

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: July 9, 2018****CASE NUMBER**

6185/1339

**APPLICANT NAME**

Branch Towers III, LLC

**LOCATION**1857 Duval Street  
(South side of Duval Street, 560'± West of Houston Street.)**VARIANCE REQUEST****HEIGHT:** Height Variance to allow a 150' tall monopole telecommunications tower in a B-3, Community Business District.**LEASE PARCEL SETBACK:** Lease Parcel Setback Variance to allow the tower 25' from the lease parcel line.**RESIDENTIAL BUFFER SEPARATION:** Residential Buffer Separation Variance to allow 138' from residentially zoned property.**LANDSCAPING AND TREE PLANTING:** Landscaping and Tree Planting Variances to allow no landscaping or tree plantings.**ZONING ORDINANCE  
REQUIREMENT****HEIGHT:** The Zoning Ordinance limits structures to a 45' height in a B-3, Community Business District.**LEASE PARCEL SETBACK:** The Zoning Ordinance requires telecommunications towers to be setback at least the height of the tower (150') from the lease parcel line.**RESIDENTIAL BUFFER SEPARATION:** The Zoning Ordinance requires telecommunications towers to be setback 200' or 150% the height of the tower (225'), whichever is greater, from residentially zoned property.**LANDSCAPING AND TREE PLANTING:** The Zoning Ordinance requires 12% of the lease parcel to be landscaped and have tree plantings around the tower compound.**ZONING**

B-3, Community Business

**AREA OF PROPERTY**

0.6± Acre

**TRAFFIC ENGINEERING****COMMENTS**

requested.

No traffic impacts anticipated by the multiple variances

**ENGINEERING****COMMENTS**

No comments.

**URBAN FORESTRY****COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 2015-116 and City Code Chapters 57 and 64).

**CITY COUNCIL****DISTRICT**

District 3

**ANALYSIS**

The applicant is requesting Height, Lease Parcel Setback, Residential Buffer Separation, and Landscaping and Tree Planting Variances to allow a 150' tall telecommunications tower setback 25' from the lease parcel line and 138' from residentially zoned property, with no landscaping and tree plantings, in a B-3, Community Business District; the Zoning Ordinance limits structures to a 45' height, requires telecommunications towers to be setback a distance at least equal to the height of the tower from the lease parcel line; requires telecommunications towers to be setback 200' or 150% the height of the tower (225'), whichever is greater, from residentially zoned property; and requires 12% of the lease parcel to be landscaped and have tree plantings around the tower compound, in a B-3, Community Business District.

The applicant has also submitted a Planning Approval application to allow the proposed tower in a B-3 District, a Subdivision application to create one legal lot of record for the site; and a Planned Unit Development application to allow shared access across the parent tract to the tower lease parcel. These applications are scheduled to be heard at the July 19<sup>th</sup> Planning Commission meeting. If the variance requests are approved, they should be subject to the approval of those other three requests.

The Telecommunications Towers and Facilities Ordinance establishes specific criteria for granting setback and height variances. The Ordinance states that a modification to the setback requirement should be considered in situations where "the only alternative is to locate the tower at another site which poses a greater threat to the public health, safety or welfare or is closer in proximity to a residentially zoned land."

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 site has been given a Traditional Mixed-Use Corridor land use designation per the recently adopted Future Land Use Plan and Map. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting. This land use designation generally applies to transportation corridors East of U.S. Interstate 65, which serve as the primary commercial and mixed-use gateway to Downtown and the City's traditional neighborhoods (equivalent to Map for Mobile's Traditional Neighborhoods).

Depending on their location (and as allowed by specific zoning), Traditional Mixed-Use Corridor designations incorporate a range of moderately scaled, single-use commercial buildings holding retail or services; buildings that combine housing units with retail and/or offices; a mix of housing types, including low- or mid-rise multifamily structures ranging in density from 4 to 10 dwelling units per acre (du/ac); and, attractive streetscapes and roadway designs that safely accommodate all types of transportation – transit, bicycling, walking, and driving. In these areas, special emphasis is placed on the retention of existing historic structures, compatible infill development, and appropriate access management.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

The applicant states:

**VARIANCES:** *Height variance to allow 150' monopole with lightning rod and setback variance to allow 25' setback from lease parcel line; buffer/separation variance to allow 138' from R-3 residential zoning district; landscape variance to waive landscape requirements. The height/setback situation occurred because of the necessary height of the structure required for the proposed use, but 50' x 50' is plenty of area for required ground space for the proposed use; the buffer/separation situation occurred because all of the potential commercial sites have residential zoning within the required buffer separation distance; and the landscape variance is requested because the proposed site will have an 8' wood privacy fence and is pretty well shielded from view by the existing*

*trees and building; this property is different from other parcels in the search ring because it was the best property where the owner was agreeable and it provided the best buffer and separation from single family residential zoning and residential uses of any available site.*

It should be noted that the R-3 zoning referred to in the applicant's narrative is actually zoned R-1 and is a City park. The confusion may have come from the fact that City parks are shown in green on the Website mapping system, and are very similar in color as R-3, Multi-Family Residential.

Concerning the Height Variance request, the applicant has submitted written evidence that there is no other tower or usable structure within ½ mile of the subject site. A 100'± high telecommunications tower is located approximately 1,750' (1/3 mile) West of the subject site but RF engineers have determined this location is not usable. There is actually one 72' high telecommunications tower located approximately 2,400' South of the subject site, but it is located on Mobile County School Board property and its use is limited strictly to public school matters by a variance granted in 2001. Propagation maps illustrating the need for the tower in the area have also been submitted. The maps indicate the in-fill coverage of the proposed tower within the area. Engineering data indicates the tower will accommodate the primary carrier and two additional carriers. Also submitted was evidence that the tower meets the structural requirements of Section 64-4.J.6 of the Zoning Ordinance.

Specific to the Height Variance request, the applicant states that the 150' height is required for the proposed tower. In light of the technical data submitted, and the illustration of a hardship imposed by the lack of existing towers within the area on which to collocate, the Height Variance request would seem reasonable.

With regard to the Setback request, the applicant basically states that the height of the tower is what triggers the need for the Variance since the 50' by 50' equipment compound provides ample area for the required ground space. The tower is proposed at the center of the compound lease parcel placing it 25' from the lease parcel line. As the lease parcel would be completely surrounded by the parent parcel, and as the technical data submitted supports this site selection, a hardship may exist in meeting the required lease parcel setbacks, and the Setback Variance request could be justified.

The applicant has stated that the residential buffer separation situation occurred because all of the potential commercial sites have residential zoning within the required buffer separation distance. Specific to the subject site, due to the size of the parent property and the existing buildings and route of the 100' Alabama Power Company right-of-way, the tower cannot be located in such a position as to achieve the required 225' setback from residential property. Therefore, the Residential Buffer Separation request would seem to be justified.

The applicant does not propose any landscaping or tree plantings for the site and bases the Variance request for such on the fact that the site is already surrounded by trees and that an 8' wood privacy fence will surround the compound. It should be noted that the 8' wooden privacy fence is a standard requirement around telecommunication tower compounds. However, it

appears some trees would have to be removed to develop the tower site and no hardship has been illustrated to justify the granting of the Tree Planting Variance request, especially in light of the fact that sufficient area would be provided by the clearing for the tower lease parcel to provide the required number of trees. Also, the tower compound would be easily visible from the adjacent Baumhauer-Randle Park to the South, and single-family residences to the Southeast.

It should be mentioned that the site plan indicates compliance with the requirement for paved access and parking for the tower compound. Although not indicated on the site plan, if any barbed wire fencing is proposed, it must be approved by the Director of Build Mobile in a B-3 District. A note should be required on a revised site plan stating such.

The applicant has demonstrated that hardships may be imposed by a literal interpretation of the Zoning Ordinance with respect to the height limitations, lease parcel setback and residential buffer setback requirements for telecommunications towers and the Board should consider those requests for approval. However, the applicant has not demonstrated a hardship would be imposed with respect to the landscaping and tree planting requirements, and the Board should consider those requests for denial.

In light of the fact that Planning Approval, one-lot Subdivision and a Planned Unit Development must all be approved, should the Planning Commission deny any of those requests, then the need for the requested variances would become a moot point.

**RECOMMENDATION:** Staff recommends to the Board the following findings of facts for Approval of the **Height, Lease Parcel Setback** and **Residential Buffer Separation** Variance requests:

- 1) Based on the fact that site selection was limited by non-availability of other larger sites, the variances will not be contrary to the public interest;
- 2) These special conditions (no sites in the area allow a for a 150' high structure and the site is of limited space) exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) That the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variances in that no other tower sites were available for collocation or new construction within the area.

Therefore, the Height, Lease Parcel Setback and Residential Buffer Separation Variances are recommended for Approval, subject to the following conditions:

- 1) the tower is limited to a monopole design with an over-all structure height of 150', including antennae;
- 2) subject to the Planning Commission approval of the Planning Approval, Subdivision and Planned Unit Development applications for the proposed tower and site;
- 3) revision of the site plan to provide compliant tree and landscaping, to be coordinated with the Planning and Zoning Department;
- 4) placement of a note on a revised site plan stating that no barbed wire or similar fencing is allowed on the site unless approved by the Director of Build Mobile;

- 5) subject to the Urban Forestry comments: *[Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 2015-116 and City Code Chapters 57 and 64).]*;
- 6) submittal to and approval by Planning and Zoning of two (2) copies of a revised site plan prior to the submittal for building permits; and
- 4) full compliance with all municipal codes and ordinances.

Staff recommends to the Board the following findings of fact for Denial of the **Landscaping and Tree Planting** Variance requests:

- 1) Approving the variance will be contrary to the public interest in that some trees would have to be removed from the site for the tower and compound construction and no hardship is illustrated to justify not providing compliant landscaping and tree plantings;
- 2) Special conditions do not exist and there are no hardships which exist that make the approvals necessary; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because no hardship is illustrated with respect to complying with the landscaping and tree planting requirements of the Zoning Ordinance.

# LOCATOR MAP



APPLICATION NUMBER 6185 DATE July 9, 2018

APPLICANT Branch Towers III, LLC

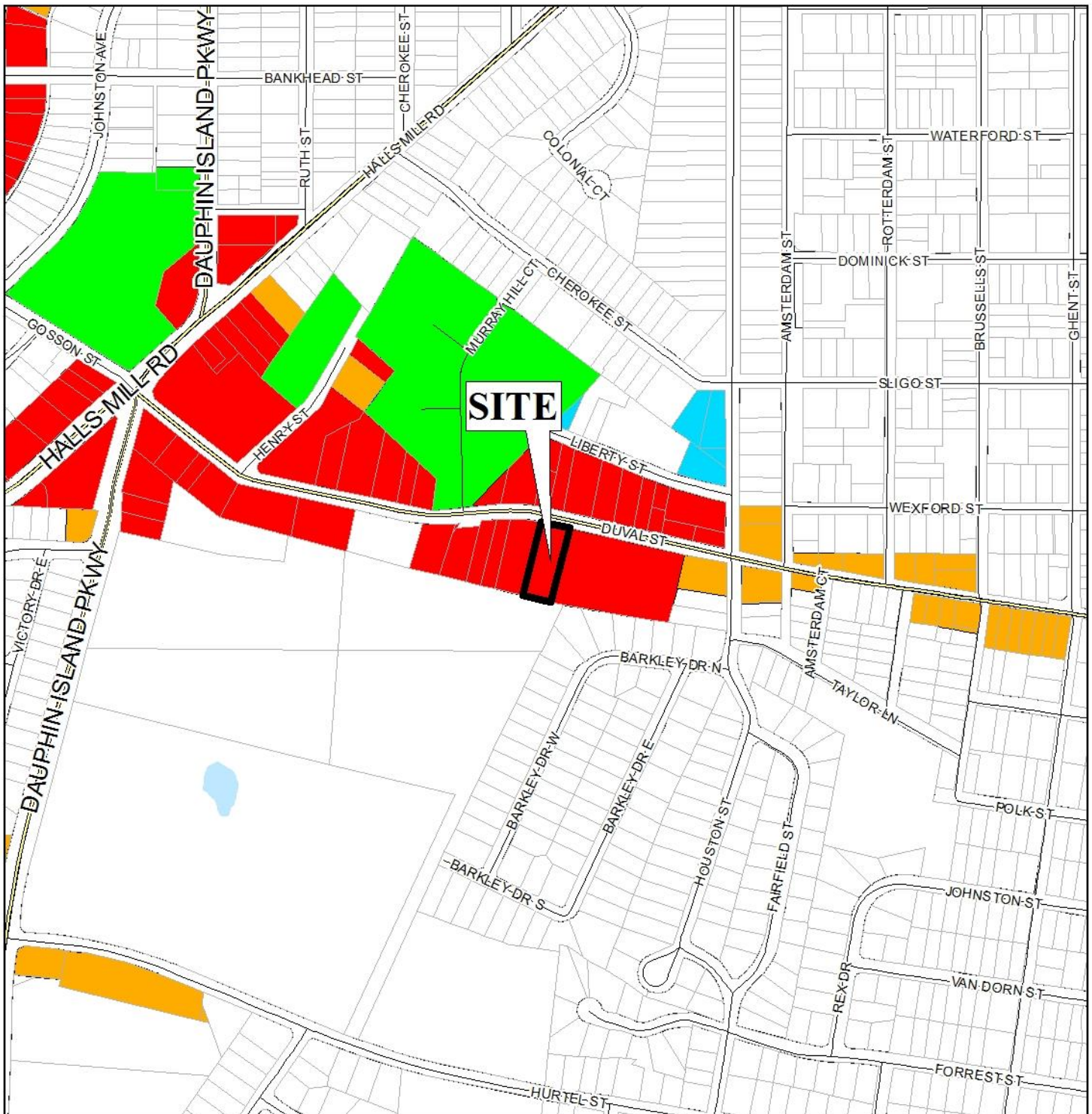
REQUEST Height, Lease Parcel Setback, Residential Buffer Separation,  
Landscaping and Tree Planting Variances



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# LOCATOR ZONING MAP



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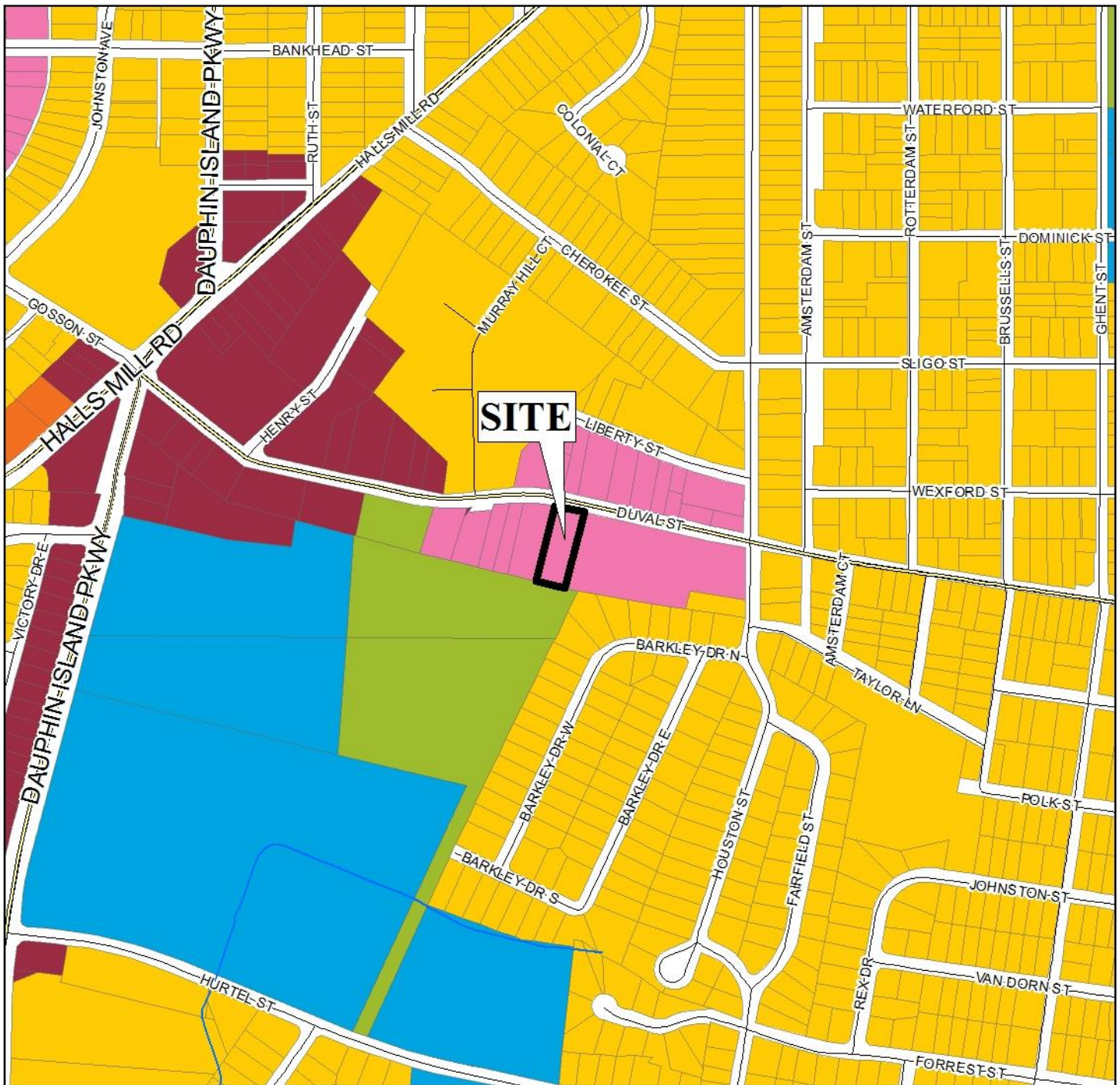
REQUEST Height, Lease Parcel Setback, Residential Buffer Separation,  
Landscaping and Tree Planting Variances



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# FLUM LOCATOR MAP



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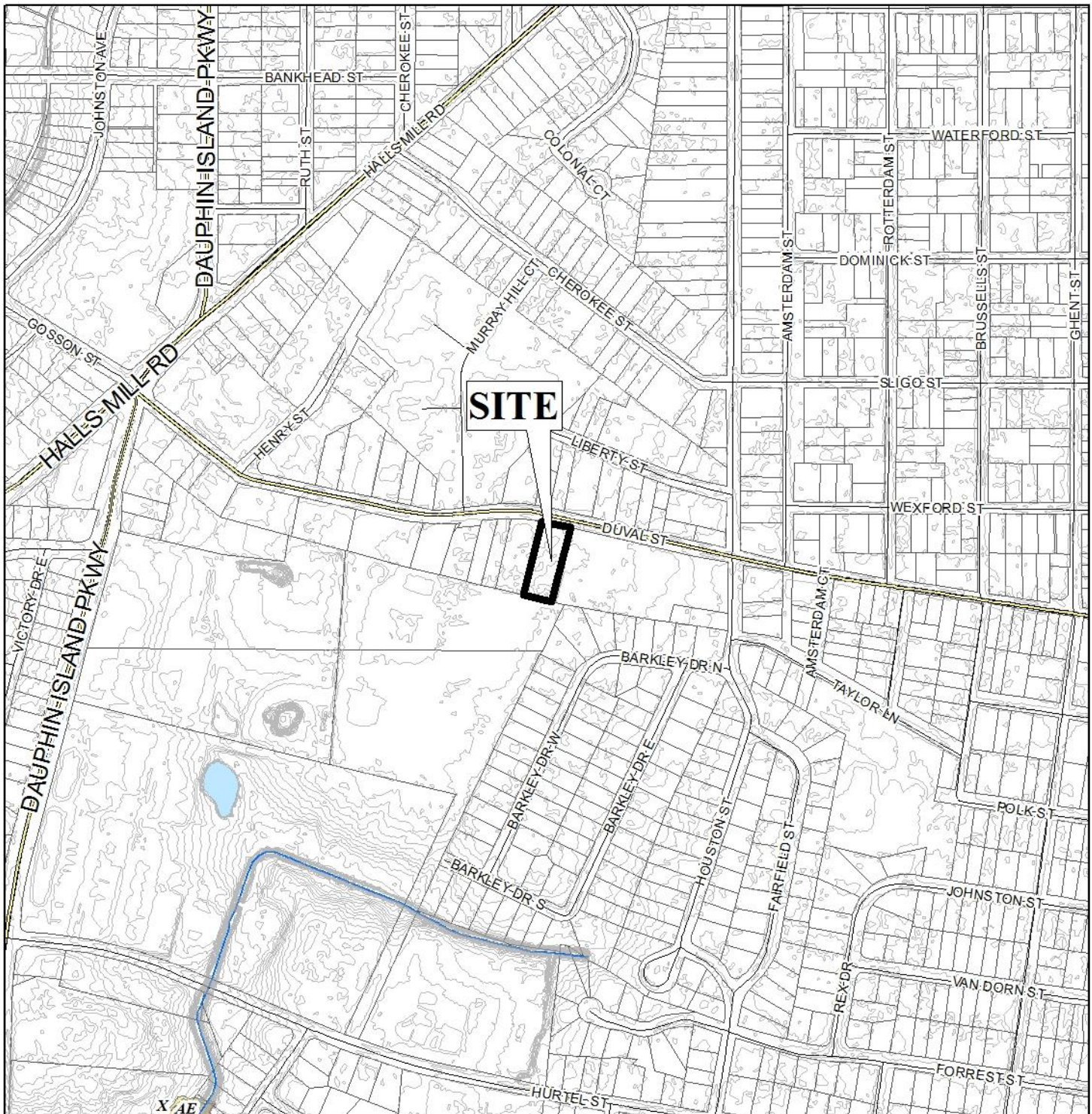
REQUEST Height, Lease Parcel Setback, Residential Buffer Separation, Landscaping and Tree Planting Variances

Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	





# ENVIRONMENTAL LOCATOR MAP



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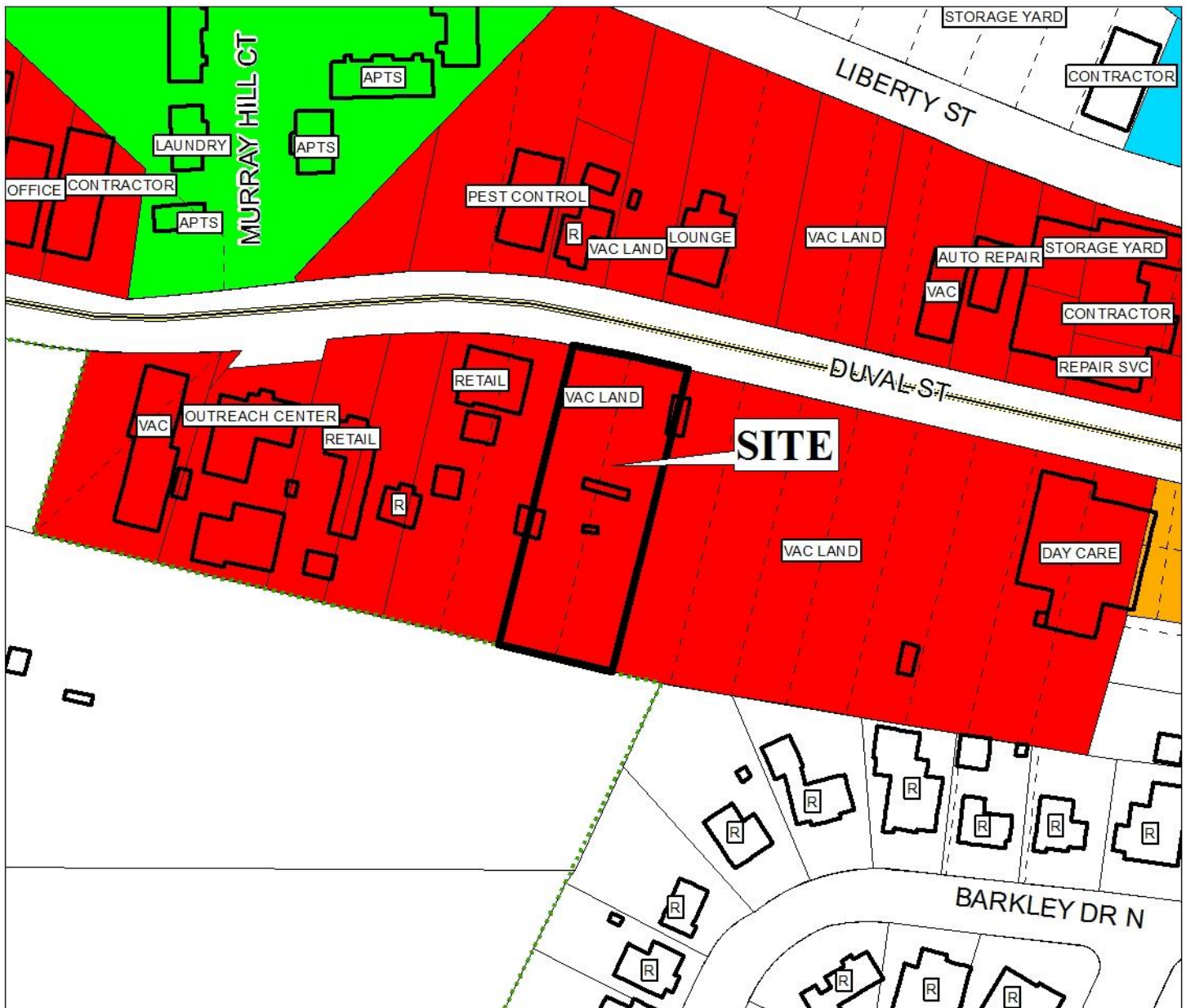


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# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous units.

APPLICATION NUMBER 6185 DATE July 9, 2018

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REQUEST Height, Lease Parcel Setback, Residential Buffer Separation, Landscaping and Tree Planting Variances

<span style="background-color: cyan; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-A	<span style="background-color: green; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-3	<span style="background-color: brown; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T-B	<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-2	<span style="background-color: blue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-5	<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> MUN	<span style="background-color: lightorange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> SD-WH	<span style="background-color: purple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T5.1
<span style="background-color: white; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-1	<span style="background-color: pink; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-B	<span style="background-color: cyan; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-1	<span style="background-color: red; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-3	<span style="background-color: lightblue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> I-1	<span style="background-color: lightgreen; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> OPEN	<span style="background-color: lightpink; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T3	<span style="background-color: darkpurple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T5.2
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# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING AERIAL

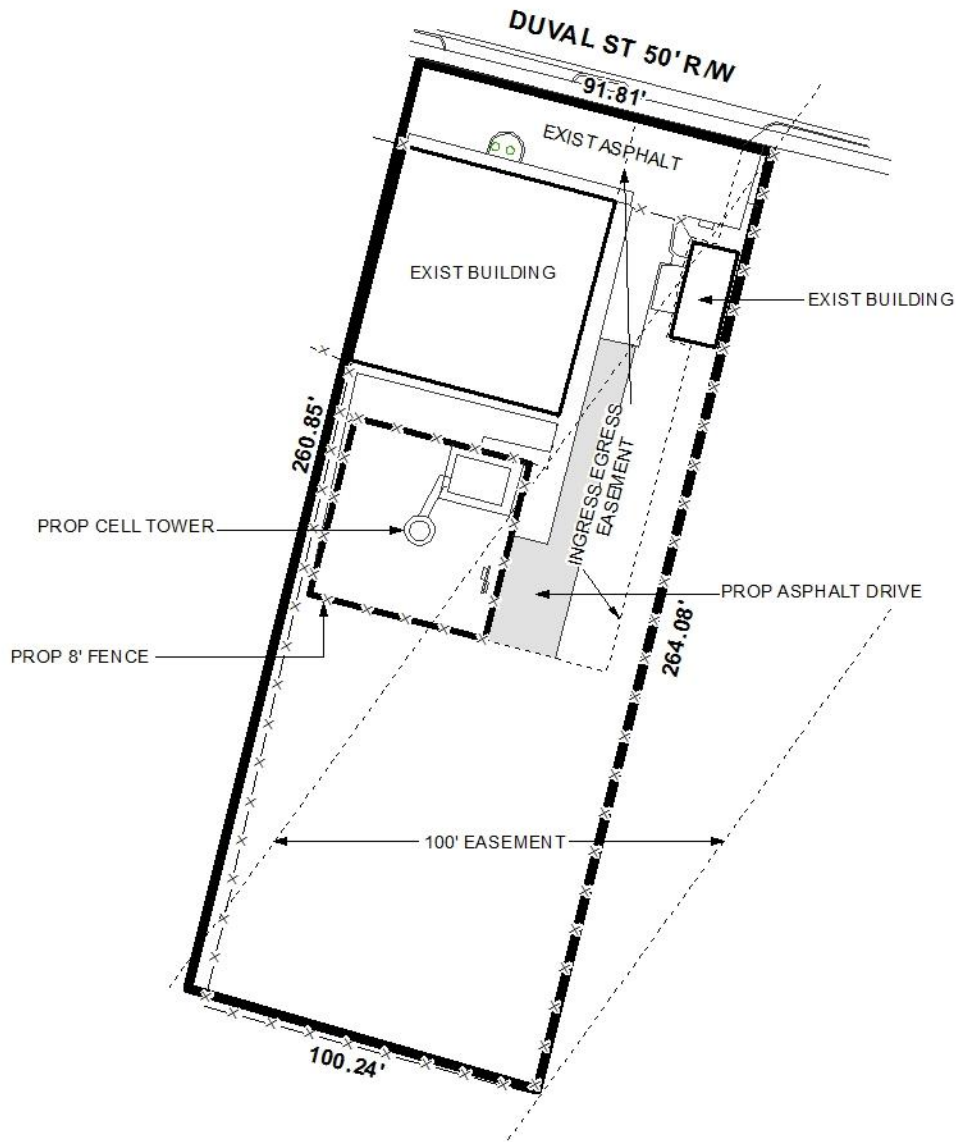


The site is surrounded by miscellaneous units.

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# SITE PLAN



The site plan illustrates the existing buildings, existing asphalt, easements, proposed asphalt, proposed fence, and proposed cell tower.

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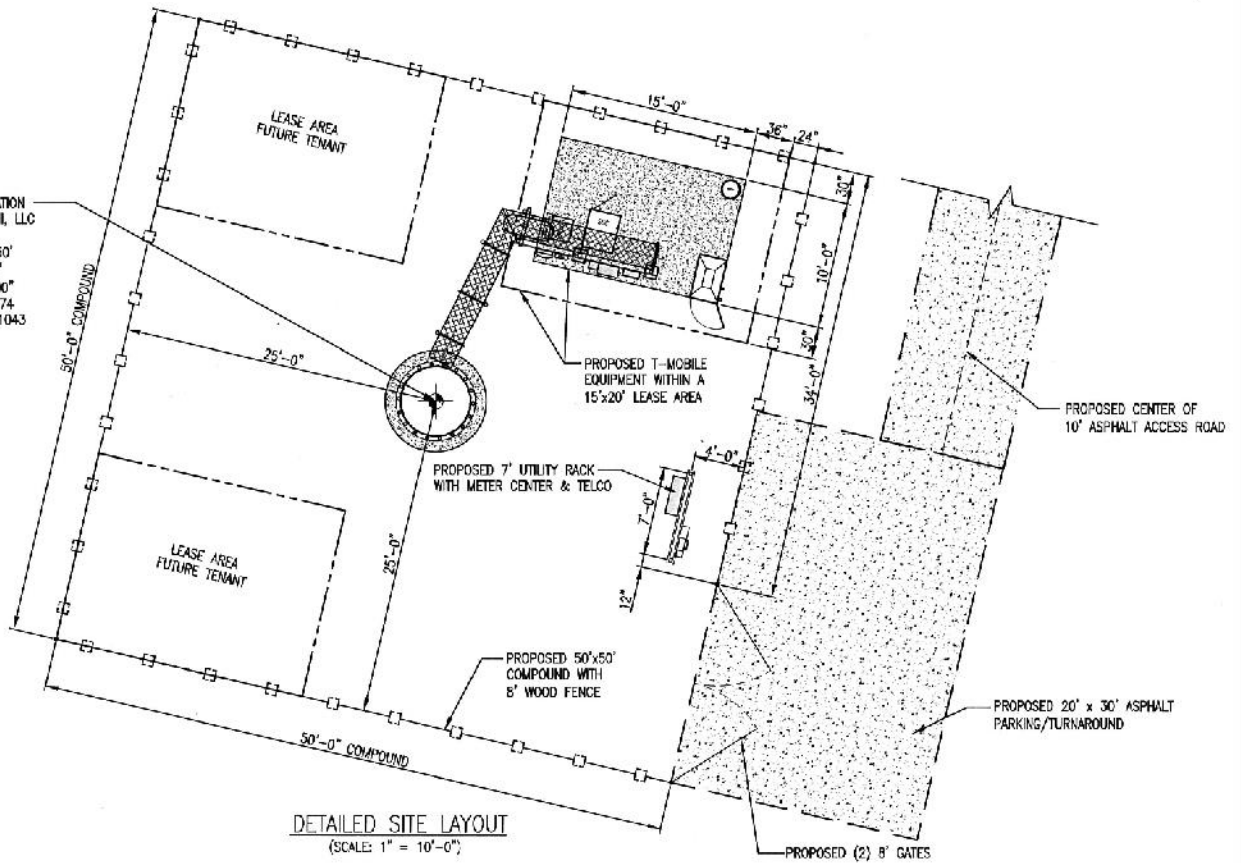


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# DETAIL SITE PLAN

PROPOSED TOWER INFORMATION  
OWNER: BRANCH TOWERS III, LLC  
TYPE: MONOPOLE  
PROPOSED HEIGHT: AGL=150'  
POSITION: LAT: 30° 39' 45"  
LON: 88° 05' 00"  
STATE PLANE: N:241457.9474  
E:1785088.1043  
GROUND ELEV.=30.3±



APPLICATION NUMBER 6185 DATE July 9, 2018

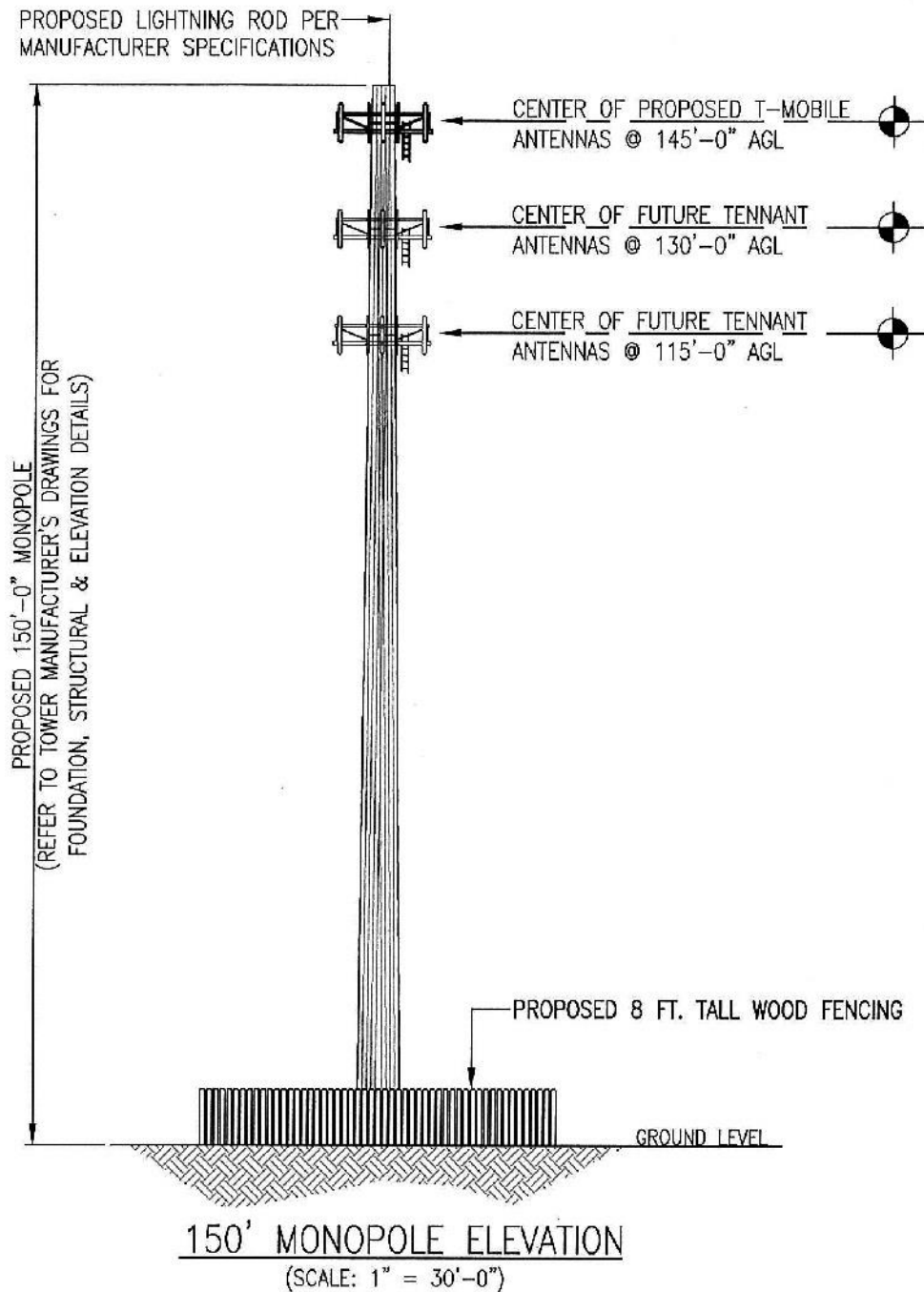
APPLICANT Branch Towers III, LLC

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