

Planning Commission
Staff Report
May 21, 2020



Case No:	19Cell1001
Project Name:	Bardstown Road
Location:	3738 Bardstown Road
Owner:	The First Alliance Church of the Christian and Missionary Alliance, Inc.
Applicant:	Vertical Bridge Development, LLC, T-Mobile
Representative:	Briggs Law Office, PSC, Todd R. Briggs
Jurisdiction:	Louisville Metro
Council District:	#10 – Pat Mulvihill
Case Manager:	Steve Hendrix, Planning & Design Coordinator

REQUEST:

Settlement proposal concerning an appeal from a denied application for a proposed 105 monopole tower with a five foot lightning arrestor for a total structural height of 110 feet within an approximate 2,500 square foot compound area. An eight foot wooden privacy fence with 13 evergreen trees will buffer the compound area.

CASE SUMMARY/BACKGROUND

October 31, 2019: The Planning Commission denied the application based on not meeting section 19.2 and 19.3 of the 2040 Plan, not meeting siting hierarchy and did not minimize the likely effects of installation on nearby land uses and values. Voting yes, were Commissioners Brown, Carlson, Daniels, Mims, Tomes and Jarboe. Voting no, were Commissioners Howard and Peterson. Commissioner Lewis was not present.

September 30, 2019: Letter appealing DRC's decision and extension of time limit was received.

September 18, 2019:

The Development Review Board DENIED the request based on not being designed to minimize the impact on the character of the general area and preference siting, Plan 2040, Community Facilities Goals 3. 19.1 and 19.2

August 14, 2019:

This case was initially heard on August 14, 2019, by the Development Review Committee, but was continued in order to give the applicant an opportunity to consider alternate locations on the subject site.

The application was submitted on June 18, 2019. 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, (August 17, 2019).

Time frame was extended to November 1, 2019, by the applicant on September 30, 2019.

The 3.01 acre property is located just east of the City of West Buechel, is accessed from Bardstown Road and extends to the Buechel Bypass. The property has two zoning classifications with the northern portion along Bardstown Road being C-1, Commercial and the portion adjacent to the Buechel Bypass as R-4, Single Family Residential

The Regal Center with retail stores and Angio's Italian Restaurant are north of the site across Bardstown Road within a C-1 District. A church, (owner of the subject site) and Tom Drexler are west of the site with the C-1/R-4 zoning designations. Transcend Credit Union and Ratterman & Sons Funeral Home are east of the subject property within C-1 and R-4 zoning classifications. Buechel Bypass is south of the subject site.

The applicant has stated that there is not a more suitable location reasonably available or to co-locate. The monopole is designed to accommodate four wireless providers, will not be lighted unless required by law and will have a galvanized steel finish.

STAFF FINDING

The proposed location for the monopole is in the southeastern corner of the property close to the Buechel Bypass and will have existing trees to the east and to some degree along the Buechel Bypass. Although within an existing R-4 zoning district, the monopole will be approximately 300 feet from the nearest residence on Selma Avenue which is west of the site and across the Buechel Bypass. The monopole will be approximately 550 feet from Bardstown Road and 70 feet from the Buechel Bypass.

TECHNICAL REVIEW

MSD Notes to be added. (attached)
Condition of Approval

INTERESTED PARTY COMMENTS

Staff received a letter of opposition from Transcend Credit Union and is attached.

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.

The proposal meets the standards of the Land Development Code, "Uniform Application".

Relationship to Plan 2040

Community Facilities

Goal 3 Design community facilities to be resilient and compatible with the surrounding neighborhood.

19. Antenna Towers for Cellular Telecommunications Services or Personal Communications Services should:

- 19.1** Be designed to minimize impact on the character of the general area concerned. The compound area will be screened by an 8-foot-tall wooden privacy fence and buffered with 13 six foot tall evergreens, but the monopole will still be visible.
- 19.2** 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. government buildings
 5. high-rise office structures
 6. high-rise residential structures
- The proposed tower easement area is located 35 feet from Kentucky State Highway 31E/Buechel Bypass.

- 19.3** Minimize the likely effects of the installation on nearby land uses and values.
The monopole will be visible, no matter where the structure is located, but the proposed placement takes advantage of the existing buffers, the distance from Bardstown Road and Buechel Bypass, and the surrounding low intense land uses.
- 19.4** Be designed to address compatibility issues such as co-location, mass, scale, siting, abandonment and removal of antenna tower structure.
The structure has been designed to have a total of four carriers and has provisions for abandonment and removal.
- 19.5** Avoid environmentally sensitive lands, historic landmarks and scenic byways, unless the applicant proves that no other reasonable site is available and the tower is designed to minimize impact.
Not applicable.

REQUIRED ACTIONS

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal meets the standards for granting a cell tower as established in the Land Development Code.

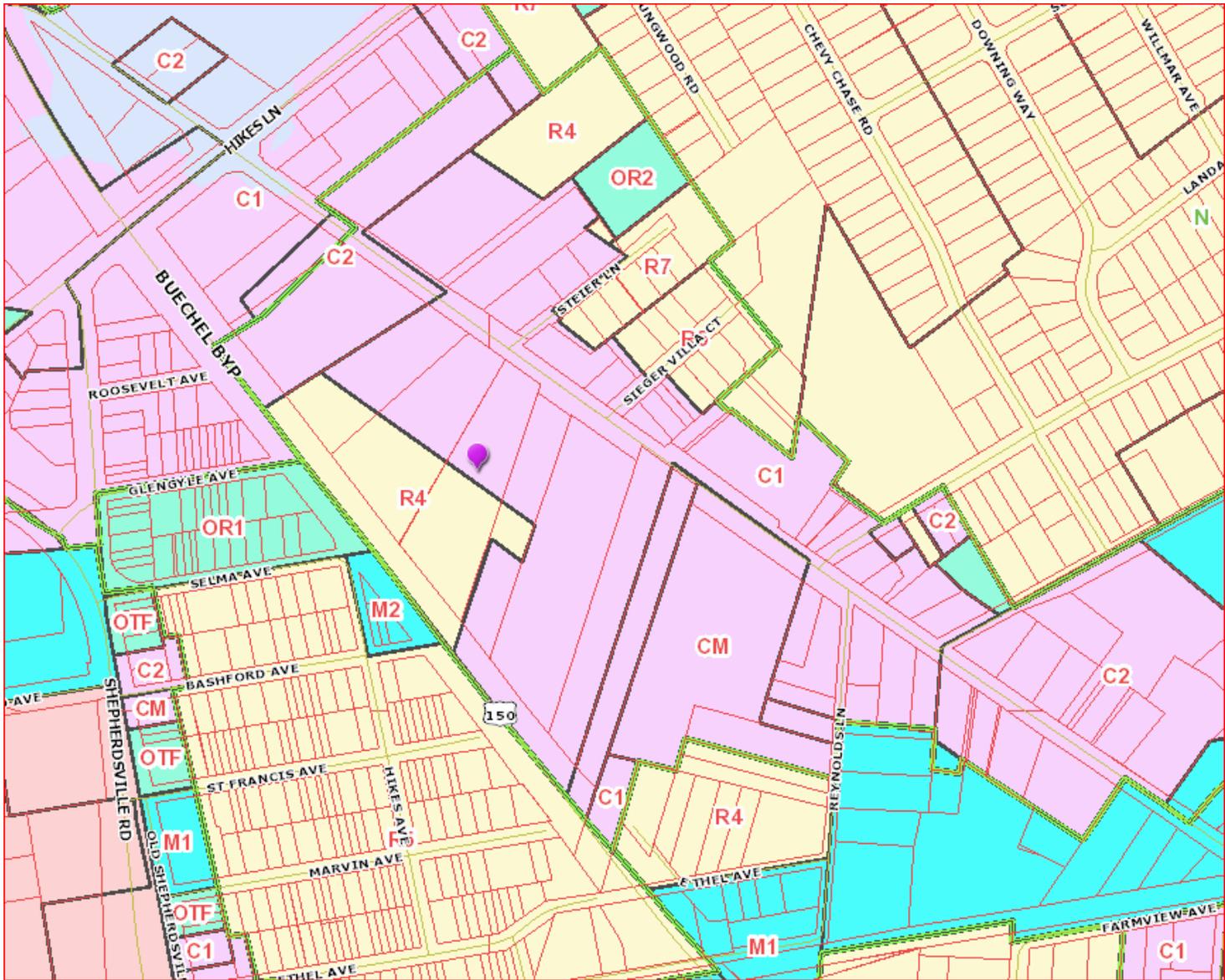
NOTIFICATION

Date	Purpose of Notice	Recipients
05-07-2020	Hearing before Planning Commission	500 foot/ adjacent property owners
05-08-2020		Registered Neighborhood Groups in Council District 10

ATTACHMENTS

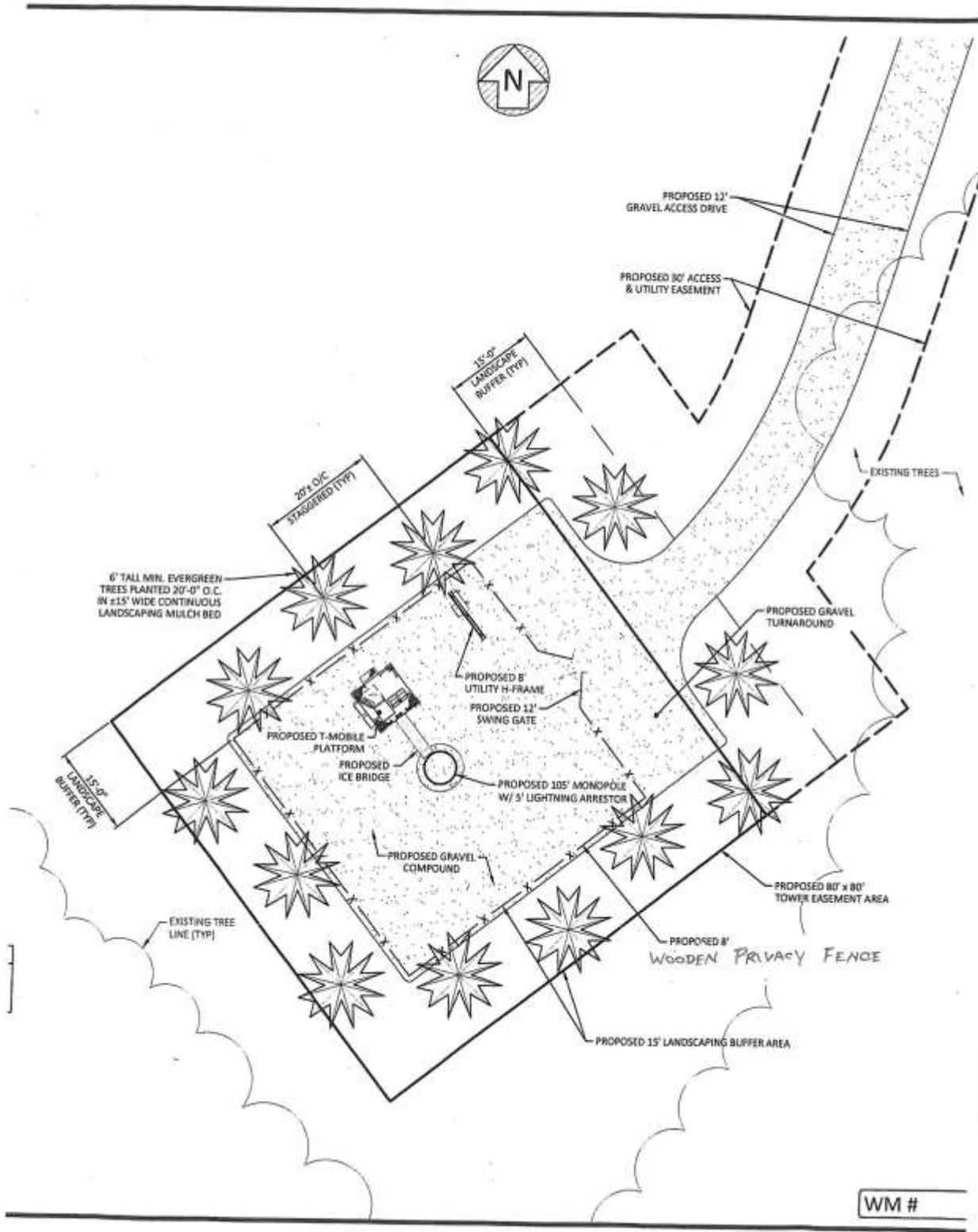
- 1. Zoning Map
- 2. Aerial Photograph
- 3. Site Plans
- 4. Pole Elevation
- 5. Coverage Maps
- 6. Opposition Letter
- 7. MSD Notes
- 8. Briggs Letter Dated September 9, 2019
- 9. Maps/Pictures submitted by applicant
- 10. October 31, 2019 Planning Commission Minutes

1. **Zoning Map**

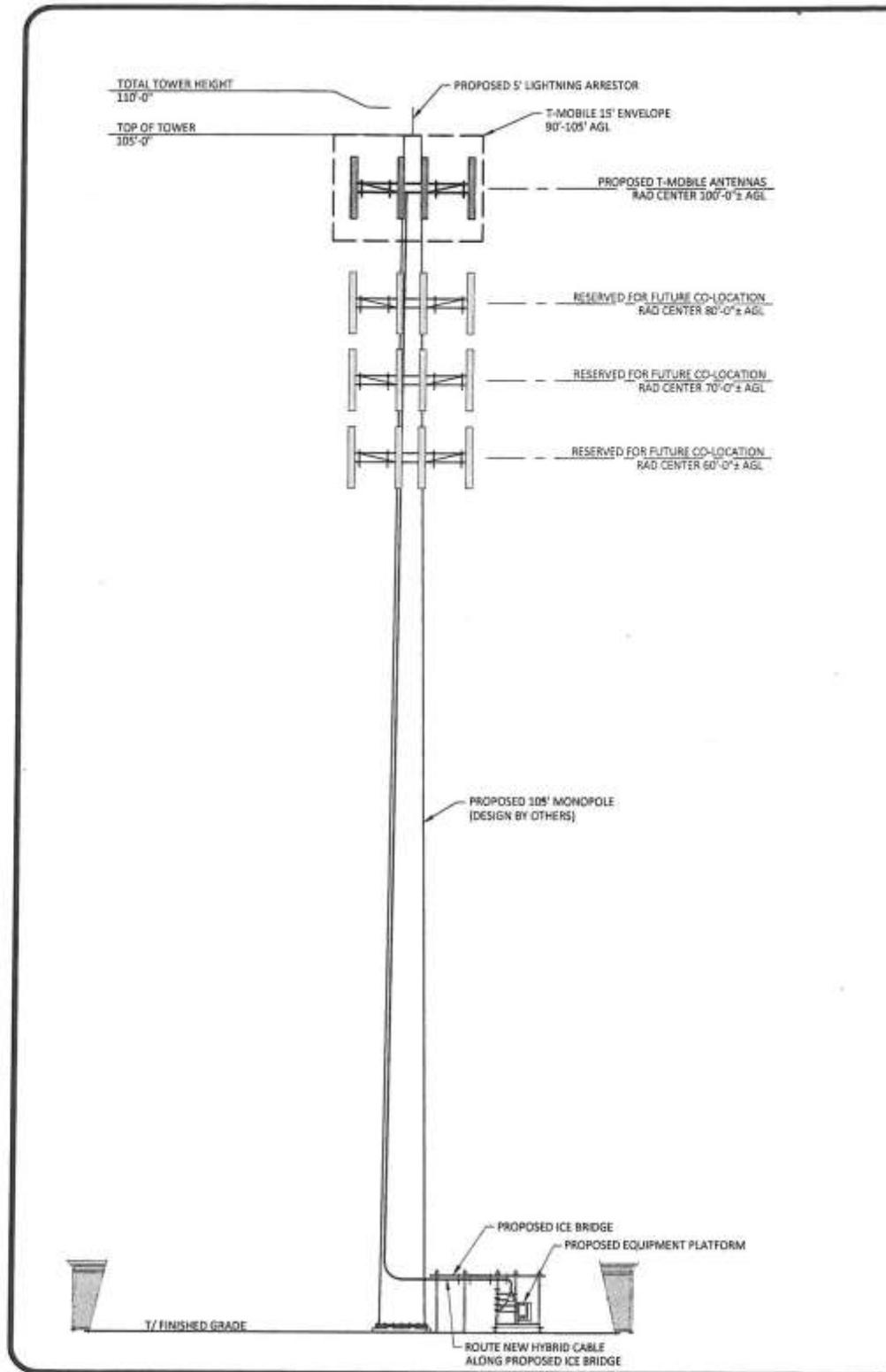


2. Aerial Photograph



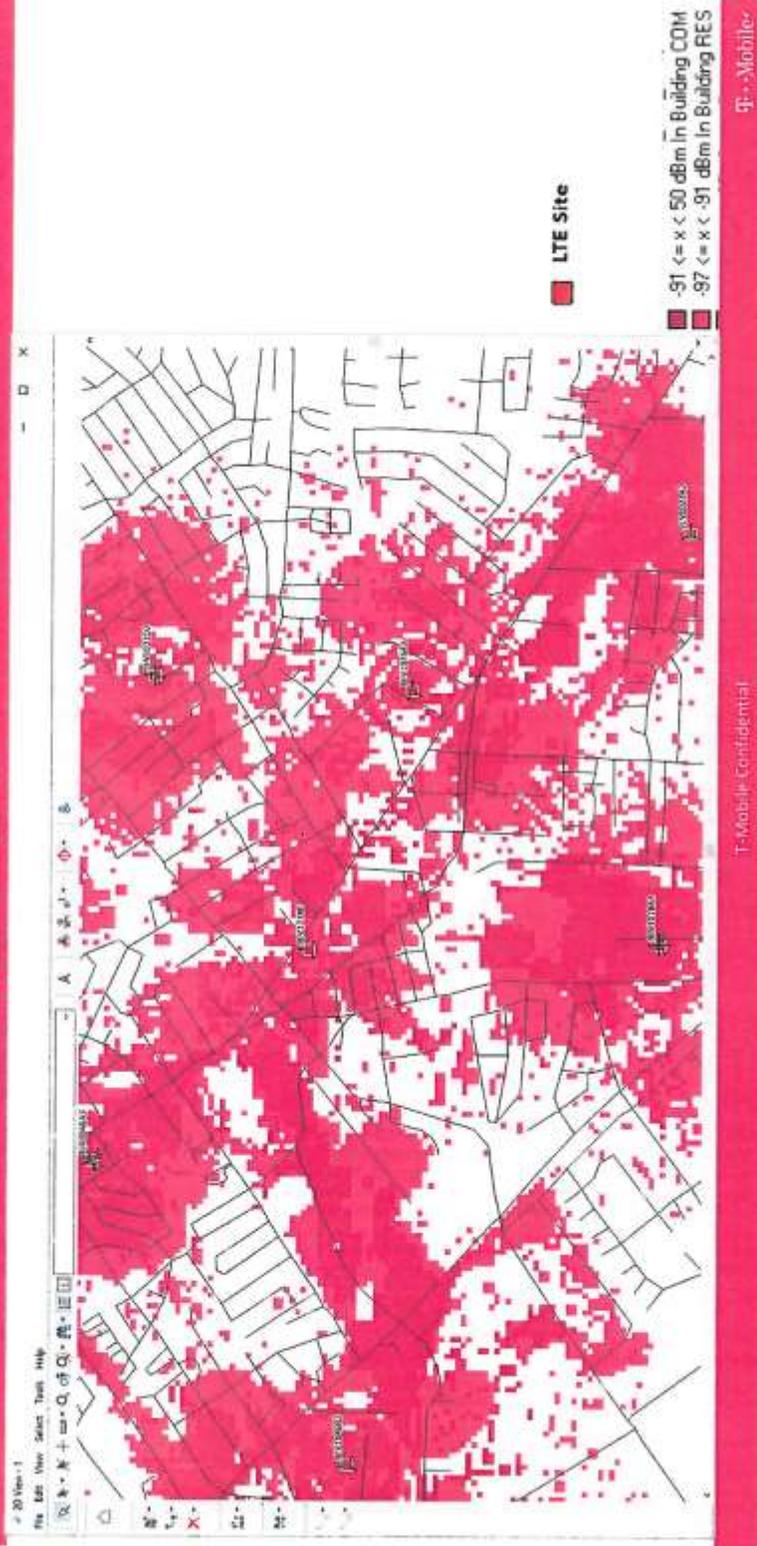


WM #



LTE Indoor Coverage: With 9LV1718E

3





Wetterer & Clare
ATTORNEYS AT LAW

2933 Bowman Avenue
Louisville, Kentucky 40205
Phone (502) 451-3030
Fax (502) 451-4516

J. GREGORY CLARE
WILLIAM S. WETTERER, III
MICHAEL B. MARKS

July 24, 2019

Louisville Metro Planning & Design Services
444 South 5th Street, Suite 300
Louisville, KY 40202

RE: 19CELL1001
Letter of Objection
3738 Bardstown Road, Louisville, Kentucky

Dear Louisville Metro Planning and Design Services:

I represent Transcend Credit Union located at 3740 Bardstown Road, Louisville, Kentucky and this is a letter of objection to the application for the construction and operation of a 110-foot monopole antenna tower at 3738 Bardstown Road, Louisville, Kentucky filed by Vertical Bridge Development, LLC ("Applicant"). Transcend Credit Union strongly opposes this cell tower. The proposed cell tower will be closer to Transcend Credit Union's property than any other adjoining properties. The 110-foot tower will sit a mere 50 feet away from the property line.

The proposed Wireless Communications Facility ("WCF") will negatively impact the character of the area, diminish value to surrounding property and the Applicant has failed to show the necessity of building the WCF at this specific location. This pending application now before the Louisville Metro Planning and Design Services to construct the WCF must be rejected because it fails to conform with the Development Code and Comprehensive Plan 2040 ("Plan 2040").

Plan 2040 plainly states and antenna towers for cellular telecommunication services should "be designed to minimize impact on the character of the general area". The proposed WCF will be 110 feet tall and placed in an area with small businesses, many single-family homes, a church and a funeral home. No buildings or structures in the area come close to the height of 110 feet. The tower will cause a major eyesore and have a negative impact on the existing character of the surrounding area.

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ATTORNEYS AT LAW

In discussing a community design to be resilient and compatible with the surrounding neighborhood, Plan 2040 states that towers should:

- be sited (in order from most preferred to least preferred):
1. highway rights-of-way except designated parkways;
 2. existing utility tower;
 3. commercial centers;
 4. government buildings;
 5. high-rise office structures;
 6. high-rise residential structures.

The Applicant is requesting to place the tower in none of the above recommended locations. While Applicant has stated that there are no other suitable locations, Applicant has failed to provide information or evidence to show that there are no other viable options and that the tower must be placed in this area.

There are many studies and research that have shown that cell towers and antennas negatively affect the surrounding properties desirability and in turn, diminish the value of the properties.¹ Erecting this WCF will economically enrich the Applicant while the surrounding properties while suffer a loss without any sort of compensation.

The application must be denied due to its failure to meet the criteria in Plan 2040. This tower would be detrimental to the character, safety, comfort, value and general welfare of properties and people in the surrounding areas.

Sincerely,



Michael Marks

Cc: Todd R. Briggs
Briggs Law Office, PSC
10200 Forest Green Blvd, Ste 112
Louisville, KY 40223

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¹ *Neighborhood Cell Towers & Antennas – Do They Impact a Property’s Desirability?*, National Institute for Science, Law and Public Policy, March 7, 2014; *The Cost of Convenience: Estimating the Impact of Communication Antennas on Residential Property Values*, Land Economics, February 2016; *Cell Phone Towers Lower Property Values: Documentation And Research on Cellular Base Stations Near Homes*, Environmental Health Trust, Sep. 10, 2017; *A Pushback Against Cell Towers*, The New York Times, August 27, 2010

19CELL1001

Hendrix, Steve

From: Tony Kelly <Tony.Kelly@louisvillemtd.org>
Sent: Tuesday, July 30, 2019 8:07 AM
To: Hendrix, Steve
Cc: Davis, Brian
Subject: WM#12019 19cell1001

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

7/30/19

- WM#12019
- Note: Construction plans and documents shall comply with Louisville and Jefferson County Metropolitan Sewer District's Design Manual and Standard Specifications and other local, state and federal ordinances.
- Note: This project is subject to MS4 Water Quality Regulations once the incremental area of disturbance sums equal to or greater than 1 acre of disturbance. Per this preliminary development plan, the area of disturbance is XXXX S.F. (fill in the XXX)
- Note: Site is subject to MSD regional facility fees.
- Note: Site will require an MSD site disturbance permit prior to issue of building permits.



Tony Kelly
Engineer I
P 502.540.6266
A Louisville MSD 700 West Liberty Street Louisville KY 40203-1911



BRIGGS LAW OFFICE, PSC

10200 Forest Green Boulevard | Suite 112 | Louisville, Kentucky 40223
[884] 331-3402 main | [502] 468-3751 mobile | todd@briggslawoffice.net

TODD R. BRIGGS
also admitted in Colorado

September 9, 2019

Michael Marks
Wetterer & Clare
2933 Bowman Avenue
Louisville, KY 40205

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**RE: Letter of Objection dated July 24, 2019
19CELL1001**

Dear Mr. Marks,

I appreciate your understanding in my delay in responding to your letter of objection and appearance at the August 14th Louisville Development Review Committee meeting. The family health issues are still ongoing, but the urgency has subsided somewhat and I thank you for your consideration.

Vertical Bridge Development, LLC ("Vertical") has been tasked with finding a location for a wireless communication facility ("WCF") on behalf of Powertel/Memphis Inc. ("T-Mobile") in order to resolve a coverage gap within T-Mobile's network. In doing so, it is first determined whether or not a collocation opportunity exists within the search area for the proposed WCF. A collocation opportunity may include any existing cell towers, utility towers, and high-rise buildings, both commercial and residential. Having found no collocation opportunity in the search area the next logical location to search is within a commercial area.

The proposed WCF is located within a commercial area along Bardstown Road. Immediately adjacent to the subject parcel are the following businesses: Tom Drexler, Plumbing and Heating; Regal Center (strip center with multiple businesses); Angio's Pizza; and Transcend Credit Union. Several other businesses operate within the commercial area along Bardstown Road. The WCF location therefore conforms to the Development Code and Comprehensive Plan 2040 ("Plan 2040"). In further consideration of Plan 2040, the proposed location of the

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WCF was placed as near to the U.S. Hwy 31E (Buechel Bypass) right-of-way as possible. The location also takes advantage of the numerous, mature trees along the property lines therefore providing a more than adequate layer of vegetation to camouflage the tower compound and ground equipment from neighboring properties and along the Bardstown Road viewshed.

You mentioned in your letter that the proposed tower will "sit a mere 50 feet away from the property line". Actually, the tower will sit approximately 100 feet from the property line at its closest point and that distance increases along the length of the proposed compound due to its angled placement in proximity to the property line. A 15-foot wide landscape buffer will be maintained around the perimeter of the compound with thirteen (13), 6-foot tall eastern arborvitae plants being installed within said landscape buffer. The current use of your client's property immediately adjacent to the proposed WCF is an employee parking lot and it appears that adjacent to the parking lot is a retention basin in a natural state. The proposed tower will be approximately 500 feet from your client's building entrance. Vertical commissioned Lotis Engineering Group to complete a set of photo simulations of the tower in its proposed location. I have included the set of photo simulations of the proposed tower taken from a several points on Bardstown Road and U.S. Hwy 31E. As you can see, the majority of the WCF is adequately screened from view.

Your last paragraph in your letter is fundamentally incorrect on all arguments. The WCF would provide wireless connectivity to the surrounding area which not only includes the surrounding residents, but also visitors to the area and local business owners. Wireless services and devices have become central to the daily lives of most Americans. Users increasingly use their wireless devices to make daily tasks easier and to access useful information. Many users rely almost exclusively on their wireless connection; one in five U.S. adults is a "smartphone-only" internet user.¹ This trend is particularly pronounced among Hispanics, African-Americans, young adults, and low-income individuals.² It is noted that Transcend Credit Union provides Mobile Banking to its customers stating on its website; "During your busy days, you don't always have time to visit a Transcend branch or manage your finances from your home office. With our mobile app, you can bring many branch services to your mobile device, allowing you to pay bills, deposit checks and manage money wherever you are." The wireless carriers are also leading the rapid deployment of real-time text (RTT) to replace 20th-century teletypewriters (TTY) with the benefits and flexibility of 21st-century communications capabilities for people who are deaf, hard of hearing, or speech impaired. The first RTT-capable devices appeared on AT&T's, Verizon's, and T-Mobile's networks in 2017. The area that is most served by effective wireless coverage is in fact the safety and general welfare of those previously mentioned user categories above.

According to the National Emergency Number Association (NENA), 240 million 911 calls were made in 2017. Of those, 80% were made from a mobile device. Federal Communication Commission (FCC) wireless 911 rules aim to provide Public Safety Answering Points (PSAP) with

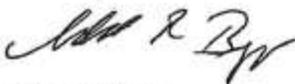
¹ Mobile Fact Sheet, PEW RESEARCH CTR.—INTERNET & TECH. (Feb. 5, 2018)

² Id.

meaningful, accurate location information so that local emergency responders can be dispatched to quickly provide assistance to wireless 911 callers. The FCC's basic rules require wireless service providers to transmit all 911 calls to PSAP, regardless of whether the caller subscribes to the provider's service or not. Phase I Enhanced 911 (E911) rules require wireless service providers to provide the PSAP with the telephone number of the originator of a wireless 911 call and the location of the cell site or base station transmitting the call. Phase II E911 rules require wireless service providers to provide latitude and longitude of callers to PSAPs. This information must be accurate to within 50 to 300 meters depending upon type of location and technology used. By April 30, 2020, nationwide providers, such as T-Mobile, must achieve 50-meter horizontal location accuracy or provide dispatchable location for 70 percent of all wireless 911 calls.³ This requirement increases to 80 percent in 2021. Improvements made by T-Mobile and other service providers can help save lives and prevent crimes.

The proposed WCF will extend T-Mobile's current coverage and capacity to the surrounding area. The WCF will work in proximity with other T-Mobile facilities to close any coverage gaps. The WCF will provide critical safety support through enhanced 911 services. For these reasons and those noted above, we respectfully request Transcend Credit Union to withdraw their objection to the proposed WCF.

Sincerely,



Todd R. Briggs

Enclosures

Cc: Louisville Metro Planning Commission
Vertical Bridge Development, LLC

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³ 47 C.F.R. § 20.18(i)(2)(i)(A)

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KY-5046 Bardstown

19CELL1001

T-Mobile Adjacent Cell Sites

The attached map depicts the adjacent WCF locations of T-Mobile with the following addresses:

1. 3320 Bardstown Road – rooftop collocation
2. Bishop Lane/Eastmoor Road – tower collocation
3. 4906 Heller Street – tower collocation
4. 2226 Buechel Avenue – tower collocation
5. 2825 Klondike Lane – tower collocation

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Proposed View

Description: Portion of the USGS Louisville East, KY 7.5-Minute Series topographic quadrangle showing the area surrounding the proposed tower location. Image points are indicated by blue letters.

DISCLAIMER: This plan, specification or contract is independent of any contract. The user assumes all liability for any use of this plan, specification or contract. No warranty is made by the provider.

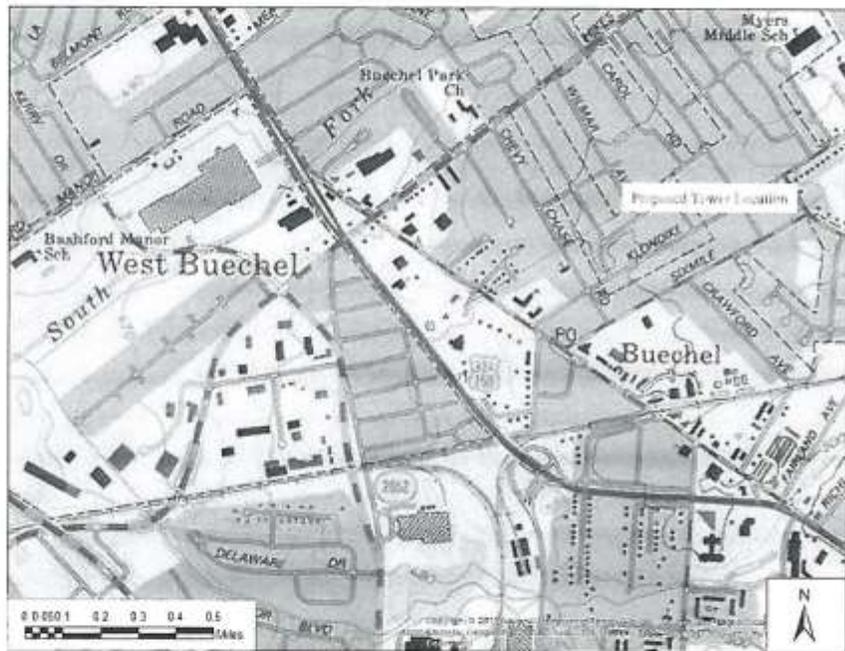
Prepared on behalf of Leticia Engineering Group, P.C.

US-KY-5046 Bardstown Cellular Tower Site

3738 Bardstown Road
Louisville, KY

Tower Lat/Long: 38.195686, -85.657706

Tower Height: 105 ft (32.0 m)



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Proposed View

Description: Aerial view showing the area surrounding the proposed tower location. Image points are indicated by red letters.

DISCLAIMER: This is a simulated view of the proposed tower location. The actual view may vary due to terrain, weather, and other factors. This view is for informational purposes only.

Prepared on behalf of Lotus Engineering Group, P.C.

US-KY-5046 Bardstown Cellular Tower Site
3738 Bardstown Road
Louisville, KY
Tower Lat/Long: 38.195686, -85.657706
Tower Height: 105 ft (32.0 m)



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US-KY-5046 Bardstown Cellular Tower Site

3738 Bardstown Road

Louisville, KY

Tower Lat/Long: 38.195686, -85.657706

Tower Height: 105 ft (32.0 m)

Proposed View

Description: View from Image Point A toward the proposed tower from Bardstown Road (looking south). Distance to tower is approximately 900 feet

GENERAL NOTE: This photograph was simulated using aerial photography of a nearby residential area. The photograph was simulated using aerial photography of a nearby residential area. The photograph was simulated using aerial photography of a nearby residential area.

Prepared on behalf of Lotus Engineering Group, P.C.

Original photograph



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Proposed View

Description: View from Image Point B toward the proposed tower from Bardstown Road (looking southwest). Distance to tower is approximately 600 feet.

US-KY-5046 Bardstown Cellular Tower Site

3738 Bardstown Road

Louisville, KY

Tower Lat/Long: 38.195686, -85.657706

Tower Height: 105 ft (32.0 m)

Original photograph



Prepared on behalf of Lotus Engineering Group, P.C.

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US-KY-5046 Bardstown Cellular Tower Site
3738 Bardstown Road
Louisville, KY
Tower Lat/Long: 38.195686, -85.657706
Tower Height: 105 ft (32.0 m)

Proposed View

Description: View from Image Point C toward the proposed tower from Bardstown Road (looking west). Distance to tower is approximately 860 feet

PHOTO SIMULATION: This photo simulation was created using a 3D software program. The actual construction may vary slightly from the simulation.

Original photograph



Prepared on behalf of Letis Engineering Group, P.C.

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Proposed View

Description: View from Image Point D toward the proposed tower from Buschel Bypass (looking north). Distance to tower is approximately 570 feet.

DISCLAIMER: This plan is intended to provide a general overview of the proposed project. It is not intended to be used for any other purpose. The accuracy of the information is not guaranteed. The user assumes all responsibility for the use of this information.

Prepared on behalf of Lotus Engineering Group, P.C.

US-KY-5046 Bardstown Cellular Tower Site

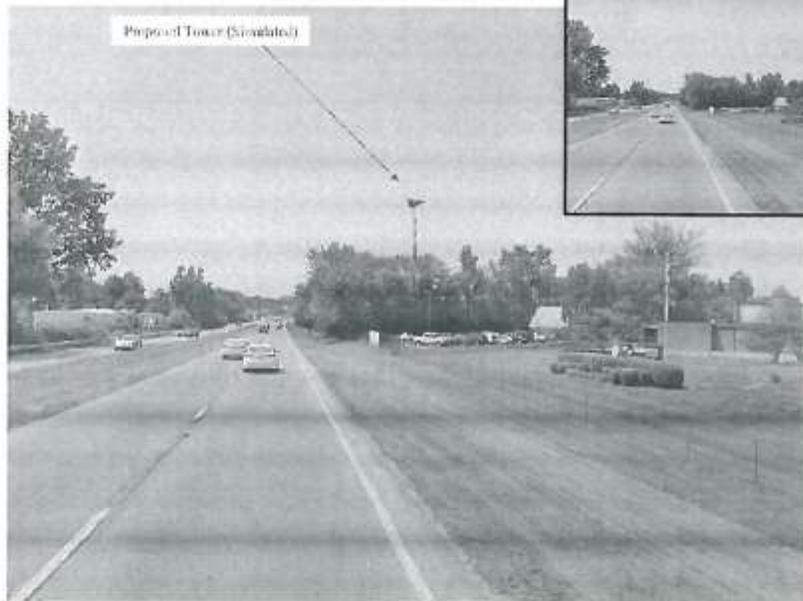
3738 Bardstown Road

Louisville, KY

Tower Lat/Long: 38.195686, -85.657706

Tower Height: 105 ft (32.0 m)

Original photograph



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PLANNING COMMISSION MINUTES
October 31, 2019

PUBLIC HEARING

CASE NO. 19CELL1001

Project Name: Bardstown Road
Location: 3738 Bardstown Road
Owner: The First Alliance Church of the Christian and Missionary Alliance, Inc.
Applicant: Vertical Bridge Development, LLC,
T-Mobile
Representative: Briggs Law Office, PSC, Todd R. Briggs
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Steve Hendrix, Planning & Design Coordinator

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:59:59 Mr. Hendrix discussed the case summary, standard of review and staff analysis from the staff report.

02:04:17 Commissioner Carlson asked what is meant by the time frame being extended to November 1, 2019 by the applicant. Mr. Hendrix answered, the cell tower application is filed and it has to be heard and approved in 60 days, and if not, it's automatically approved.

02:05:27 Commissioner Mims asked why this case was denied at DRC. Mr. Hendrix said the main reason was the location of the pole itself. There was opposition from the credit union. Chair Jarboe added, another point made at DRC was that since it's the church's property, why can't the tower be closer to their own property instead of the property closer to the credit union? Commissioner Mims stated if the applicant has tried to co-locate, aren't cell towers normally approved? Mr. Hendrix said that's usually the case, but there was an argument about the monopole being situated closer to the church itself.

02:07:35 Commissioner Howard asked if the trees will remain. Mr. Hendrix said yes.

The following spoke in favor of this request:

Todd Briggs, 10200 Forest Green Boulevard, Suite 112, Louisville, Ky. 40223

Summary of testimony of those in favor:

02:08:11 Mr. Briggs is appealing the DRC's decision. The church has provided a letter regarding their current use of the open space and their future plans. There is also a letter submitted by the Radio Frequency Engineer of T-Mobile. The eastern side of Bardstown is commercial with very small lots and not a lot of open space and most abut residential properties. The subject property has adequate space, the existing tree line will camouflage the ground equipment and the setback from Bardstown Rd. effectively removes the tower from the view shed of Bardstown. There are no adequate sites available in the search area. We are immediately adjacent to the highway, there are no existing utility towers, the site is in a commercial center, there are no government buildings adequate enough, no high-rise office structures or residential structures. This plan meets the goals of Plan 2040 and the ordinance requirements and setbacks. The tower is designed for more than one carrier (3 or 4).

02:13:35 Commissioner Carlson asked if there were any satisfactory commercial buildings to use. Mr. Briggs said they're too small with very little open space. Commissioner Carlson asked if they approached other locations and were turned down. Mr. Briggs said no, but other properties in the search area were evaluated. The proposed site had a willing landlord. Commissioner Carlson asked if a low model profile monopole was considered. Mr. Briggs said no, you can't install more than 3 antennae.

The following spoke in opposition to this request:

Michael Marks, 2933 Bowman Avenue, Louisville, Ky. 40205

Summary of testimony of those in opposition:

02:18:18 Mr. Marks, attorney representing Transcend Credit Union, asked what other options were explored and if this is the only one, why does it have to be closer to the credit union instead of the church. The church is receiving the economic benefit. The applicant has not minimized the likely effects of the installation on nearby land uses and values (Plan 2040). There are many studies that indicate that cell towers reduce property values.

02:22:44 Commissioner Peterson asked Mr. Marks to explain how the credit union utilizes the different portions (buildings) of the property. Mr. Marks explained – main credit union, customer parking lot, utility shed and employee parking.

PLANNING COMMISSION MINUTES
October 31, 2019

PUBLIC HEARING

CASE NO. 19CELL1001

02:23:19 Chair Jarboe asked why do you feel the cell tower is lowering the property value of the credit union parking lot? Mr. Marks said it hurts the re-sell value.

02:25:25 Commissioner Howard asked Mr. Marks if he was shown the plan, for the cell tower area, with additional plantings as well as what is currently there. Mr. Marks said yes, but 15 ft. trees will hardly mitigate a 110 ft. cell tower.

Rebuttal

02:27:00 Mr. Briggs stated that the credit union is not the closest structure to the proposed cell tower. The studies referenced by Mr. Marks are mainly residential studies and based on opinions, not empirical data.

Cell towers are very important to 911 usage – in 2017 there were 240 million 911 calls were made nationwide and 80% of those were by a hand-held device. The wireless coverage and gaps we're trying to fill with this tower will only add to the benefit and adequacy of the 911 system.

Deliberation

02:29:13 Commissioner Tomes stated the people that benefit from the towers seem to want to locate it as far away from their building as possible, sometimes to the detriment of other properties. There may have been a more suitable location.

02:30:34 Commissioner Peterson said the proposed location appears to be the best choice and has very little impact on the credit union.

02:31:54 Commissioner Mims said the location would be better served near the church.

02:32:21 Commissioner Daniels stated she thinks the church could still develop their property even if they move the tower closer to their building.

02:33:03 Commissioner Brown stated 19.2 and 19.3 are applicable. They didn't go through the hierarchy of preferred locations. If it's being placed on an R-4 lot, then it needs to be moved away from the abutting property.

02:33:33 Commissioner Howard said she doesn't have an issue with the site location since it's adjacent to a parking lot and utility building. There are evergreen trees to minimize the impact. Also, the site has a soccer field and they need that space to move around.

PUBLIC HEARING

CASE NO. 19CELL1001

02:35:29 Commissioner Carlson said he doesn't think the applicant has fully explored other preferable sites found in the Comprehensive Plan before arriving at the site chosen. Also, the site is R-4.

02:38:06 Chair Jarboe stated both sides could be argued.

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.

This is an application for a proposed 105 foot monopole tower with a five foot lightning arrester for a total structural height of 110 feet within an approximate 2,500 square foot compound area. An eight foot wooden privacy fence with 13 evergreen trees will buffer the compound area.

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted.

RESOLVED, that the motion to **APPROVE** the application for a proposed 105 foot monopole tower with a five foot lightning arrester for a total structural height of 110 feet within an approximate 2,500 square foot compound area failed.

The vote was as follows:

YES: Commissioners Howard and Peterson

NO: Commissioners Brown, Carlson, Daniels, Mims, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Lewis

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution based on not meeting 19.2 and 19.3 of the 2040 Plan, not meeting siting hierarchy and did not minimize the likely effects of installation on nearby land uses and values was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **DENY** the application for a proposed 105 foot monopole tower with a five foot lightning arrester for a total structural height of 110 feet within an approximate 2,500 square foot compound area.

The vote was as follows:

PLANNING COMMISSION MINUTES
October 31, 2019

PUBLIC HEARING

CASE NO. 19CELL1001

YES: Commissioners Brown, Carlson, Daniels, Mims, Tomes and Jarboe

NO: Commissioners Howard and Peterson

NOT PRESENT AND NOT VOTING: Commissioner Lewis