

**Planning Commission
Staff Report
August 17, 2017**



Case No:	17CELL1001
Request:	Appeal of the July 13, 2017 decision by the Land Development and Transportation Committee
Project Name:	Navajo
Location:	8507 Westport Road
Owner:	Portland Christian School
Appellant:	Brainard Palmer-Ball Jr.
Existing Zoning District:	R-4, Single Family Residential
Existing Form District:	Neighborhood
Jurisdiction:	City of Plantation
Council District:	7 – Angela Leet
Case Manager:	Steve Hendrix, Planning Supervisor

REQUEST

Appeal of the July 13, 2017 decision by the Land Development and Transportation Committee and its approval for the replacement of an existing 142.6 foot cell tower with a 170 foot tower.

STAFF FINDINGS

The staff report for the Land Development & Transportation Committee meeting concluded that the proposed tower was in compliance with the standards of review for cellular towers and the Comprehensive Plan.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine whether to confirm or refute the Land Development and Transportation Committee's decision of July 13, 2017.

CASE SUMMARY

The application was submitted on May 15, 2017. The Commission had sixty (60) days to act upon the uniform application, if not, and there was no written agreement between the Commission and the applicant to a specific date, the uniform application would have been approved.

The site is located in an R-4 Single Family Residential Zoning District and within the Neighborhood Form District. The location for the new monopole is within the existing compound area which is located near the northeastern corner of the property.

The applicant stated that the existing monopole cellular tower, which was constructed on December 15, 2006, had been loaded and modified to its fullest extent. They also stated that the replacement would enable the current carriers to update their existing equipment to fulfill their customers' needs as well as open space for future collocations. The proposed facility will provide room for a total of four (4) carriers, the existing tower has one (1). 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. The existing landscaping will remain.

On July 13, 2017, the Land Development & Transportation Committee conducted a hearing on the request (see attached minutes). No one spoke in opposition at the hearing. Upon conclusion of the hearing, LD&T approved the proposed replacement tower by a vote of 3-0.

On July 24, 2017, an Appeal to Planning Commission of Land Development and Transportation Committee Action was received. The appellant states that more compatible alternatives to the single 170-foot tower design were not proposed and claims the following sections of the Cornerstone 2020 Comprehensive Plan were not satisfied by the proposed development:

Guideline 3. Compatibility

3.1-----Compatibility

3.9-----Visual Impacts

3.30----Cellular Towers

Guideline 15 Community Facilities

15.21---Antenna Towers for Cellular Telecommunications Services or Personal Communications Services

STANDARD OF REVIEW AND STAFF ANALYSIS

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.

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.

STAFF: The new monopole will be a **replacement** and will be able to have four, (4) carriers, instead of one, (1).

3.9 Visual Impacts: Protect the character of residential areas, roadway corridors, and public spaces from visual intrusions and mitigate when appropriate.

STAFF: The tower will still be visible from areas within the neighborhood; the compound area will continue to have the wooden fence, vegetation and school buildings as a screen/buffer.

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.

STAFF: The existing fence, school buildings and existing vegetation will buffer the compound area, although the monopole will still be visible.

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.
 STAFF: The existing monopole has been loaded and modified to its fullest extent. The replacement will enable the current carriers to update their existing equipment to fulfill their customers' needs as well as open space for future collocations.

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.

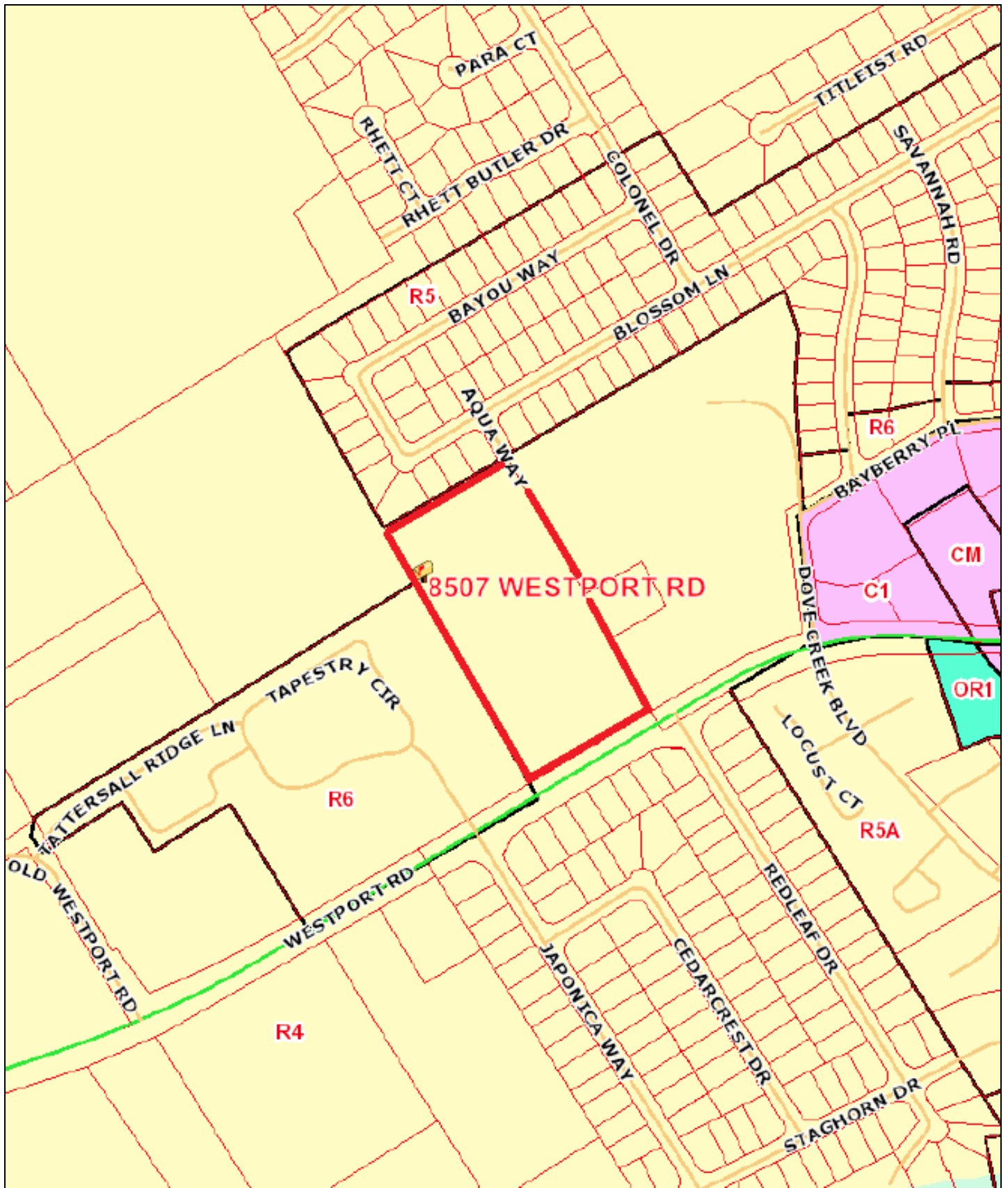
STAFF: The proposal is a **replacement** for an existing tower that was constructed in 2006.

NOTIFICATION

Date	Purpose of Notice	Recipients
July 31, 2017	Public Hearing Notices—	Adjacent Property Owners Subscribers of Council District 7 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photos
3. Site Plan
4. Tower Elevation
5. Coverage Maps submitted at the July 13, 2017 meeting
6. Palmer-Ball Jr. email for July 13, 2017 meeting
7. July 13, 2017 LD&T Minutes
8. Appeal Request







POD
POWER OF DESIGN
11490 BLUEGRASS PARKWAY
LOUISVILLE, KY 40299
502-437-5252

PREPARED FOR:
CROWN CASTLE
10300 ORMSBY PARK PLACE
SUITE # 501
LOUISVILLE, KY 40225
(502) 318-1360 FAX

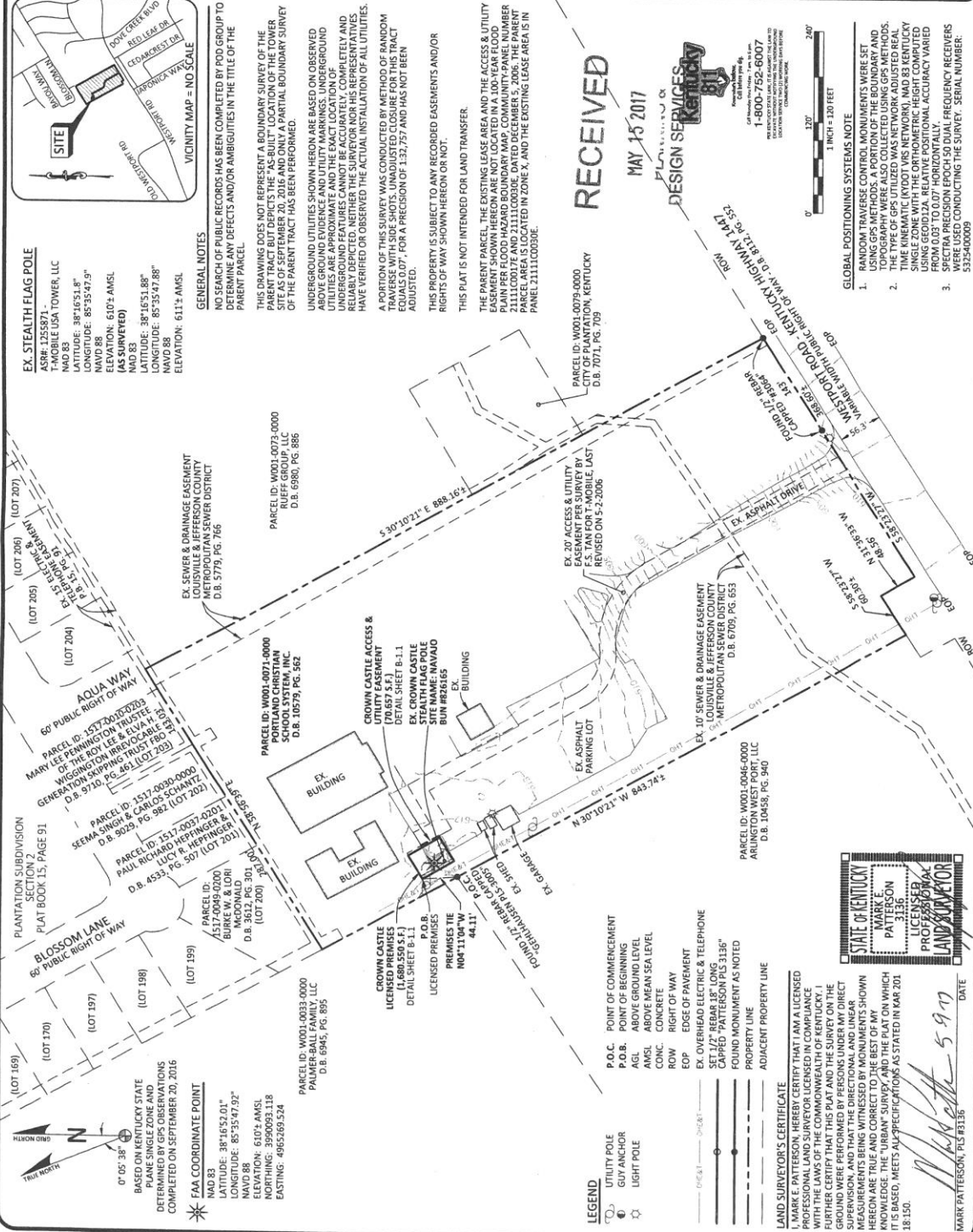
REV	DATE	DESCRIPTION
A	9.27.16	PRELIMINARY ISSUE
B	10.13.16	EXHIBIT
C	10.31.16	AGREEMENT AREA / EMT
D	11.29.16	CLIENT COMMENTS
E	2.23.17	ISSUED AS FINAL

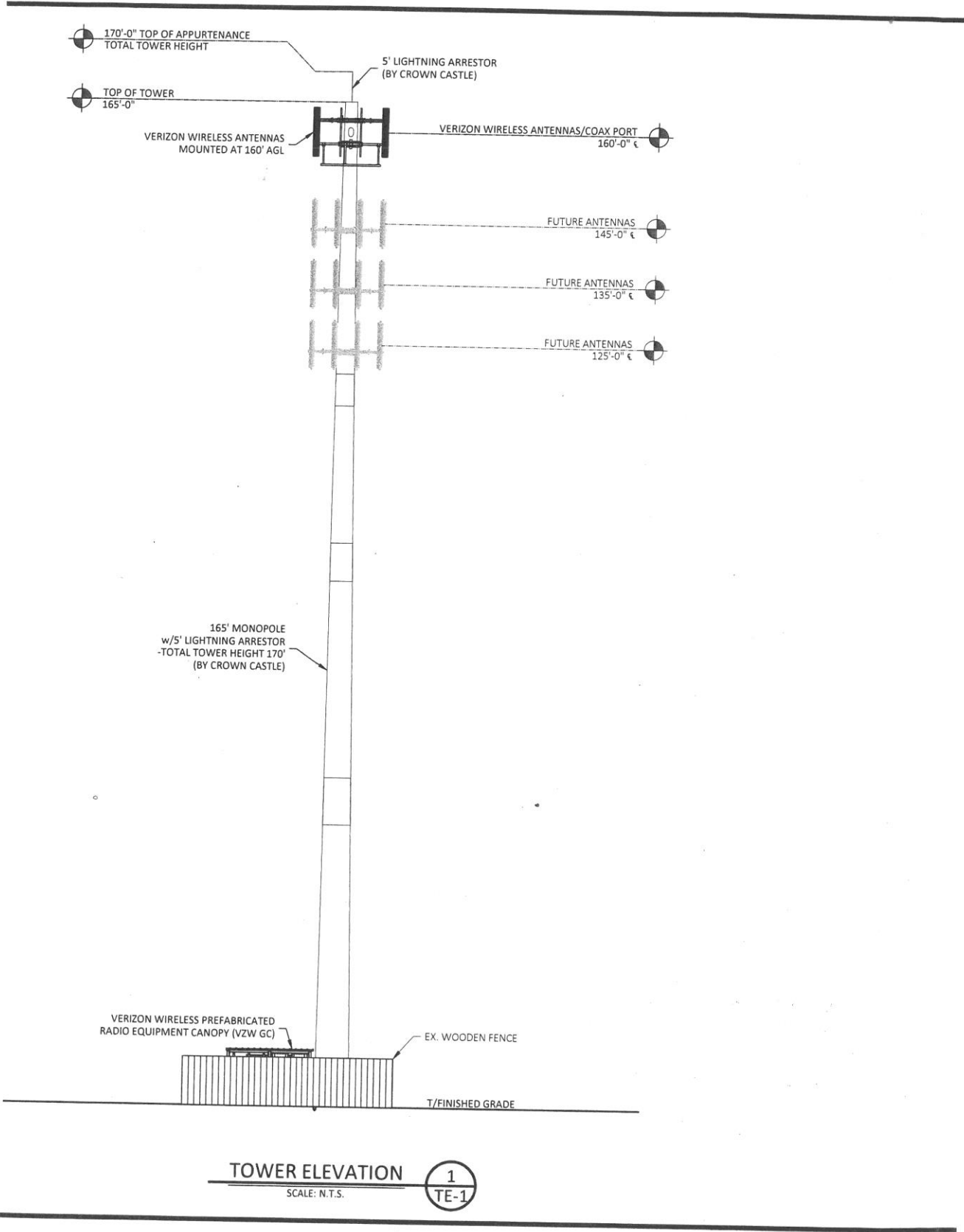
SITE INFORMATION
NAVAJO
8507 WESTPORT ROAD
a.k.a. KY HIGHWAY 1447
JEFFERSON COUNTY
KY 40304
TAX PARCEL NUMBER:
W001.0071.0000
PROPERTY CHANGES:
PORTLAND CHRISTIAN SCHOOL
SYSTEM, INC.
8506 WESTPORT ROAD
LOUISVILLE, KY 40242-3048
DEED BOOK: 10579, PAGE 562
CROWN CASTLE RUN NUMBER:
826165

POD NUMBER: 15-19862
DRAWN BY: DAP
CHECKED BY: MEP
DATE: 9.27.16

SITE SURVEY

SHEET NUMBER:
B-1



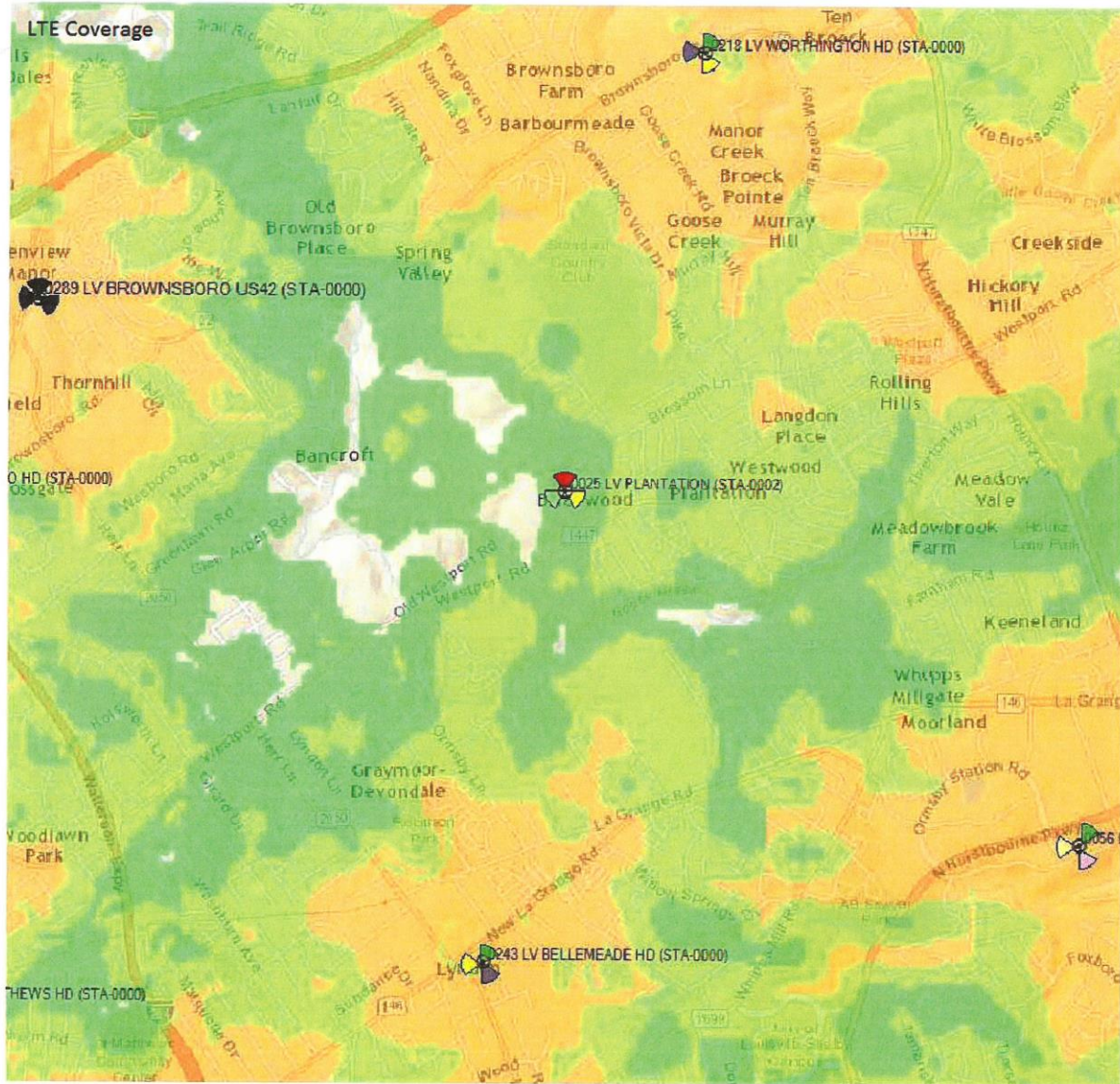


TOWER ELEVATION

SCALE: N.T.S.

1
TE-1

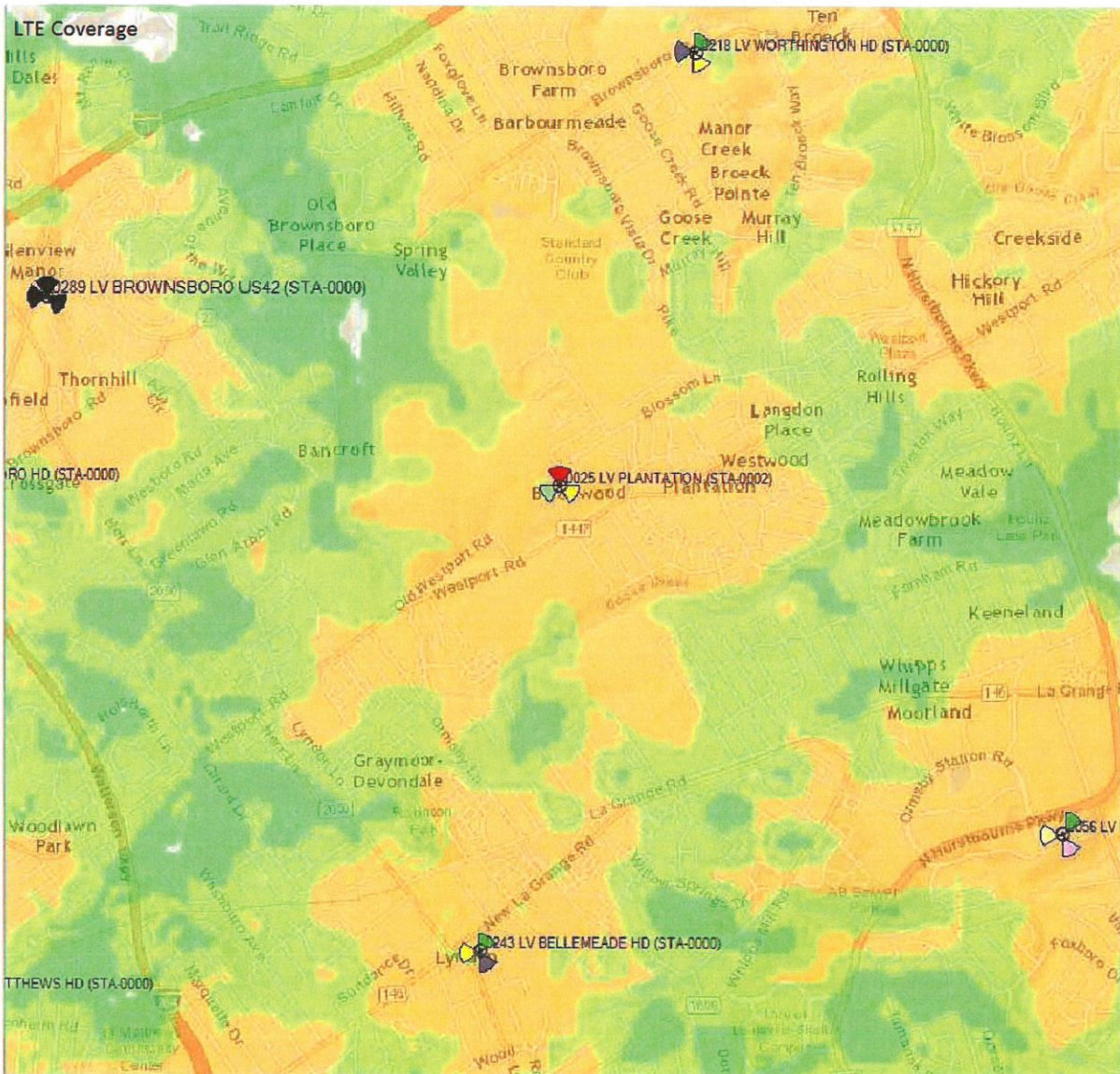
Current Coverage without Plantation






Coverage Signal Strength

Optimal		-65 to 0 Dbm
Fair		-85 to -80 Dbm
Poor		-85 to 900 Dbm

Coverage with the proposed LV Plantation Site



Coverage Signal Strength

Optimal		-65 to 0 Dbm
Fair		-85 to -80 Dbm
Poor		-85 to 900 Dbm

TESTIMONY

TO: Louisville Metro Land Development & Transportation Committee
FROM: Brainard Palmer-Ball, Jr.
DATE: July 13, 2017
RE: Case Number 17Cell1001 at 8507 Westport Road

Dear Committee Members,

My name is Brainard Palmer-Ball, Jr. I live at 8207 Old Westport Road and own property that is immediate adjacent to the subject property. The subject cell tower has been in place since 2006, I believe. One of the concessions to approval of this tower by the Louisville Metro Planning and Design Services was that it resemble a flag pole with a functional flag. A standard monopole tower with external antennas was not considered acceptable by the former licensor nor neighbors. However, the flag pole design was deemed acceptable enough in appearance, and it was approved.

Nothing about the unacceptability of the presence of a standard cell tower at this location has changed in the more than ten years since placement of the original tower. The applicant has stated that increased demand is necessitating a change to a standard monopole structure with external antennas. The applicant can presumably show some sort of chart demonstrating increased demand, but I doubt that any residents of this area have come to testify at today's hearing demanding better cell or data coverage in the area. This is obviously an opportunity for the applicant to increase revenue by expanding coverage and subleasing space on the cell tower to other providers. One would not necessarily feel inclined to deprive the applicant of the ability to increase revenue, but it should **not** occur at the expense of the aesthetics of the surroundings to neighboring residents.

The applicant has also noted that federal safety standards sometimes mandate that cell towers be updated to meet those changing standards, but in no way was the applicant able to explain how **this** flag pole cell tower was currently or will in the future be non-compliant with the federal safety standards for a tower of its type. One would presume that an improved safety design would be available for a flag pole type structure if this was ever to become the case.

I ask each committee member to consider whether or not they would allow such a tower replacement (flag pole to standard) to occur if the tower was placed within direct view of **their** home. The current flag pole design is not significantly intrusive to the residential character of the area; please review photographs of monopole towers with multiple layers of antennas on them (the applicant currently would only use one layer, and likely only shows one layer on photographs of examples, but additional providers would mean additional layers of antennas). I respectfully request that the Louisville Metro Land Development & Transportation Committee members **not** approve the proposed cell tower replacement for the reasons stated above.

Thank you for your time,

Brainard Palmer-Ball, Jr.

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17CELL1001

LAND DEVELOPMENT & TRANSPORTATION MINUTES
July 13, 2017

NEW BUSINESS

CASE NO. 17CELL1001

Case No: 17Cell1001
Request: Cell Tower Replacement
Project Name: Navajo
Location: 8507 Westport Road
Owner: Portland Christian School
Applicant: CCTMO LLC, (Crown Castle) and Verizon Wireless
Representative: Bryan Brawner
Size: 170 feet total height
1,680 square foot compound area
Existing Zoning District: R-4, Single Family Residential
Existing Form District: Neighborhood
Jurisdiction: City of Plantation
Council District: 7 – Angela Leet
Case Manager: Steve Hendrix, Planning Supervisor

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:06:18 Mr. Hendrix discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bryan Brawner, 10300 Ormsby Park Place, Suite 501, Louisville, Ky. 40245

Summary of testimony of those in favor:

00:10:32 Mr. Brawner said he spoke with the gentleman that wrote the letter received this morning.

Mr. Brawner stated if the existing tower is not replaced, a second one would have to be put in place.

Deliberation

00:18:36 Commissioner Brown said the map justifies the need. "The flagpole was creative, at the time, however today is not as practical. We'll either have one pole designed to handle it all or multiple poles." Commissioner Carlson added 70% of all 911 calls are made from cell phones.

LAND DEVELOPMENT & TRANSPORTATION MINUTES
July 13, 2017

NEW BUSINESS

CASE NO. 17CELL1001

An audio/visual recording of the Land Development & Transportation Committee meeting 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.

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 17CELL1001, a 170 foot (total height) pole with the 1,680 square foot compound area based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson and Peterson

NOT PRESENT AND NOT VOTING: Commissioners Lewis and Lindsey

LOUISVILLE METRO PLANNING COMMISSION
DIVISION OF PLANNING AND DESIGN SERVICES
444 South Fifth Street, Louisville, Kentucky 40202
(502) 574-6230 (502) 574-8129 (fax)

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APPEAL TO PLANNING COMMISSION
OF LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE ACTION

Docket No. 17Cell1001 Date July 13, 2017
Name of Development Navajo (cell tower replacement)
Address of subject property 8507 Westport Road

Date of LD&T Action: July 13, 2017

Section(s) of Land Development Code not satisfied by proposed development: 3.1, 3.9, 3.30,
"Comprehensive Plan - Cornerstone 2020 Plan" 15.21

State specific ways the Development Plan does not satisfy the section(s) of the Land Development Code referenced above:

As far as I can tell, application process adhered to LDC,
but listed elements of Comprehensive Plan / Cornerstone
2020 Plan were not fully addressed in terms of
proposing some more compatible alternatives to the
single 170' tower design proposed.

Appellant Name(s): Brainard Palmer Ball, Jr.
Address: 8207 Old Westport Rd, Lon, KY, 40222
Phone: (502) 330-3998
Signature of Appellant: Brain Palmer Ball Jr

This section for staff use only

DATE FOR PLANNING COMMISSION REVIEW _____