

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: August 6, 2012**

**CASE NUMBER**

5767

**APPLICANT NAME**

Cellular South Real Estate

**LOCATION**

6301 Airport Boulevard  
(West side of Schaub Avenue at its North terminus).

**VARIANCE REQUEST**

**USE:** Use Variance request to allow a communications tower in an R-1, Single-Family Residential District.

**HEIGHT:** Height Variance request to allow a 100' monopole cellular communications tower.

**SETBACK:** Setback Variance request to allow a 22.5' setback from a lease parcel line for a telecommunications tower.

**BUFFER SEPARATION:** Buffer Separation request to allow a 22.5' separation from residentially zoned property for a telecommunications tower.

**ZONING ORDINANCE  
REQUIREMENT**

**USE:** The Zoning Ordinance prohibits communications towers in R-1, Single-Family Residential Districts.

**HEIGHT:** The Zoning Ordinance allows a maximum height of 35'.

**SETBACK:** The Zoning Ordinance requires a 100' tower to be setback at least 100' from a lease parcel

**BUFFER SEPARATION:** The Zoning Ordinance requires a 200' buffer separation from residential property for a 100' high telecommunications tower.

**ZONING**

R-1, Single-Family Residential District

**AREA OF PROPERTY**

2,025 Square Feet (lease parcel)

**ENGINEERING  
COMMENTS**

No comments.

**TRAFFIC ENGINEERING**  
**COMMENTS**

Please coordinate with Traffic Engineering to discuss possible vehicular conflicts if the pole is close to a parking area.

**CITY COUNCIL**  
**DISTRICT**

District 6

**ANALYSIS**

The applicant is requesting Use, Height, Setback and Buffer Separation Variances to allow a 100' monopole cellular communications tower in an R-1, Single-Family Residential District, setback 22.5' from a lease parcel line and 22.5' from residentially zoned property; the Zoning Ordinance prohibits telecommunications towers in R-1 districts, the maximum height allowed is 35', a 100' high tower must be setback at least 100' from a lease parcel line, and a 200' buffer separation from residential property is required in an R-1, Single-Family Residential District.

The proposed tower site located within a parcel owned by a church and containing two buildings and a portion of the church parking lot. The proposed tower site is surrounded by other parcels owned by the church and containing other buildings and parking associated with the church. Since all of the church-owned parcels are zoned R-1, a variance is required to allow the tower, and since 35' is the maximum height allowed in R-1, the Height Variance is required. Since the lease parcel is proposed to be 45' by 45', and the tower would be centered at 22'-6" from the lease parcel lines, the required 100' lease parcel setback (the height of the tower) would not be met, hence the Setback Variance request. And since the surrounding church-owned parcels are zoned R-1, a buffer separation setback equal to 150% the height of the tower (150') or 200', whichever is greater, is required (200' in this instance); therefore the Buffer Separation Variance request. It should be mentioned that, other than the church-owned parcels, the closest R-1 properties from the proposed tower are one approximately 84' to the Southeast, and one approximately 84' to the West. Access to and parking for the tower will be via the existing paved driveway and parking area for the church.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The intent of the Tower Ordinance is to regulate the construction of towers such that adequate coverage is available to service providers while maintaining the character of an area and protecting nearby residential properties; to encourage collocation on existing antennae support structures and manage the number of towers to avoid a proliferation of towers on the landscape.

The applicant states that Cellular South has weak signal coverage and is experiencing persistent capacity problems along Airport Boulevard in the Hillcrest Road area and that there are no existing towers or other structures within a one-half mile area or greater suitable for antenna collocation. The existing Alabama Power Company tower located at the Northeast corner of Airport Boulevard and Hillcrest Road, within approximately one-quarter mile from the subject site, is for proprietary emergency use and not available for commercial carriers. The next-closest antenna support structure is atop Providence Hospital, approximately three-quarters mile to the West of the subject site. It is stated that the proposed site is the only suitable one available in the vicinity. It is further stated that, since there is nearby commercial zoning and use, the tower would blend in this mixed use area. The proposed tower would have the capacity for the collocation of three additional wireless providers.

Propagation charts provided with the application indicate the applicant's current lower coverage capabilities within the area and the greater capabilities with the proposed tower. Also provided is a structural engineer's certification that the tower would be designed to collapse within a radius of 50% of the tower's height.

The site plan illustrates a proposed chain link fence and gates around the equipment compound topped with barbed wire. Since the compound is within a church parking lot with nearby residential use, the standard requirement of a 10' vegetative buffer or 6' high wooden privacy fence would apply. As the proposed compound is 40' by 40', and the lease area is 45' by 45', there is not sufficient space for a 10' vegetative buffer around the compound. Therefore, a 6' high wood privacy fence and gates should be required. And since the site is within R-1 zoning, barbed wire or any other hazardous fencing is not allowed. The site plan should be revised to eliminate barbed wire or any other hazardous fencing material.

The applicant has illustrated that a literal enforcement of the Ordinance would cause a hardship with respect to cellular phone coverage within the vicinity and that there are no other available sites for a new tower or collocation within the area which would alleviate the current low-coverage problems. The Board should consider this application for approval, subject to conditions.

**RECOMMENDATION:** Based on the preceding, this application is recommended for approval, subject to the following conditions:

- 1) verification that the compound will not cause conflicts with the traffic flow or parking for the church, to be coordinated with Traffic Engineering;
- 2) revision of the site plan to provide a 6' high wood privacy fence around the equipment compound;
- 3) revision of the site plan to eliminate barbed wire or any other type of hazardous fencing around the compound;

- 4) full compliance with the landscaping and tree planting requirements of the Zoning Ordinance, to be coordinated with Urban Forestry;
- 5) the provision of a Certificate of Insurance naming the City of Mobile as an additional insured; and
- 6) full compliance with all other municipal codes and ordinances.

# LOCATOR MAP



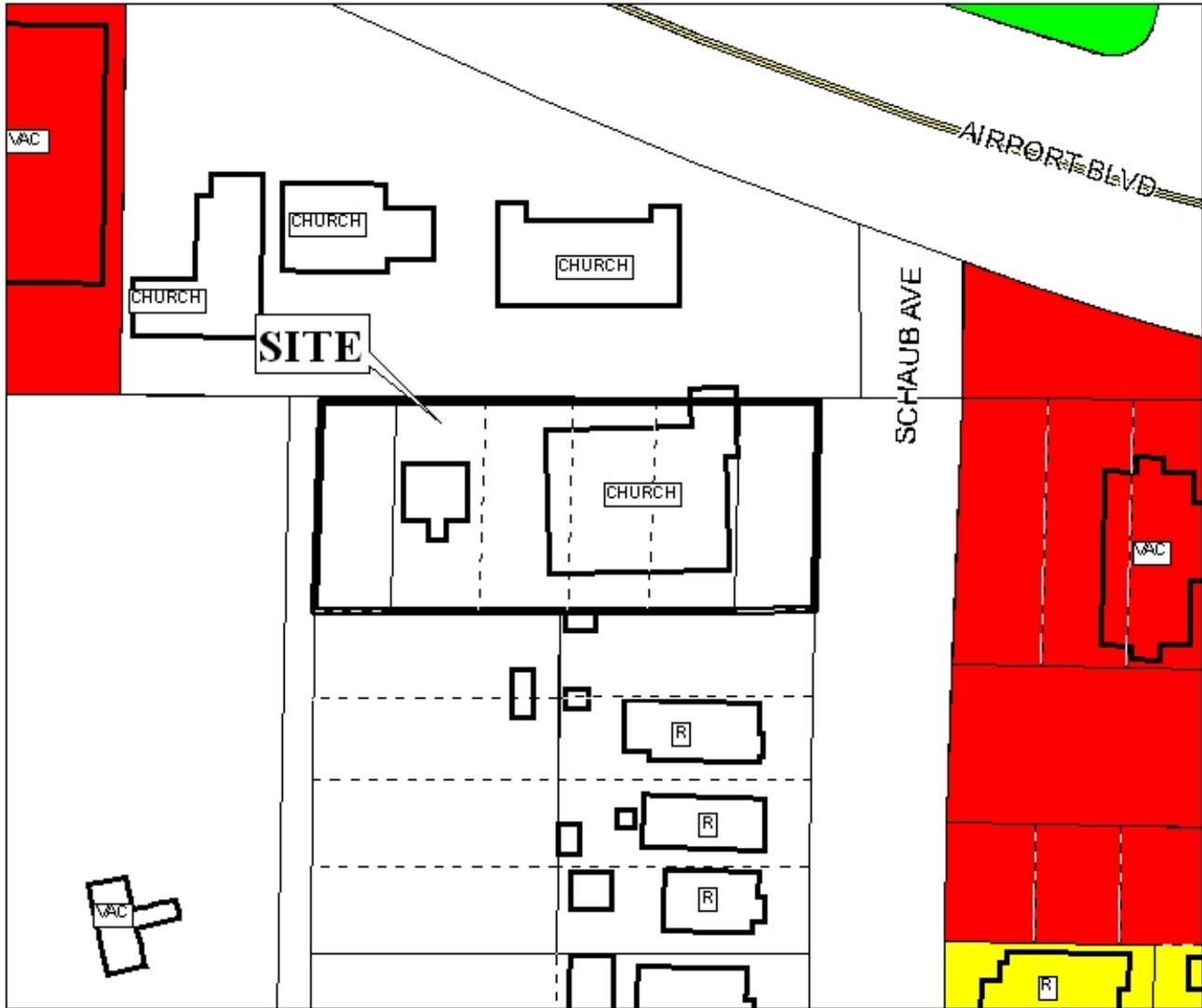
APPLICATION NUMBER 5767 DATE August 6, 2012

APPLICANT Cellular South Real Estate

REQUEST Use, Height, Setback and Buffer Separation Variances



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

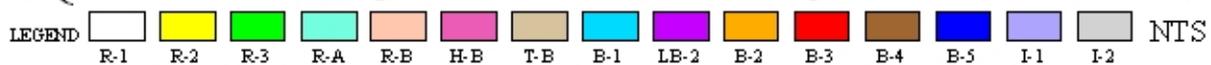


Residences are located to the south of the site.  
Businesses are located to the west and east of the site.

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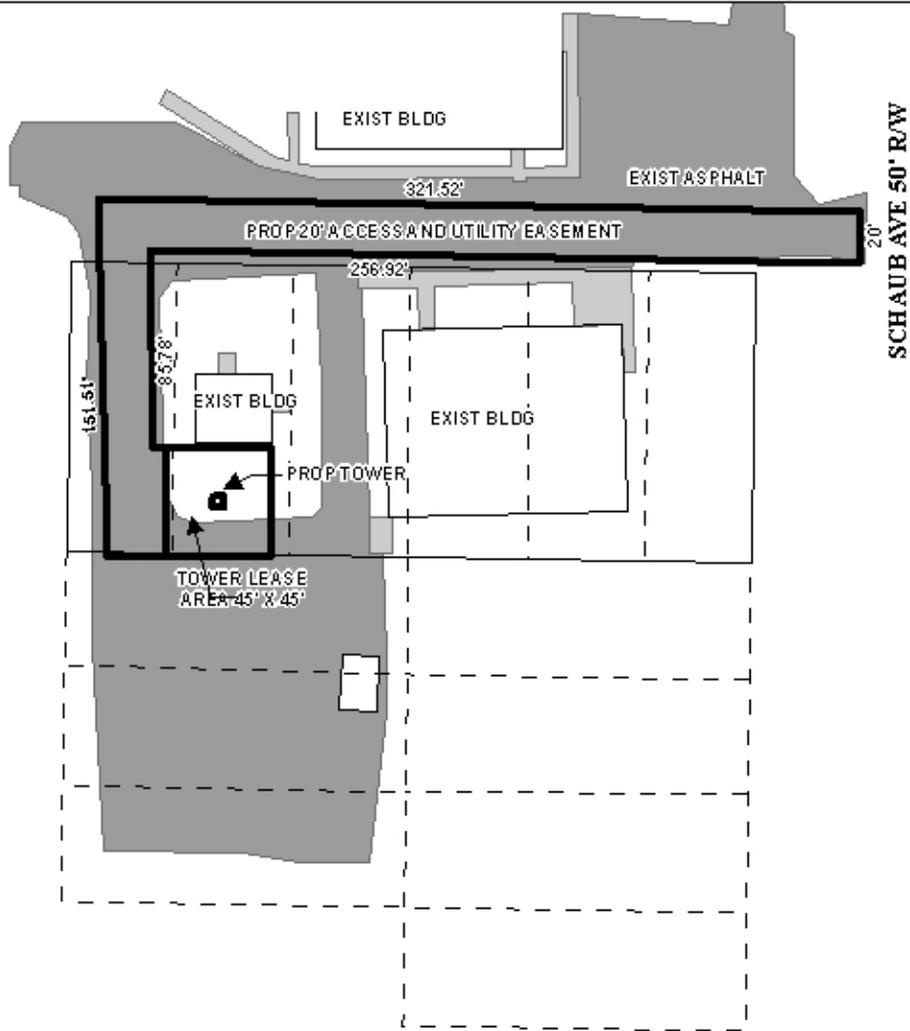


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# SITE PLAN



The site plan illustrates the proposed tower location, lease area, and access easement.

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