

# Development Review Committee

## Staff Report

November 6, 2019



|                          |  |
|--------------------------|--|
| <b>Case No:</b>          | 19-CELL-0003/19-DDP-0057                       |
| <b>Project Name:</b>     | New Cut  |
| <b>Location:</b>         | 7328 Southside Drive                           |
| <b>Owner:</b>            | DP Rentals, LLC.                               |
| <b>Applicant:</b>        | Vertical Bridge Development, LLC.,<br>T-Mobile |
| <b>Representative:</b>   | Briggs Law Office, PSC, Todd R. Briggs         |
| <b>Jurisdiction:</b>     | Louisville Metro                               |
| <b>Council District:</b> | # 25---David Yates                             |
| <b>Case Manager:</b>     | Steve Hendrix, Planning & Design Coordinator   |

### **REQUEST:**

This is an application for a proposed 125 foot monopole tower with a five foot lightning arrestor for a total structural height of 130 feet within an approximate 2,500 square foot compound area. An eight foot wooden privacy fence with 34 Dwarf Burford Holly will buffer the compound area.

In addition to the cell tower application, a Revised Detailed District Development Plan, 19-DDP-0057, has been submitted since this property had a zone change on June 6, 2018, 18ZONE1067.

### **CASE SUMMARY/BACKGROUND**

**The cell tower application was submitted on August 14, 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, the applicant extended the date.**

### **STAFF FINDING**

The 1.71 acre property is located in southern Louisville just northeast of the New Cut Road/ Southside Drive intersection. Tract 1 is 0.36 acres and contains an existing 1,940 square foot residential dwelling and a garage. Both are to remain with the house becoming office space within a C-1 zoning classification.

Tract 2 is 1.35 acres, zoned C-2 and was approved to have a 9,000 square foot warehouse building separated into three spaces. The proposed cell tower is west of the warehousing structure at the rear of the property within that C-2 portion.

Apartment complexes are north of the site, Ratterman's Funeral Home and parking lot are south of the site, an office and Our Lady of Mt. Carmel Catholic Church is east of the site across Southside Drive, and retail stores facing New Cut Road are west of the 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.

## **TECHNICAL REVIEW**

MSD (Drainage flow)  
Condition of Approval

## **INTERESTED PARTY COMMENTS** -----None

### **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 34 six foot tall evergreens, although 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 in a C-2 zoned property in a Town Center Form District.

- 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 some existing trees that are to remain, the backside of apartments and the backs of the retail stores facing New Cut Road.
- 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.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS**

- (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: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

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

STAFF: There are no open space requirements pertinent to the current proposal.

- (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: Subject to drainage flow being added to the plan as per the Metropolitan Sewer District.

- (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 overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. The tower and compound area will meet all required setbacks.

- (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: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

### **18ZONE1067      Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy or building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - e. A crossover easement and shared parking agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - f. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan & dedicating additional right-of-way as required by the Department of Public Works and shown on the approved development plan.
  - g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 6, 2019 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring

action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. No power equipment that will cause a noise disturbance will be run between the hours of 10:00 p.m. and 6:00 a.m.

### **REQUIRED ACTIONS**

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

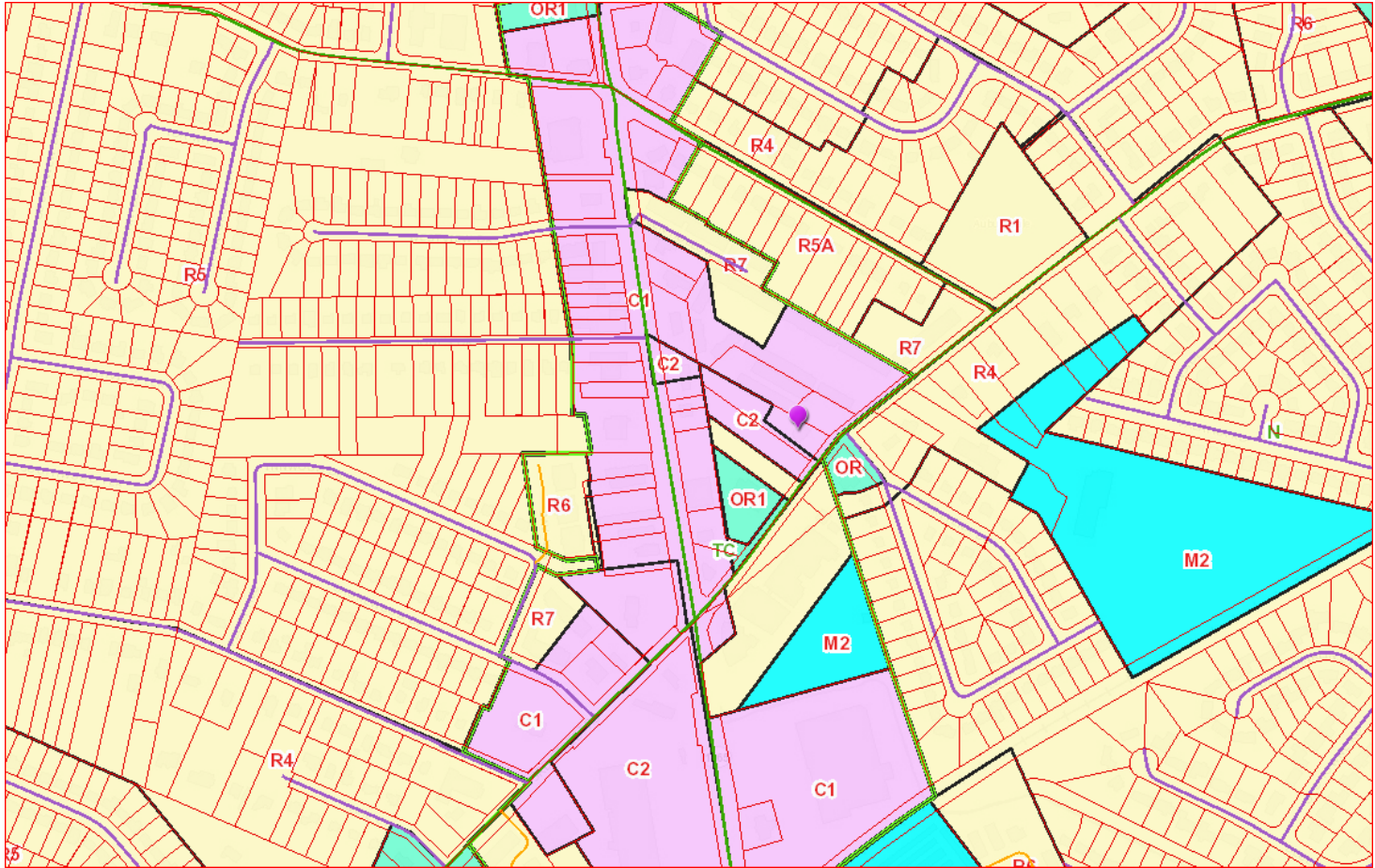
### **NOTIFICATION**

| Date       | Purpose of Notice                  | Recipients  |
|------------|------------------------------------|---|
| 10-24-2019 | Hearing before Planning Commission | 500 foot/ adjacent property owners                    |
| 10-23-2019 |                                    | Registered Neighborhood Groups in Council District 25 |

### **ATTACHMENTS**

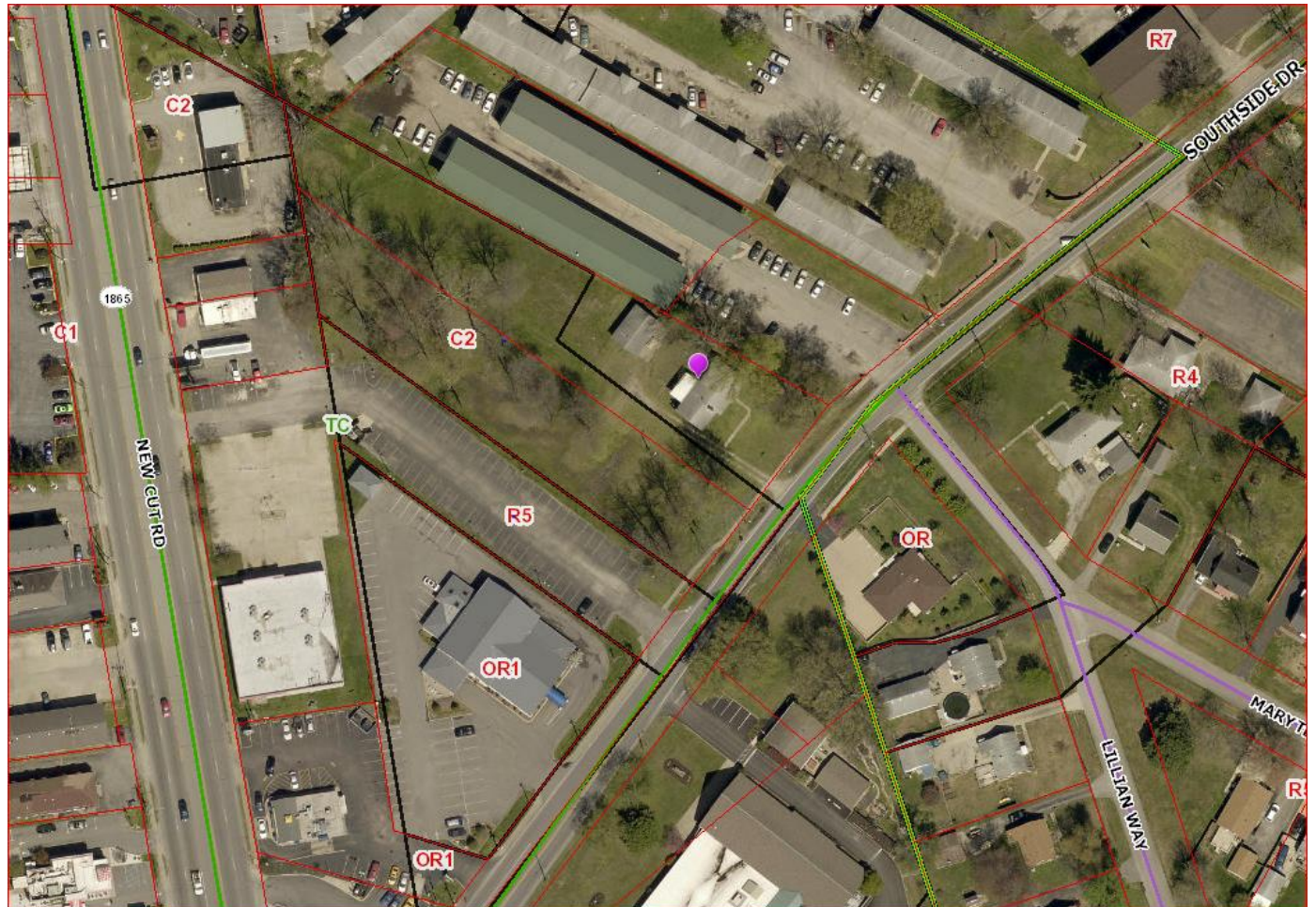
1. Zoning Map
2. Aerial Photograph
3. Site Plans
4. Pole Elevations

1. **Zoning Map**





**2.**



Design Envelope ID: FG2707AE-61P0-4601-8744-07C81E74A725

