

# St. Charles Parish Department of Planning & Zoning

## LAND USE REPORT CASE NUMBER: 2022-3-R

### GENERAL INFORMATION

- ◆ **Name/Address of Applicant** **Application Date: 3/8/2022**  
Glenn Gillen for GC Towers  
4425 Wade Drive  
Metairie, LA 70003  
(504)-512-3770; ggillen6@aol.com
- ◆ **Location of Site**  
A 3,000 sq. ft. area adjacent to the lower guide levee of the Bonnet Carré Spillway, approximately 100 ft. from the Lower Guide Levee Road and approximately 900 ft. from I-10 Eastbound.
- ◆ **Requested Action**  
Rezoning from W-1, Wetland to O-L, Open Land

### SITE INFORMATION

- ◆ **Size of Site**  
The total area of the proposed zoning is 3,000 sq. ft. (0.06 acres)
- ◆ **Current Zoning and Land Use**  
W-1; the site is located in an area consisting primarily of wetlands and infrastructure including the Bonnet Carré Spillway and the lower guide levee.
- ◆ **Surrounding Zoning and Land Use**  
The site is surrounded by W-1 zoning. The main land use in the area is the Bonnet Carré Spillway. A gas pipeline metering station is located immediately adjacent to the proposed rezoning site.
- ◆ **Zoning History**  
The existing W-1 zoning was established in 1981.
- ◆ **Future Land Use Recommendation**  
Wetlands: Although a natural wetland is not considered a human use of land, substantial portions of the Parish are designated as wetlands. Most are likely to remain as such due to existing regulatory limitations on their development. The wetlands land use designation, which applies to these area, acknowledges these limitations, but most importantly, highlight the value of wetlands to St. Charles Parish.
- ◆ **Traffic Access**  
Access comes from the Lower Guide Levee Road, which connects to Airline Drive.
- ◆ **Utilities**  
Parish utilities are not available near the subject site.

### APPLICABLE REGULATIONS

#### Appendix A. Section VI. – Zoning District Criteria and Regulations

[I.] O-L. Open Land District:

*Policy statement:* This district is composed mainly of large open unsubdivided land that is vacant or in agricultural, forestry or residential use. The regulations are designed to protect the open character of the district, and to allow residents to retain their traditional ways of living, by prohibiting the establishment of scattered business, industrial and other uses that are unrelated to any general plan of development and that might inhibit the best future utilization of the land. It is intended that land in these districts will be reclassified to its appropriate residential, commercial or industrial category in accordance with the amendment procedure set forth in the St. Charles Parish Code.

1. Use Regulations:
  - a. A building or land shall be used only for the following purposes:
    - (1) Farming.
    - (2) Animal husbandry.
    - (3) Farm family dwellings.

- (4) Tenant dwellings.
  - (5) Site-built, single-family detached dwellings.
  - (6) Additional dwellings for family and relatives on unsubdivided property on a non-rental basis, and which meet the criteria outlined in Special Provisions [subsection 3].
  - (7) Manufactured housing.
  - (8) Mobile homes.
  - (9) Accessory buildings.
  - (10) Family subdivisions, provided that they conform to the St. Charles Parish Subdivision Regulations [appendix C].
  - (11) Farmer's market, provided that the criteria outlined in Special Provisions [subsection 3] is met.
  - (12) Any permitted uses under subsection 1.a. items (1) through (9) on a lot or property without frontage provided that a permanent right of passage to access the structure exist or is provided for, is recorded into the deed of the property, and is filed with the Clerk of Court.
  - (13) Lawn Care Service subject to the requirements of Section VII.
  - (14) Historic Home Site Bed and Breakfast.
  - b. Special exception uses and structures include the following:
    - (1) Religious institutions.
    - (2) Golf courses and golf practice ranges.
    - (3) Public parks and recreational areas.
  - c. Special permit uses and structures include the following:
    - (1) Child care centers.
    - (2) Public and private academic institutions (trade, business and industrial schools shall be located in the appropriate commercial or industrial zoning district).
    - (3) Cemeteries and mausoleums, provided that they meet the criteria outlined in Special Provisions [subsection 3].
    - (4) Extraction of oil and gas, minerals and other natural resources provided that criteria set forth by the St. Charles Parish Coastal Zone Management Section of the Planning and Zoning Department are met.
    - (5) Public stables and kennels.
    - (6) Cellular installations and PCS (personal communication service) installations.
    - (7) Green markets upon review and approval by the Planning Commission and supporting resolution of the Council. Such sites must possess frontage on a hard-surfaced public collector or arterial street.
    - (8) *Reserved.*
    - (9) Fire stations with or without firefighter training facilities.
    - (10) Nonresidential accessory buildings.
    - (11) Accessory dwelling units upon approval by the Planning Commission and supporting resolution of the Council.
2. Spatial Requirements:
- a. Minimum lot size shall be twenty thousand (20,000) square feet; minimum width fifty (50) feet. (Ord. No. 07-1-6, § II, 1-8-07)
  - b. Minimum yard sizes:
    - (1) Front—Thirty-five (35) feet.
    - (2) Side—Ten (10) feet.
    - (3) Rear—Twenty (20) feet.
    - (4) Whenever property abuts a major drainage canal as defined by the Subdivision regulations the required setback for all structures shall be ten (10) feet measured from the inner boundary of such servitude or right-of-way, not withstanding any other more restrictive setbacks, this provision shall not apply to any lot of record created and existing prior to the effective date of Ordinance No. 99-12-8, December 15, 1999.
  - c. Accessory buildings: Minimum rear and side setbacks shall be ten (10) feet.
  - d. Permitted encroachments:
    - (1) Overhangs projecting not more than twenty-four (24) inches excluding gutter.
    - (2) Stairs and landings not more than three (3) feet in height, projecting no more than four (4) feet into the required front or rear yard.
3. Special Provisions:
- a. Additional dwellings on unsubdivided property:
    - (1) Additional dwellings on unsub- divided property referred to in 1, a(11) above, will be permitted at the rate of one (1) dwelling unit for each ten thousand (10,000) square feet of lot area.
    - (2) The applicant for any additional dwellings on unsubdivided property shall submit a copy of all subdivision restrictions (covenants) which govern the property in order to protect the integrity of the neighborhood.
    - (3) Under no circumstances will the total number of dwellings per unsubdivided lot permitted under these provisions exceed four (4).
    - (4) Permits issued under this provision will be issued for a two-year period. At the expiration of this time, an investigation will be conducted by the Planning and Zoning Department to determine if this Code is complied with. Non-compliance will result in the revocation of the permit.
  - b. All manufactured housing and mobile homes shall be secured according to the Federal Emergency Management Agency's Sept. 1985 publication *Manufactured Housing Installation in Flood Hazard Areas*.
  - c. All dwelling units shall be connected to utility systems which provide for health and safety under all conditions of normal use. Home utility services shall only be connected to the supply source by means of approved materials, and shall be inspected by the appropriate agency.
  - d. Farmer's market:
    - (1) All products must be sold on the premises on which they were grown or produced, from either a truck, stand, display table, or other means of display which has been inspected and approved by the Parish Health Unit.
    - (2) No structure, vehicles or signs may be located closer to any property line than the general setback requirements of the O-L District with the exception of one (1) on-premises sign which contains the name of the market. This sign shall be located approximate to the entrance drive directing attention to the market. The sign shall conform with acceptable commercial standards regarding quality and aesthetics. No temporary signs will be allowed. If the sign is to be illuminated, lighting shall be arranged as not to interfere with traffic safety or cause a nuisance to abutting properties.

- e. Cemeteries and mausoleums:
  - (1) All cemetery or mausoleum sites must have a minimum street frontage of one hundred (100) feet.
  - (2) All cemetery or mausoleum sites must have a fence or screen planting six (6) feet high along all property lines adjoining all districts.
- 4. Prohibited Use: Medical waste storage, treatment or disposal facilities.

**Appendix A. Section XV. - Amendment procedure**

D. Rezoning guidelines and criteria: The proponent for a change should present reasonable factual proof that two or more of the following criteria are met:

1. The proposed rezoning conforms to land development pattern established by the St. Charles Parish Comprehensive Plan Future Land Use Map and does not create a spot zone that is incompatible with the surrounding neighborhood.
2. The Land-use pattern or character has changed to the extent that the existing zoning no longer allows reasonable use of the applicant's property, and that the proposed zoning does. In order to determine what is reasonable use of the property, the proponent for the zoning change should consider one or more of the following:
  - a. Consideration of uses on adjacent properties that would limit the use of the site under consideration.
  - b. Consideration of unique or unusual physical or environmental limitations due to size, shape, topography or related hazards or deficiencies.
  - c. Consideration of changes in land value, physical environment or economic aspects which can be shown to limit the usefulness of vacant land or buildings.
3. Potential uses permitted by the proposed rezoning will not be incompatible with existing neighborhood character nor will they overburden public facilities and infrastructure.

The Planning Staff shall base rezoning analyses on these criteria but shall not be prohibited from factoring unique circumstances of the application into the analysis. The Planning and Zoning Commission may state in its recommendations to the Council: its concurrence with, or rejection of, any or all of the proponents' case for the suggested amendment, and/or its position relative to proponents' statements on the case. Planning Staff analyses and recommendations shall be forwarded to the Council along with the Commission's recommendations.

E. Rezoning approval criteria: Before the Council votes to approve a rezoning, there should be reasonable factual proof by the applicant that:

1. The proposed map amendment is in compliance, or is not in conflict, with the goals and recommendations of the St. Charles Parish Comprehensive Plan and Future Land Use Map, also
2. The proposed map amendment does not negatively impact the health, safety, and welfare of the community.

**Appendix A. Section X. - Exceptions and modifications.**

G. Exceptions and Modifications to all Provisions for Construction and/or Operation of Cellular and Personal Communication Service Installations Within the Parish of St. Charles, State of Louisiana. Notwithstanding any other provisions of this Ordinance, any person, firm, or public entity desiring to construct and/or operate a cellular or personal communication service installation shall comply with the following:

1. Permit Requirements/Zoning Districts.
  - a. Special Permit Use. Cellular and PCS transmission towers, monopole telecommunication towers, masts, aeriels, antennas and related communications equipment shelters may be permitted as a Special Permit Use in the following zoning districts: C-3 Highway Commercial Districts, M-1 Light Manufacturing and Industry Districts, M-2 Heavy Manufacturing and Industry Districts, M-3 Heavy Manufacturing Districts, or O-L Open Land Districts. In addition, the co-location of new Cellular/PCS facilities on an existing tower/structure may be permitted as a Special Exception Use in any zoning district when the addition of such facilities does not require the structural modification of the primary supporting tower structure. Cellular/PCS facilities located on an existing tower/structure shall be exempt from the following requirements: setbacks, fences/landscaping, and minimum lot size.
  - b. Public Property. On property owned by the parish, the parish council may authorize, by resolution, the use of parish property for a cellular or PCS installation after the applicant executes a right of use agreement acceptable by the parish council. The parish council shall have no obligation whatsoever to execute such an agreement even if the applicant meets the criteria set forth herein.
  - c. Permit Fee. New cellular or PCS towers shall be permitted as new commercial permits in St. Charles Parish. Other installations or modifications to existing facilities shall require the appropriate trade or commercial renovation permit.
2. Spatial Requirements.
  - a. Minimum Lot Size. The minimum lot size on which a cellular or PCS installation is to be located shall be the minimum lot size for the zoning district, and shall be of sufficient size to contain on-site any debris from tower or antennae failure.
  - b. Density/Co-Location Requirements. No new cellular or PCS installation will be allowed within a one thousand (1,000) foot radius of an existing cellular or PCS installation. No new site may be established if there is a technically suitable place available on an existing communications tower within the search area that the new cellular or PCS site is to serve. For the purposes of this ordinance, the search area is defined as the grid for the placement of the telecommunications structure. The applicant's proposal for a new cellular or PCS facility shall not be approved unless it can be documented by the applicant that the proposed facility cannot be accommodated on an existing or approved tower located within the search area due to one or more of the following reasons: (1) The planned equipment would exceed the structural capacity of the existing or approved towers which cannot be reinforced to accommodate the applicant's proposed facility at a reasonable cost; (2) The planned equipment would cause radio frequency (RF) interference with other existing or planned equipment for those towers, and the interference cannot be prevented at a reasonable cost; (3) Existing or approved towers do not have space on which the applicant's equipment can be placed so it can function effectively and reasonably in parity with other similar equipment in place or approved; or (4) The existing or approved tower does not meet geographic service requirements of the applicant.

All transmission towers and monopoles shall have the capacity to permit multiple users. At a minimum, monopoles shall be able to accommodate two (2) users, and at a minimum transmission towers shall be able to accommodate three (3) users.

- c. Setbacks. Cellular and PCS installations shall be setback from all abutting property lines by a distance of one hundred (100) percent of the height of design point of failure of the servicing tower, monopole tower, mast, aerial, or antennae, plus twenty-five (25) feet. Applicant shall submit documentation, certified by a

registered professional engineer licensed to practice in the State of Louisiana that accurately specifies this point of failure. If the applicant fails to provide such certified documentation of the design point of failure, the installation shall be setback from all abutting property lines by a distance of one hundred (100) percent of the height of the servicing tower, monopole tower, mast, aerial, or antennae, plus twenty-five (25) feet. Communications equipment shelters, which service the installation, shall adhere to standard setback requirements for the affected zoning district. Whenever the site abuts a residential district or use, the tower shall be setback from the abutting property lines by a distance of one hundred (100) percent of the height of the servicing tower, monopole tower, mast, aerial or antennae.

3. General Design Standards/Buffer Requirements.

- a. Structural Integrity. Cellular and PCS towers and any other transmission equipment shall be certified by an engineer, registered in the State of Louisiana, to withstand the minimum wind load structural standards for antenna towers and support structures as specified by the latest edition of the International Building Code IBC/ASCE-7 and the Telecommunications Industry Association Standards referenced as TIA-222 as adopted and as amended hereafter.
- b. Fences/Landscaping. Walls or fences constructed of wood, brick, masonry, and chain link shall be used to secure the site and provide a barrier. All walls and fences shall be used in conjunction with landscaping where required. The portion of the installation site or that portion of a parcel upon which the fence is located that abuts public land, a residential district or use, or public streets shall be landscaped with at least one (1) row of trees or evergreen shrubs. The row of trees or shrubs shall be planted within twenty (20) feet of the tower base, and shall attain a height of at least six (6) feet high upon maturity, and shall be spaced not more than ten (10) feet apart. These trees or shrubs may be planted in any configuration which will serve to better buffer the site. In no case will barbed wire or razor wire fencing be permitted at an installation site which abuts a residential district or use. Existing mature tree growth on affected sites shall be preserved to the maximum extent possible.
- c. Visual Impact. Cellular and PCS installations shall be constructed of a material with a neutral color. When lighting is required and is permitted by the Federal Aviation Administration or other federal or state authority, dual lighting shall be employed. For the purposes of this ordinance, and to minimize intrusion into other areas, dual lighting shall be considered as strobe lighting during the daylight hours (if necessary) and red lighting at night. In no case shall lighting shine downward during nighttime hours, such lights shall be focused upward if necessary.
- d. Repair or maintenance equipment shall not be stored outside of enclosed structures on the cellular or PCS facility site. Outdoor areas shall be kept free of debris, supplies, and/or related equipment.

4. Construction/Removal of Cellular and PCS Installations.

- a. Time Limit on Completion. Once a cellular or PCS installation is permitted for construction, the completion of the permitted project must occur within one year of permit issuance. Extensions may be granted by resolution of the Parish Council, following receipt of a complete report on the request by the Department of Planning and Zoning.
- b. Obsolete/Unused Cellular and PCS Installations. All obsolete or unused facilities or structures must be removed within six (6) months of cessation of operation at the site. Written notification of the cessation of operation at the site shall be provided to the Department of Planning and Zoning by the operator of the site within thirty (30) days of the cessation of operation.
- c. Construction and Performance Surety. Before a permit is granted pursuant to this section, and as necessary thereafter, the grantee shall provide and deposit such monies, bonds, letters of credit or other instruments outlined in this subsection with the St. Charles Parish Department of Finance.
  - 1) Security Fund. Each grantee shall establish a permanent security fund with St. Charles Parish by depositing the amount of fifty thousand dollars (\$50,000.00) with the Department of Finance in cash, an unconditional letter of credit, or other instrument acceptable to the Department of Legal Services, which fund shall be maintained at the sole expense of the grantee so long as the permitted facility remains in continuous operation. The fund shall serve as security for the full and complete performance of this title, including any costs, expenses, damages or loss that St. Charles Parish pays or incurs because of any failure attributable to the grantee to comply with the codes, ordinances, rules, regulations or permits of St. Charles Parish. Before any sums are withdrawn from the security fund, St. Charles Parish shall give written notice to the grantee (1) describing the act, default or failure to be remedied, or the damages, cost or expenses which the parish incurred by reason of the grantee's act or default; (2) providing a reasonable opportunity for grantee to first remedy the existing or ongoing default or failure, if applicable; (3) providing a reasonable opportunity for grantee to pay any monies due the parish before the parish withdraws the amount thereof from the security fund, if applicable; and (4) that the grantee will be given an opportunity to review the act, default, or failure described in the notice with the Parish President or his designee. Grantee shall replenish the security fund within fourteen (14) days after written notice from the parish that there is a deficiency in the amount of the fund.
  - 2) Construction and Completion Bond. Unless otherwise provided in the permit, a performance bond written by a corporate surety acceptable to the Department of Legal Services equal to at least one hundred (100) percent of the estimated cost of constructing grantees telecommunications facilities within St. Charles Parish shall be deposited with the Department of Finance before construction is commenced. The construction bond shall remain in force until sixty (60) days after substantial completion of the work, as determined by the Parish Engineer, including the restoration of public ways and other property affected by the construction. The construction bond shall guarantee, to the satisfaction of St. Charles Parish: (1) timely completion of construction; (2) construction in conformance with applicable plans, permits, technical codes and standards; (3) proper location of the facilities as specified by St. Charles Parish; (4) restoration of public ways and other property affected by the construction; (5) submission of "as-built" drawings after completion of work; and (6) timely payment and satisfaction of all claims, demands, or liens for labor, material or services provided in connection with the work.

5. Public Access/Notification. Monopoles and transmission towers permitted under the provisions of this subpart shall provide access to permitted facilities to local public entities at no cost. Access for the placement of public communication equipment by local public entities shall be provided on a first come, first served basis based on the structural capacity of the facility. Local public entities shall be notified of the potential for such access by the Department of Planning and Zoning upon initial permitting.

6. Amateur Radio Operators. Operators of amateur radios licensed under Part 97 of the Federal Communications Commission regulations are specifically excluded from the requirements of this section on cellular and PCS providers.

## REZONING GUIDELINE EVALUATION

Before the Commission makes a recommendation or the Council rezones property; there should be reasonable factual proof by the proponent of a change that two or more of the following criteria are met:

1. *The proposed rezoning conforms to the land development pattern established by the St. Charles Parish Comprehensive Plan Future Land Use Map and does not create a spot zoning that is incompatible with the surrounding neighborhood.*

The Wetlands designation does not account for human habitation or use and further suggests limitations on development to support federal regulatory limitations. The proposed O-L zoning would not conform to the future land use pattern and it would create a spot-zone. **The request fails the first guideline.**

2. *The Land-use pattern or character has changed to the extent that the existing zoning no longer allows reasonable use of the applicant's property and the proposed zoning does.*

The existing Wetlands zoning allows for a reasonable use of the property through the conservation and preservation of land. The U.S. Army Corps of Engineers, as the owner, utilizes the land for the Bonnet Carré Spillway, a federal flood control structure, designed to divert floodwaters from the Mississippi River to the Gulf of Mexico via Lake Ponchartrain. The spillway also provides a significant public benefit of outdoor recreation opportunities such as camping, hunting, fishing, biking, hiking, water sports, Radio Control (RC) airfield, and ATV/ motorcycle riding areas. **The request fails the second guideline.**

3. *Potential uses permitted by the proposed rezoning will not be incompatible with existing neighborhood character nor will they overburden public facilities and infrastructure.*

Although the proposed O-L zoning and use of the site for a telecommunications tower may not be incompatible with the surrounding area—developed with a gas metering and electric transmission lines, other uses permitted in the OL zone like residential uses and agricultural uses may. Further, the specific area requested for rezone 30 ft. x 100 ft. does not meet the minimum 20,000 sq. ft. area for an O-L lot and may not provide sufficient area for a cell tower to meet the spatial requirements. The required setback for a cell tower is the height of the design point of failure of the tower plus 25 ft. from all property lines. **The request fails the third guideline.**

## ANALYSIS

The applicant is requesting a rezoning from W-1 to O-L on a 3,000 sq. ft. site near the Bonnet Carré Spillway, approximately 100 ft. from the Lower Guide Levee Road and approximately 900 ft. from I-10 Eastbound.

The request does not meet any of the rezoning guidelines; it would be a spot zone; the current W-1 zoning provides a reasonable use of the land; and uses permitted in the OL zone are incompatible with the surrounding area.

Section XV of the Zoning Ordinance allows “unique circumstances” of the application to be considered in analysis. The unique circumstance with this request is that Secretary of the Army has endorsed the use of the property for a cell tower. Easement No. DACW29-2-19-05, Department of the Army, Easement for Communication Facility makes it clear that the property owner anticipates a telecommunication tower on a 3,000 sq. ft. portion of their property. For this specific 3,000 sq. ft. portion of the property, O-L is the more appropriate district to permit a cell tower—O-L is more compatible with the surrounding area than C-3, M-1, M-2, or M-3.

At the time of writing this report, the Department forwarded plans for a monopole on the site to the Building Official and Parish Engineer to determine whether the site can accommodate the monopole in compliance with the spatial requirement for a cellular or PCS installation—the height of the design point of failure plus 25 ft. from all *property lines*. This specific site is may meet the requirement as it is written because the site is within a much larger property owned by the grantor of the easement making all *property lines* a great distance from the site. However, if the intent of the requirement is to create an area that will contain all debris from a tower failure, the lease area does not appear to be large enough to contain the debris from a failure. The lease area is also not the minimum area for an O-L lot.

If the rezone is approved, the applicant will have to apply for a Special Permit for the Planning Commission and Parish Council to review the proposed structure at the site.

**DEPARTMENT RECOMMENDATION**

**Approval because of unique circumstances.**