Road, which is approximately 700 feet from the proposed facility.

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

STAFF: Although the width of the buffer will be 5 feet on the south, east and west sides the additional plantings and the wooden privacy fence will provide a more than adequate buffer for the compound area. On the north side, the monopole will be approximately 300 feet from Fern Valley Road with the existing automotive repair shop in between. The wooden privacy fence with gate will provide the screen of 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 extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant but allows the applicant enough room to more than adequately buffer the compound area on the south, east and west sides and at the same time allows the applicant enough space inside the compound area for additional carriers.

- (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 incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, since seventeen, (17) arborvitae or its equivalent are proposed along the south, east and west sides of the compound area.

### Staff Conclusion

The applicant is requesting a wireless communications facility to better serve the public and to provide co-location opportunities for a total of four (4) carriers.

The total height of the tower is 160 feet.

The property has a C-M zoning classification within a Suburban Workplace Form District.

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

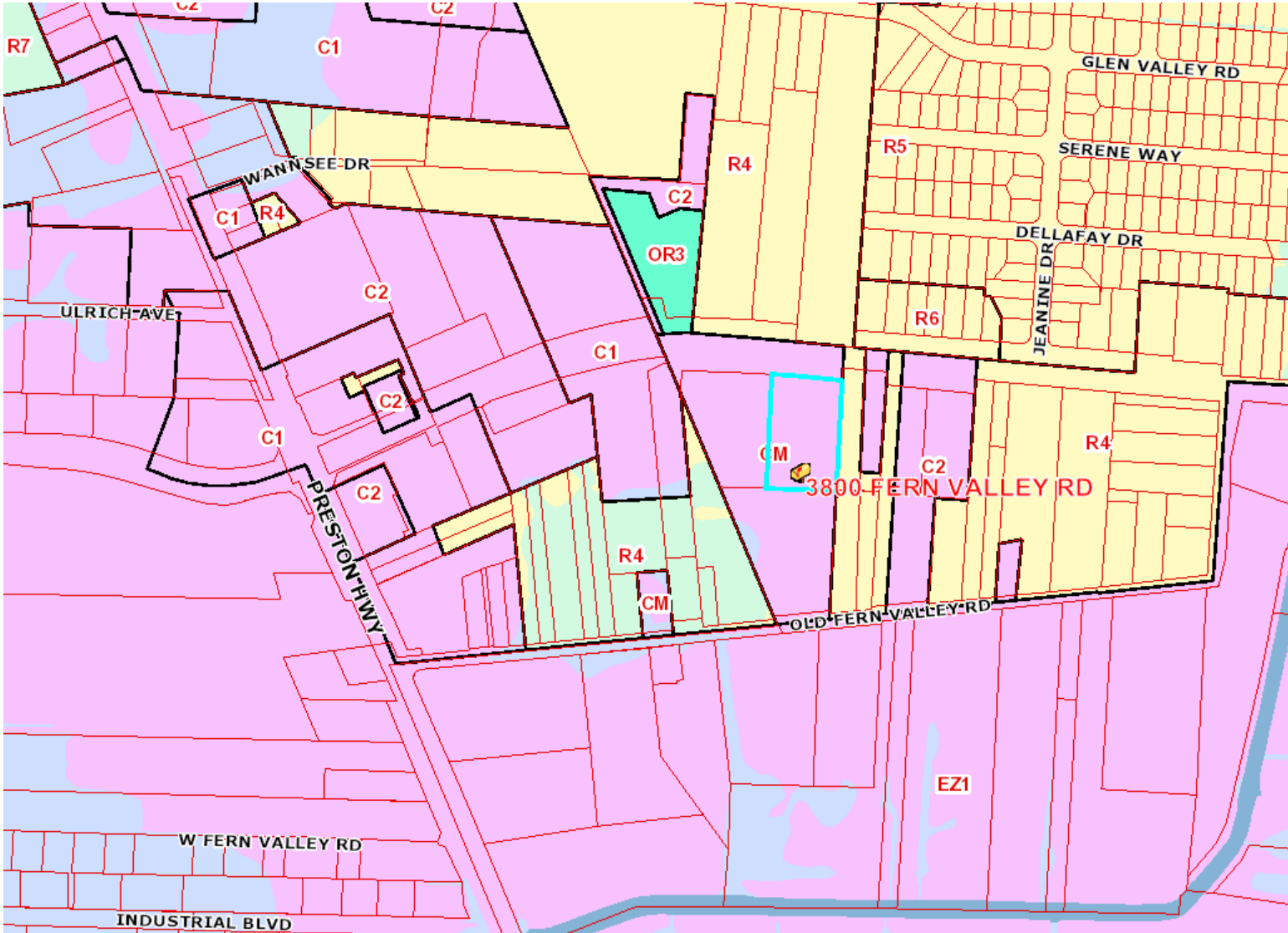
**If not approved today, the LD&T committee needs to enter into a written agreement with the applicant concerning a specific date for LD&T to issue a decision. If there is no written agreement between the LD&T and the applicant to a specific date for the committee to issue a decision, the uniform application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

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the committee must determine if the proposed cell tower, along with the Revised Detailed District Development Plan and waivers meet the standards for granting such proposals as established in the Land Development Code.

### Notification

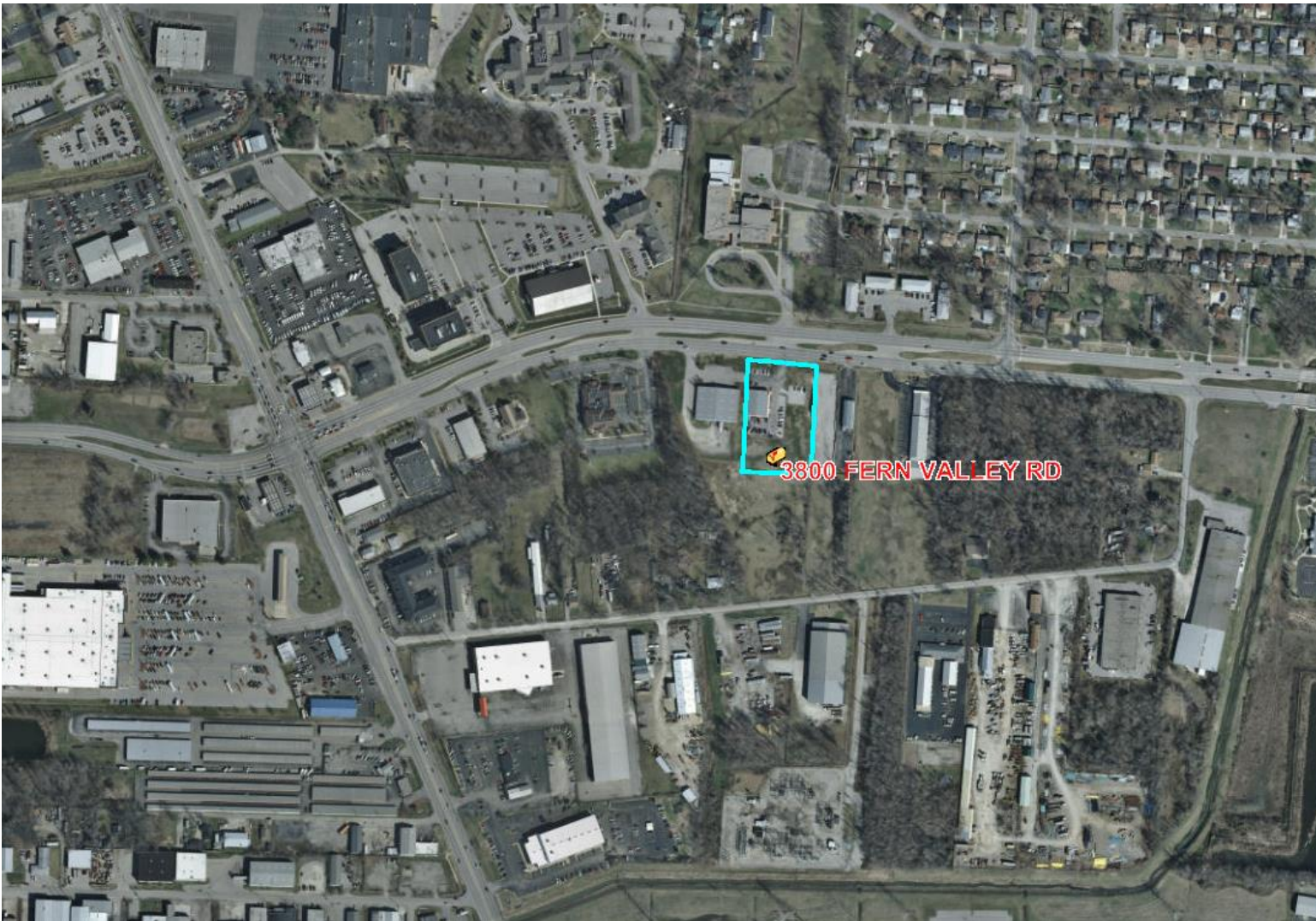
Date	Purpose of Notice	Recipients
January 11, 2017	Public Hearing Notices— sent	1 <sup>st</sup> tier adjacent property owners Subscribers of Council District      Notification of Development Proposals

# Zoning Map



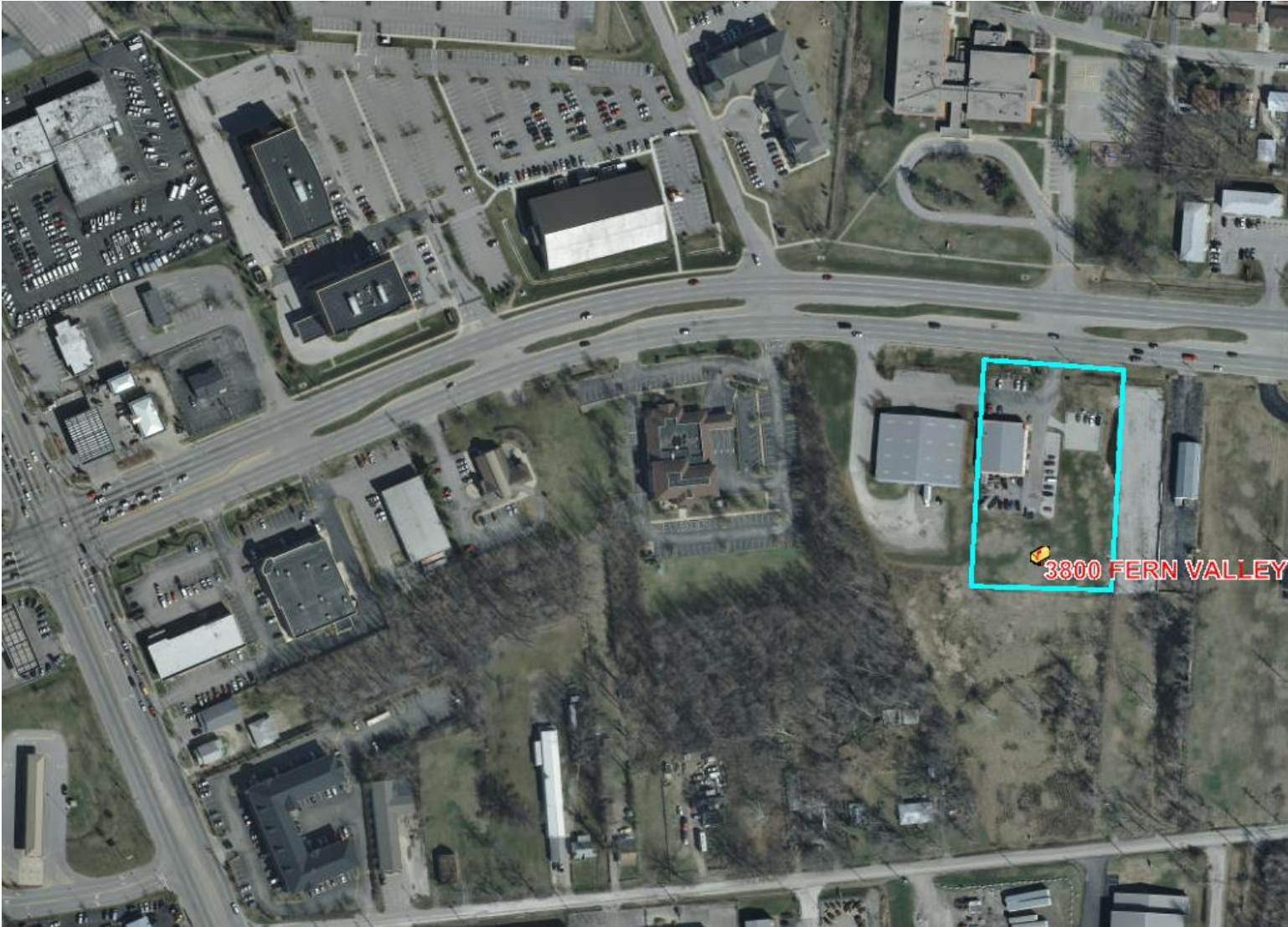


Aerial Map





**Aerial Map**



Aerial Map





**RECEIVED**  
 DEC. 09 2016  
 PLANNING &  
 DESIGN SERVICES

**RECEIVED**  
 DEC 12 2016  
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