

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: November 1, 2021****CASE NUMBER**

6423

**APPLICANT NAME**

Baker Donelson (Andy Rotenstreich, Agent)

**LOCATION**

750 Congress Street  
(North side of Congress Street, 125'± West of Mamba Drive,  
extending to the Southwest corner of Mamba Drive and  
Lyons Street).

**VARIANCE REQUEST**

**USE:** Use Variance to allow a cellular telecommunications tower in a T-4 Mixed-Use Sub-District of Low Intensity of the Downtown Development District.

**ZONING ORDINANCE  
REQUIREMENT**

**USE:** The Zoning Ordinance does not allow a cellular telecommunications tower in a T-4 Mixed-Use Sub-District of Low Intensity of the Downtown Development District.

**ZONING**

T-4 Sub-District.

**AREA OF PROPERTY**

3.6± Acres – 2,690 square foot lease parcel

**CITY COUNCIL  
DISTRICT**

District 2

**ENGINEERING  
COMMENTS**

If the proposed variance is approved the applicant will need to have the following conditions met:

1. The proposed improvements will require a Land Disturbance Permit – Tier 2 be submitted through Central Permitting.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

**TRAFFIC ENGINEERING  
COMMENTS**

No comments.

**ANALYSIS**

The applicant is requesting a Use Variance to allow a cellular telecommunications tower in a T-4 Mixed-Use Sub-District of Low Intensity of the Downtown Development District; the Zoning Ordinance does not allow a cellular telecommunications tower in a T-4 Mixed-Use Sub-District of Low Intensity of the Downtown Development District.

The site has been given a Downtown (DT) land use designation, per the Future Land Use Plan and Map, adopted on May 18, 2017 by the Planning Commission. 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.

Downtown is called out as a separate land use designation due to its distinct role, layout and fabric.

As a land use district, Downtown (DT) is the ultimate mixed-use environment. Land development and redevelopment will emphasize variety, mixed uses, and unity of form within buildings or complexes.

As the city's and region's center for commercial and service employment, Downtown supports intense development and a dynamic combination of uses: specialty and regional retail shopping and offices; business support services; urban housing at higher densities (starting at 10 dwelling units per acre); civic, educational and cultural destinations; entertainment options; and other public amenities including active and passive park space. The successful integration of a mix of housing types and densities will be critical to achieve a vibrant, 24/7-active Downtown Mobile.

Development in the DT district will focus on new, redeveloped and adaptively reused buildings that frame attractive, human-scaled streetscapes, memorable public spaces, bicycle and pedestrian-friendly streets and convenient transit access to jobs, housing and entertainment. Accordingly, certain areas of Downtown will be more intensively developed to facilitate that pedestrian orientation.

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 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 applicant states:

*Crown Castle ("Crown") currently owns an existing 180' monopole telecommunications facility located at 750 Congress Street in Mobile, Alabama ("Existing Tower"). In order to continue to upgrade its technologies, Crown's existing wireless telecommunications carrier tenants ("Wireless Tenants") require additional equipment to be added to the Existing Tower. However, due to anticipated structural integrity issues, the Existing Tower is not able to support the required additional equipment. Therefore, in order for the Wireless Tenants to upgrade its equipment to continue to provide necessary coverage to its customers (including E911 connectivity, FirstNet access, and wireless data), Crown Castle hereby applies for approval of a Use Variance and all required Waivers from the current Downtown Development District Regulations to allow for the construction a new 180' monopole wireless telecommunications tower adjacent to the Existing Tower ("Proposed Tower"), allowing the Wireless Tenants to relocate their equipment to the proposed new tower. Upon relocation of the Wireless Tenants' equipment, the Existing Tower will be dismantled and removed.*

*The parcel on which Crown has a lease for the Existing Tower is owned by the Mobile County Board of Health ("Parent Parcel"). Since initial construction of the Existing Tower, the Parent Parcel has been placed in the T-4 zoning district under the Downtown Development District Regulations. The City's regulation of towers and telecommunications facilities in the Downtown Development District fail to allow towers in this district, which may have the effect of prohibiting the provision of wireless services in violation of The Telecommunications Act of 1996.*

*In support of this Application, enclosed please find the following:*

- 1. Zoning drawings, including existing and proposed site plans;*
- 2. Boundary Survey;*
- 3. Required Statement of Impact on Health, Safety and Welfare;*
- 4. Photographs of Existing Tower, including compound and equipment; and*
- 5. Redacted copy of Option and Lease Agreement.*

*The Proposed Tower will be unmanned (visited on average of once per month per tenant for routine maintenance purposes) and will not emit noise or glare. The facility will be constructed and maintained in compliance with all federal, state, and local building codes and standards, and will be designed based on EIA/TIA code regulations.*

*The following information also is provided in support hereof:*

*a. The Proposed Tower will to be located, fenced, or otherwise secured in a manner that prevents unauthorized access.*

*b. The Proposed Tower will not constitute a safety or health hazard, a nuisance, or have a noxious effect on the surrounding area either due to appearance and/or operations.*

*c. The compound will have proper signage as required by federal regulations. No advertising will be allowed on the leased premises.*

*d. The antennas to be installed on the tower will be, and will remain, in compliance with current Federal Communications Commission standards, including radio emissions.*

*e. The Proposed Tower will be in compliance with all applicable Federal Aviation Administration regulations.*

*f. The Proposed Tower will not post a hazard to health, safety, public welfare or the environment of the City or its residents.*

*We believe the information contained herein, along with the attached submittals, sufficiently satisfy the requirements for submittal for the requested Use Variance.*

As stated, the applicant is seeking approval for an existing cellular communications tower in the Downtown Development District that is 180' in height. The existing tower received Planning Approval at the Planning Commission's December 4, 1997 meeting, with the tower erected shortly after. Since the original approval in 1997, the adoption of the Downtown Development District in 2014 regulates the subject site, and now requires the applicant to obtain a variance to replace the existing tower. The previous approval was subject to the following conditions:

- 1) The provision of frontage trees along Congress Street, equal to the number of trees that would be required for the perimeter of the lease parcel, to be coordinated with the Urban Forester; and
- 2) Provision of documentation required under Section 1.4.6. of the Tower Ordinance.

The tree plan on file for the site shows a tree just to the South of the lease parcel where the tower is located. Aerial photographs of the area show that the tree is still on site, and if approved, the applicant should be required to maintain this tree.

Because the subject site is located in the Downtown Development District, Consolidated Review Committee (CRC) approval is required. The applicant submitted for CRC review in August 2021, and was advised at that time of the need for the variance request at hand.

As the existing tower is structurally unable to handle the addition of new technologies, it is necessary for it to be replaced with a new tower so that it will not pose a danger to passersby.

It should be noted that both the existing and proposed towers are 180 feet, and are located on the same site. thus the impact to the surrounding area should be the same as exists today.

**RECOMMENDATION:**

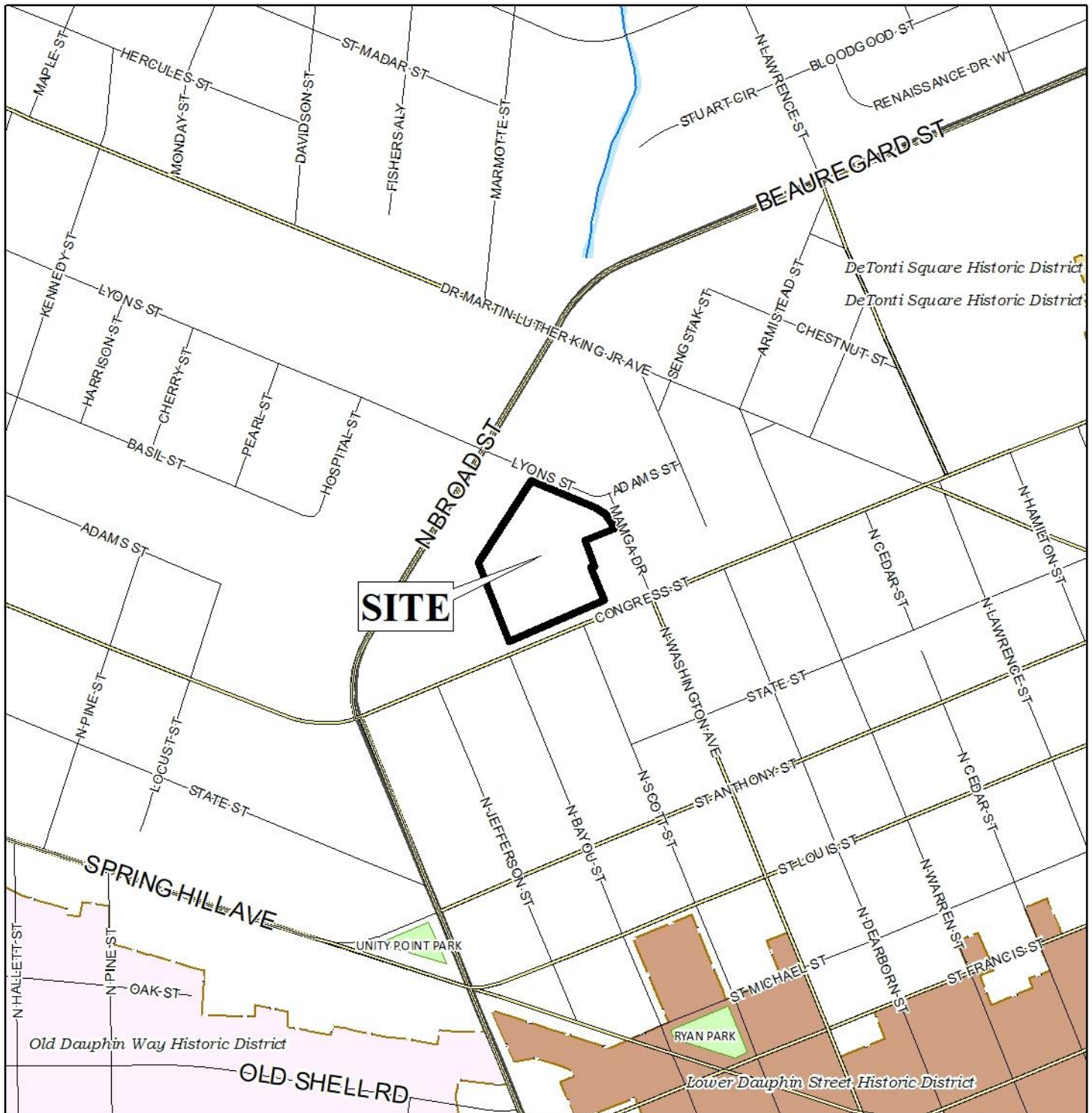
Staff recommends to the Board the following findings of fact for Approval:

- 1) Approving the variance will not be contrary to public interest due to critical operations supported by the equipment;
- 2) Special conditions exist, including the need to minimize service interruptions while maintaining structural safety, that make the placement of the telecommunications tower necessary;
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the new tower will replace the existing tower, and the existing will be removed, resulting in nearly no change in the site.

Subject to the following conditions:

- 1) Maintenance of the existing tree to the Southwest of the lease parcel;
- 2) Removal of the existing tower once the new tower is complete and in operation;
- 3) Compliance with Engineering comments: *(If the proposed variance is approved the applicant will need to have the following conditions met: 1. The proposed improvements will require a Land Disturbance Permit – Tier 2 be submitted through Central Permitting. 2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way. 3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.); and*
- 4) Full compliance with all other municipal codes and ordinances.

# LOCATOR MAP



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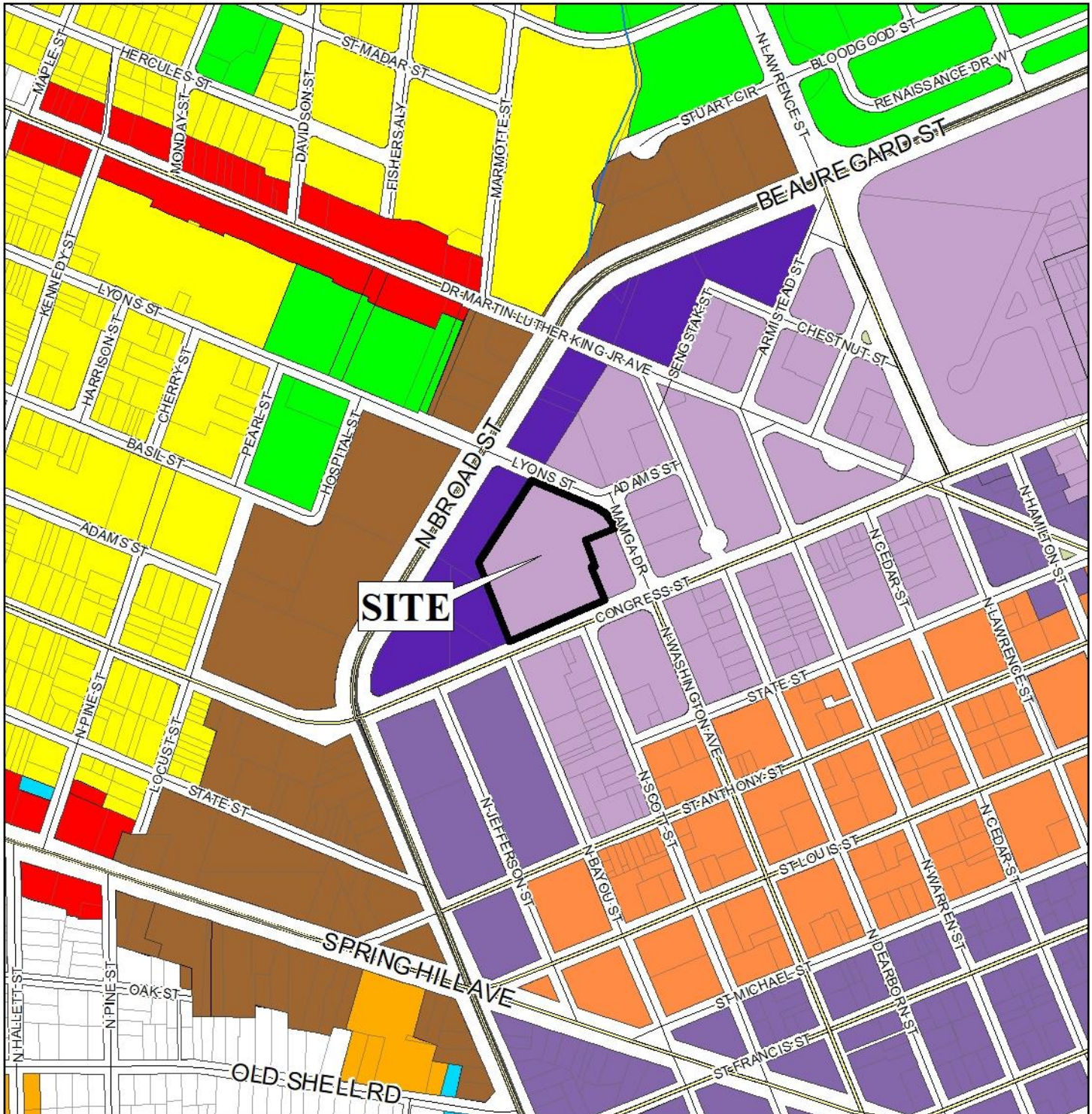
REQUEST Use Variance

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# LOCATOR ZONING MAP



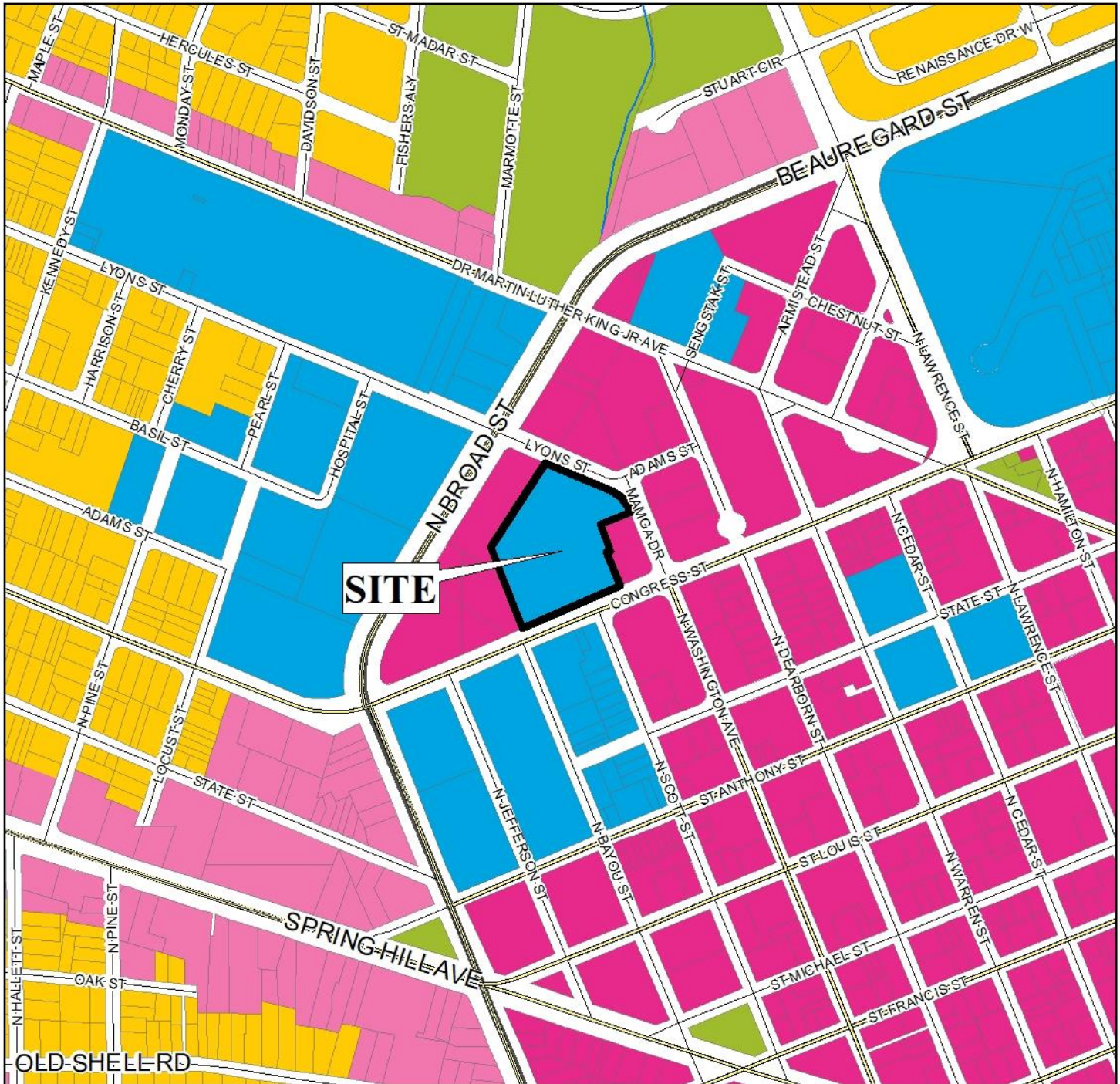
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# FLUM LOCATOR MAP



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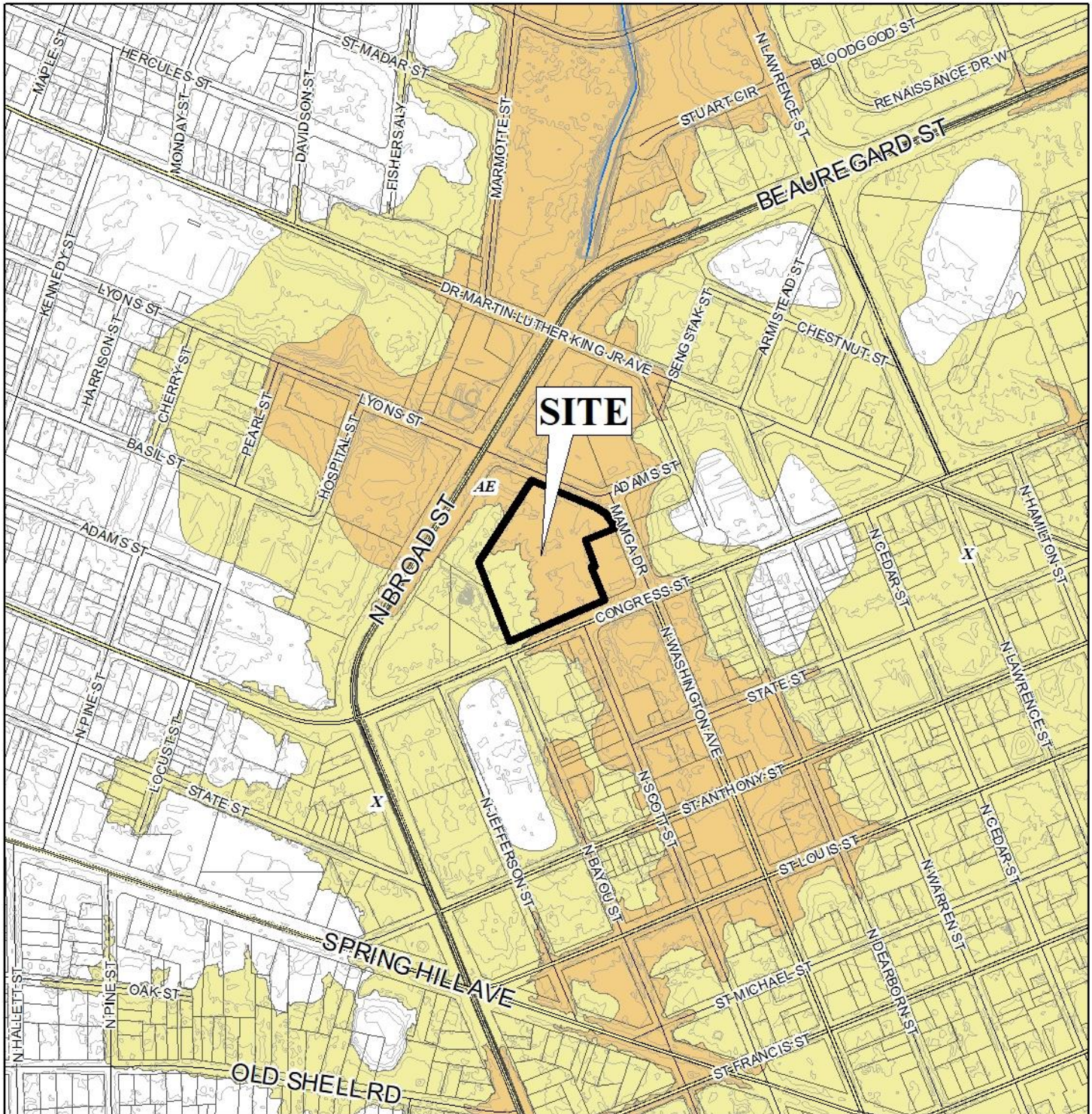
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



# ENVIRONMENTAL LOCATOR MAP



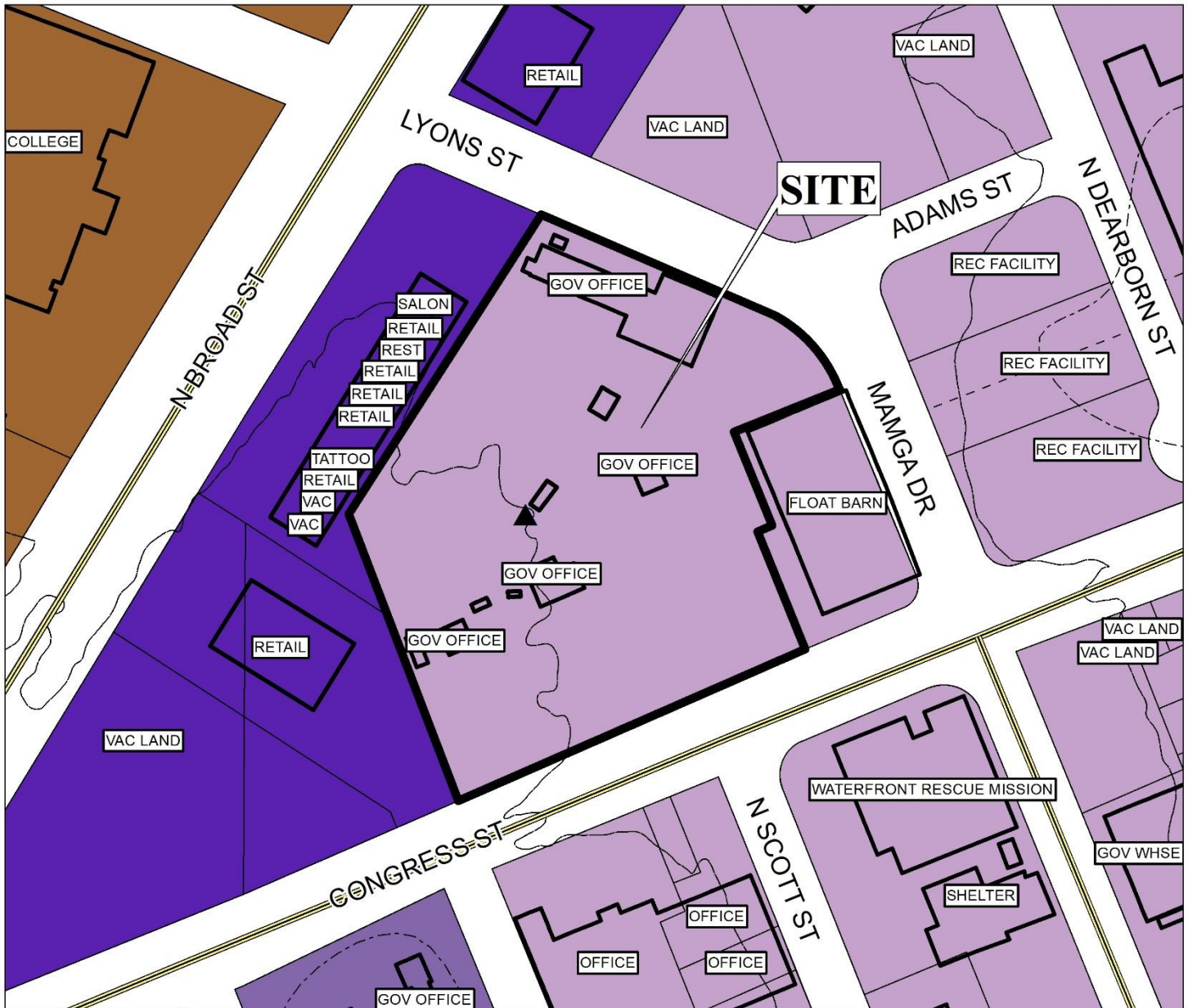
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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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<span style="display: inline-block; width: 15px; height: 15px; background-color: #00FFFF; border: 1px solid black;"></span> R-A	<span style="display: inline-block; width: 15px; height: 15px; background-color: #00FF00; border: 1px solid black;"></span> R-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: #D2B48C; border: 1px solid black;"></span> T-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: #FFA500; border: 1px solid black;"></span> B-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: #0000FF; border: 1px solid black;"></span> B-5	<span style="display: inline-block; width: 15px; height: 15px; background-color: #FFFF00; border: 1px solid black;"></span> MUN	<span style="display: inline-block; width: 15px; height: 15px; background-color: #FF4500; border: 1px solid black;"></span> SD-WH	<span style="display: inline-block; width: 15px; height: 15px; background-color: #800080; border: 1px solid black;"></span> T5.1
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<span style="display: inline-block; width: 15px; height: 15px; background-color: #FFFF00; border: 1px solid black;"></span> R-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: #FFDAB9; border: 1px solid black;"></span> H-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: #FF00FF; border: 1px solid black;"></span> LB-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: #A0522D; border: 1px solid black;"></span> B-4	<span style="display: inline-block; width: 15px; height: 15px; background-color: #D3D3D3; border: 1px solid black;"></span> I-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: #FFA07A; border: 1px solid black;"></span> SD	<span style="display: inline-block; width: 15px; height: 15px; background-color: #DDA0DD; border: 1px solid black;"></span> T4	<span style="display: inline-block; width: 15px; height: 15px; background-color: #4B0082; border: 1px solid black;"></span> T6



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

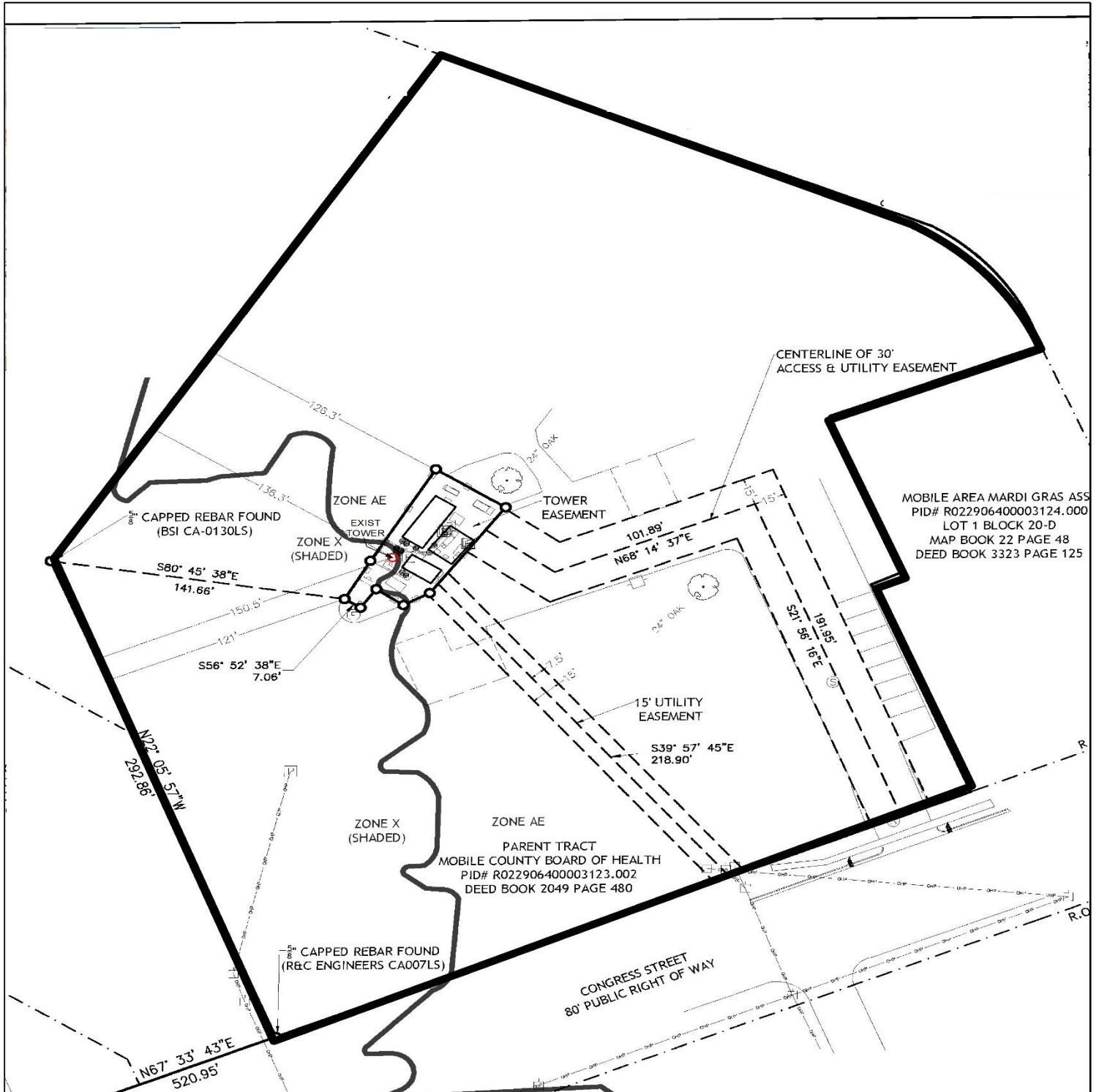


The site is surrounded by commercial units.

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# SITE PLAN



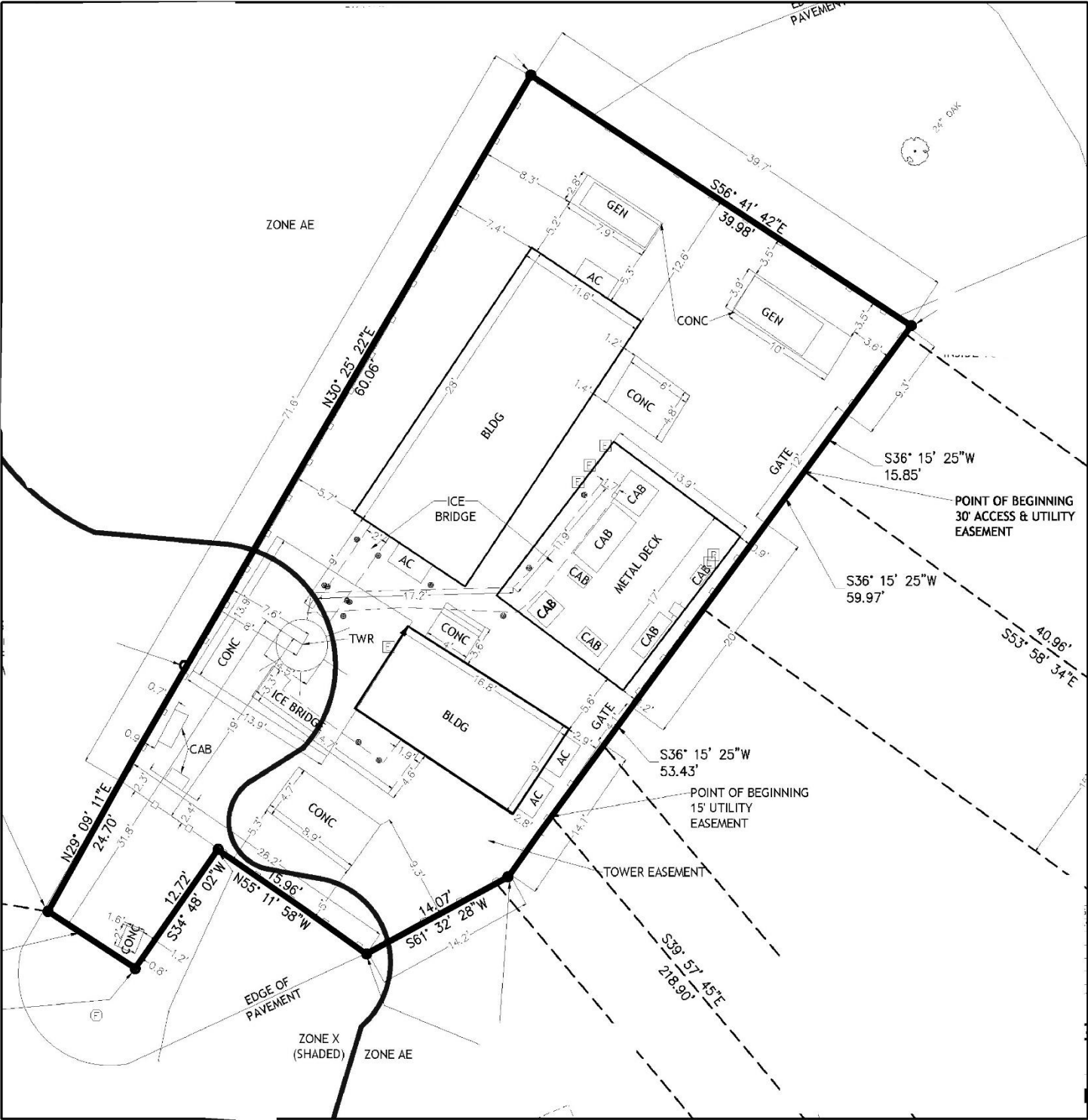
The site plan illustrates the tower easements, and location of the existing tower.

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# DETAIL SITE PLAN



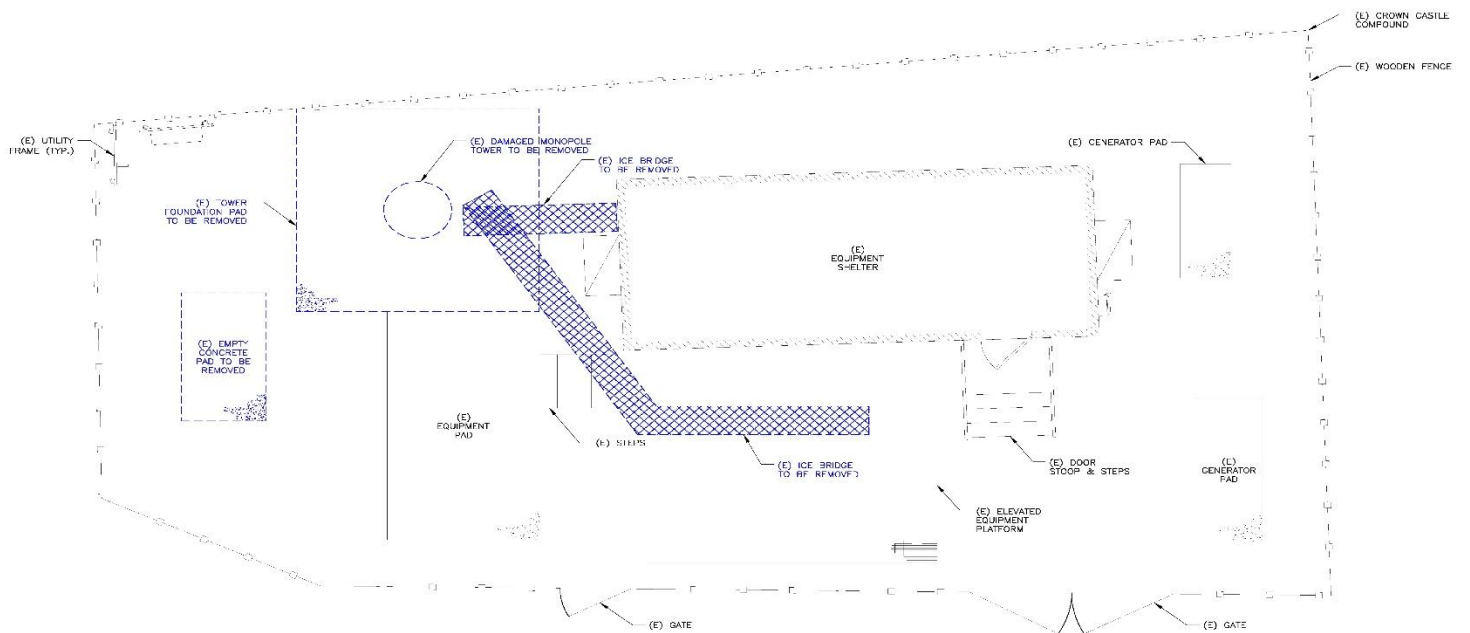
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# DETAIL SITE PLAN



1 EXISTING OVERALL SITE PLAN  
 SCALE: 1/4"=1'-0" (FULL SIZE)  
 1/8"=1'-0" (11x17)



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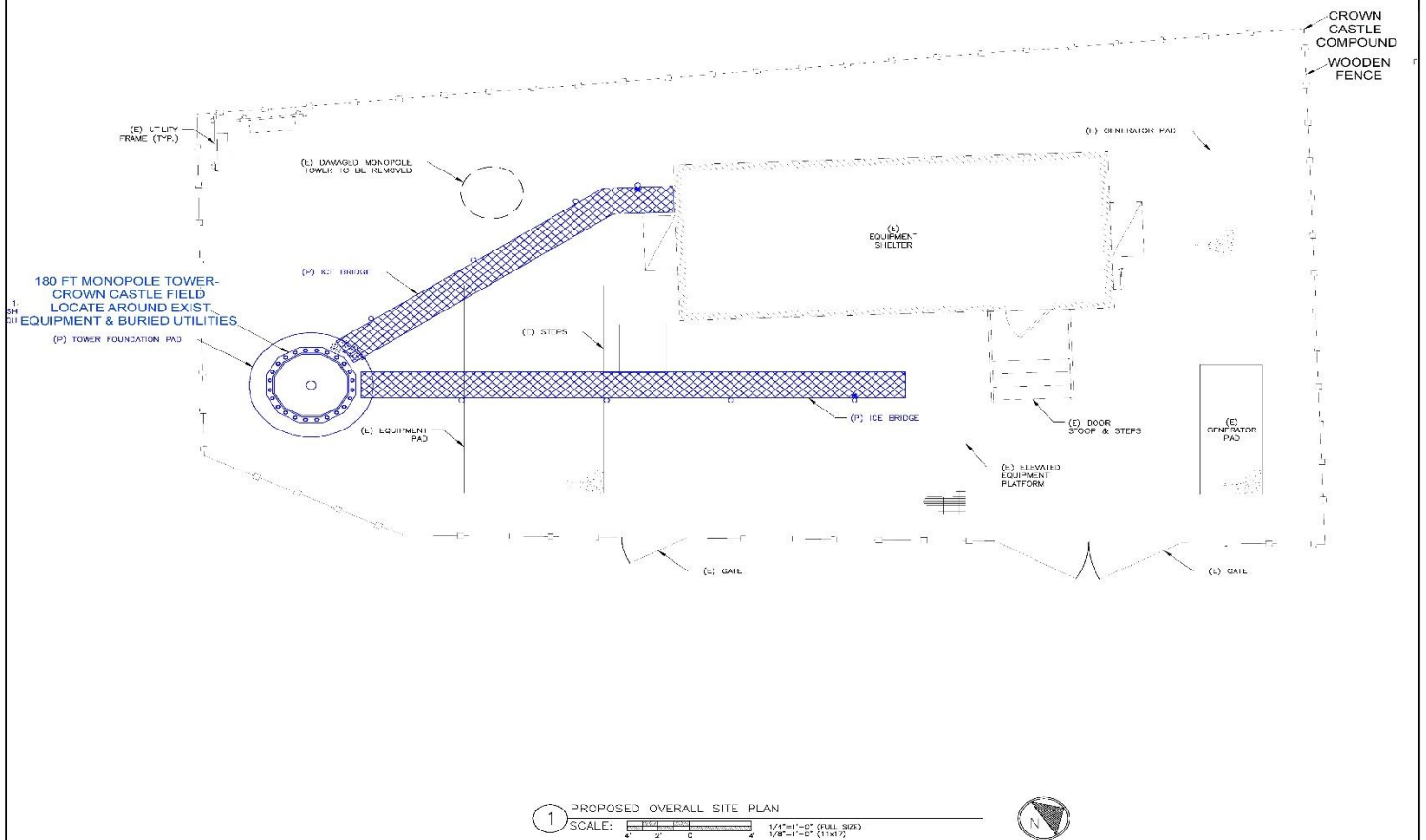
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# DETAIL SITE PLAN

1  
SH  
2H



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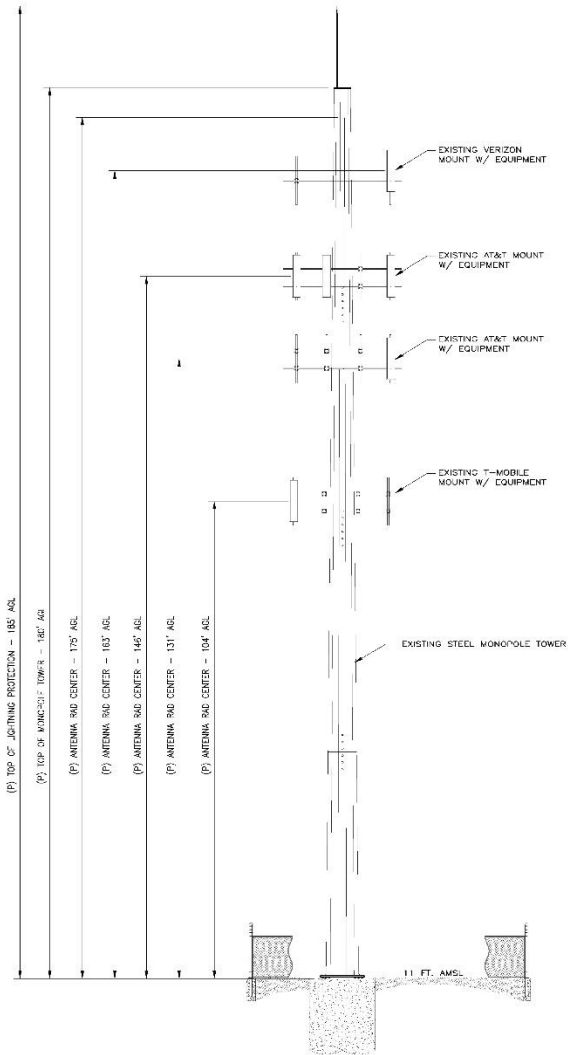
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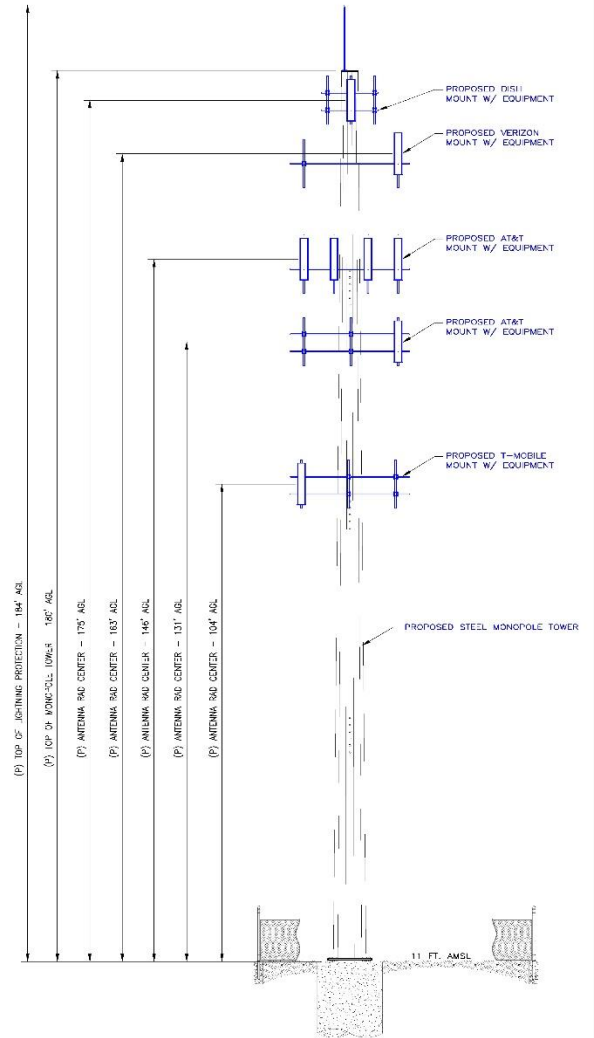


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# DETAIL SITE PLAN



1 EXISTING ELEVATION  
SCALE: NOT TO SCALE



2 PROPOSED ELEVATION  
SCALE: NOT TO SCALE

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