

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: November 5, 2018****CASE NUMBER**

6215/4655

APPLICANT NAME

American Tower Corporation (Brian Sullivan, Crafton Communications, Inc.)

LOCATION721 Oak Circle Drive West
(East side of Oak Circle Drive West, 350'± North of Cottage Hill Road.)**VARIANCE REQUEST****TOWER HEIGHT:** Tower Height Variance to amend a previously approved Tower Height Variance to allow a 154' high cellular telecommunications tower to replace an existing 150' high tower in a B-2, Neighborhood Business District.**ZONING ORDINANCE
REQUIREMENT****TOWER HEIGHT:** The Zoning Ordinance limits structures to a 35' height, and Tower Height Variances are height-specific in a B-2, Neighborhood Business District.**ZONING**

B-2, Neighborhood Business

AREA OF PROPERTY

0.4± Acre

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**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). Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site will require a tree removal permit.

**CITY COUNCIL
DISTRICT**

District 5

ANALYSIS

The applicant is requesting a Tower Height Variance to amend a previously approved Tower Height Variance to allow a 154' high cellular telecommunications tower to replace an existing 150' high tower in a B-2, Neighborhood Business District; the Zoning Ordinance limits structures to a 35' height, and Tower Height Variances are height-specific in a B-2, Neighborhood Business District.

The applicant has also submitted a Planning Approval application to amend a previously approved Planning Approval from 1997 which allowed the tower in a B-2 District, scheduled to be heard at the November 1st Planning Commission meeting. If this Variance request is approved, it should be subject to the approval of the Planning Approval request.

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 Mixed Commercial 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 designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

Over time, new development and redevelopment in Mixed Commercial Corridors is encouraged to: raise design quality; improve connectivity to surrounding neighborhoods; improve streetscapes; and, improve mobility and accessibility for all users of the corridor.

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:

The improvements for the project at the address above include the construction of a 154' tall monopole tower on the same property as an existing wireless communications facility that includes a 154' tall monopole with supporting guyed wires.

After completion of the installation of the new tower and reconfiguring of the ground and antenna equipment on the site, the old tower and its guyed wires will be removed.

Upon completion of this project, there will be no conspicuous change in the character, use or function of the facility.

It should be noted that the applicant refers to the existing tower as being 154' high. However, the 1997 Height Variance allowed for a 150' high tower, as did the associated Planning Approval.

Section 64-4.J.(Telecommunications towers and facilities)20.(Existing towers)a.(4) states “A tower which is being rebuilt to accommodate the collocation of additional telecommunications facilities may be relocated on the same parcel subject to the setback requirements of this article. However, if it is impossible for the tower to be rebuilt in compliance with the setback requirements of this article, such setback requirement may be waived to allow the tower to be rebuilt in its exact previous location, or within a twenty-five-foot radius of the previous location.” As the proposed tower’s location would be 15’ West of the existing tower, such relocation is allowed by right. And as the applicant has submitted an engineer’s letter stating that the existing tower is no longer suitable due to structural limitations, and as the existing tower will remain in use until the proposed tower is completed, the setback requirements would be impossible to meet. The previous Variance also allowed for reduced setbacks from all four property lines for the tower. As the Ordinance allows for the relocation within 25’ of the existing location with the waiving of setback requirements, no new Setback Variances will be required for the relocation. Therefore, the tower may be relocated as in the normal allowances. The Variance is required only for the increase in the tower height to 154’ from the previously approved 150’ height.

The review for a new tower on a site where one has never been located requires justification for the tower via the provision of documentation that the applicant was unable to collocate on an existing tower or antenna support facility within a one-half mile radius of the proposed site. However, in this instance, the proposed tower is basically considered a “drop-and-swap” and the Variance request pertains only to the height increase. As technical data was provided in order for the approval of the existing tower, and as it has possibly been in place 4’ above its 150’ approved height, the allowance of the proposed 154’ height for the replacement tower would seem in order. The applicant has provided technical data from a structural engineer that the tower meets the structural requirements of the Zoning Ordinance and Building Code.

The site plan submitted indicates the tower relocation and the expanded compound to enclose the tower. The existing paved access drive and parking space will remain unchanged. No landscaping or tree planting plan is provided; however, staff has determined that no new landscaping or tree plantings will be required. The site plan indicates barbed wire atop the chain link fence around the compound. It should be noted that barbed wire fencing is not allowed in B-2 Districts. Therefore, the site plan should be revised to remove all barbed wire fencing or documentation should be provided to verify such is required by FCC regulations. In either event, the compound should be enclosed by an 8' high wooden privacy fence.

The applicant has not specifically illustrated that a literal enforcement of the Ordinance would impose a hardship with respect to the tower height. However, given the fact that the existing tower was approved via a variance and possibly constructed erroneously to the 154' height without any negative impact on the neighborhood, it would stand that the allowance of the same height to continue with the replacement tower would be justified. Therefore, the Board should consider this request for approval.

In light of the fact that Planning Approval must also be granted, should the Planning Commission deny that request, then the need for the requested Height Variance would become a moot point.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the Tower Height Variance request:

- 1) Based on the fact that the tower was apparently erroneously constructed to the stated 154' height in harmony with the neighborhood, the variance will not be contrary to the public interest;
- 2) These special conditions (the tower has remained without challenge at the stated 154' height) 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 it will allow a similar replacement tower to be constructed.

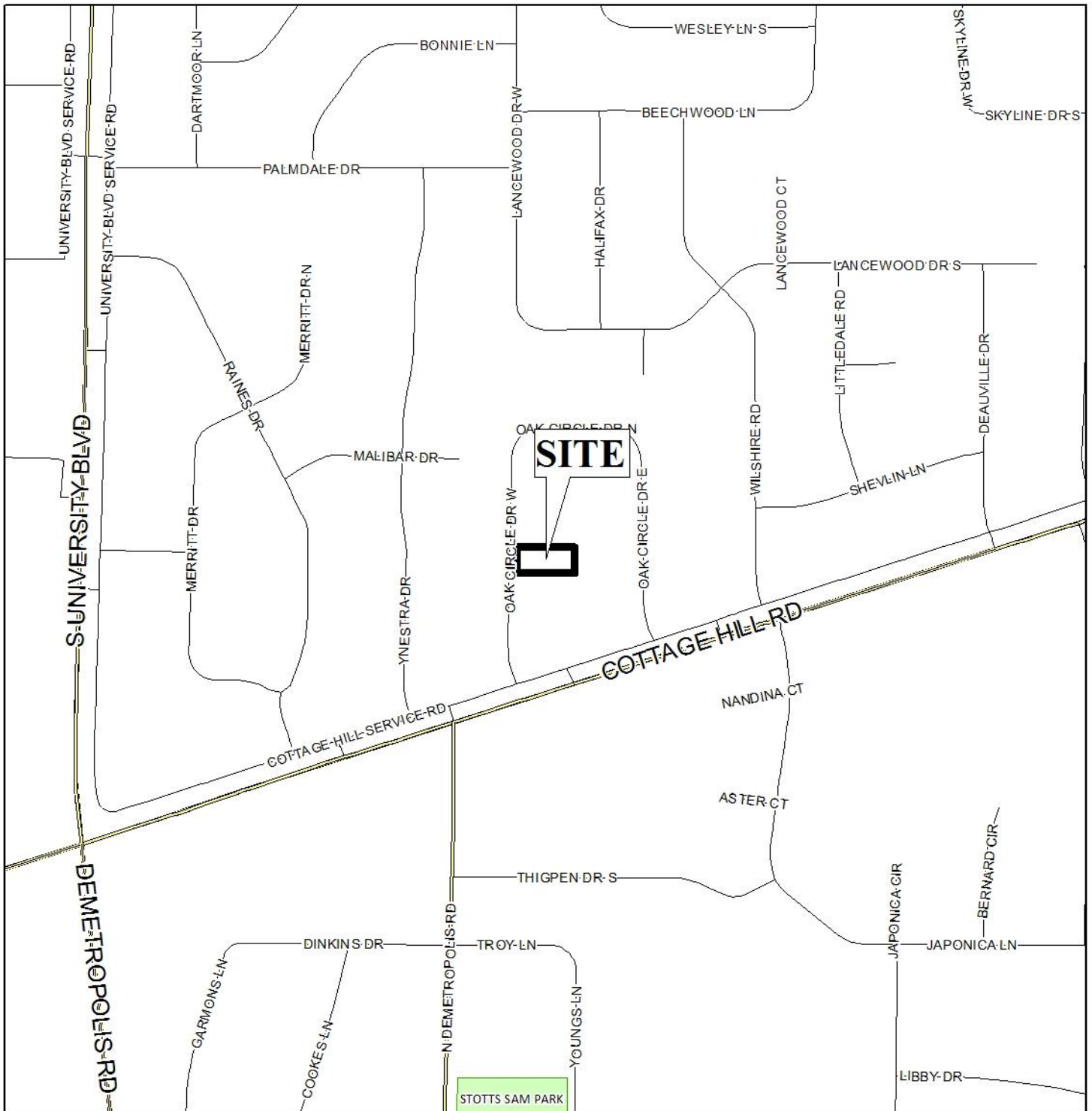
Therefore, the Height Variance request is recommended for Approval, subject to the following conditions:

- 1) revision of the site plan to remove all barbed wire fencing, or provision of documentation to verify such is required by FCC regulations;
- 2) revision of the site plan to provide an 8' high wooden privacy fence around the tower compound;
- 3) subject to the Planning Commission approval of the associated Planning Approval request;
- 4) 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). Private removal of trees in the right-of-way will require approval of the Mobile Tree*

Commission. Removal of heritage trees from a commercial site will require a tree removal permit.];

- 5) submittal to and approval by Planning and Zoning of two (2) copies of a revised site plan prior to the submittal for land disturbance and building permits; and
- 4) full compliance with all municipal codes and ordinances.

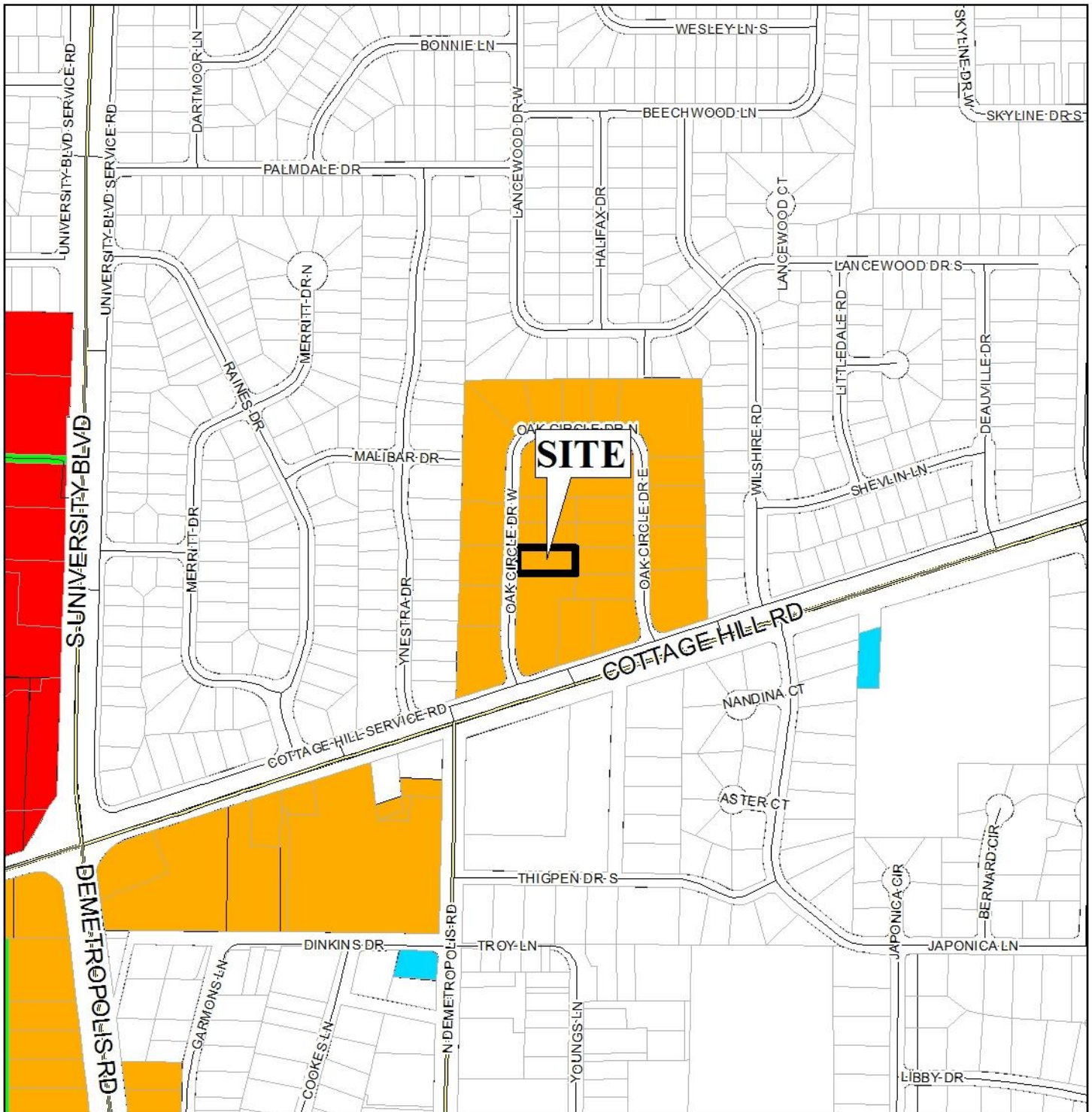
LOCATOR MAP



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 REQUEST Tower Height Variance



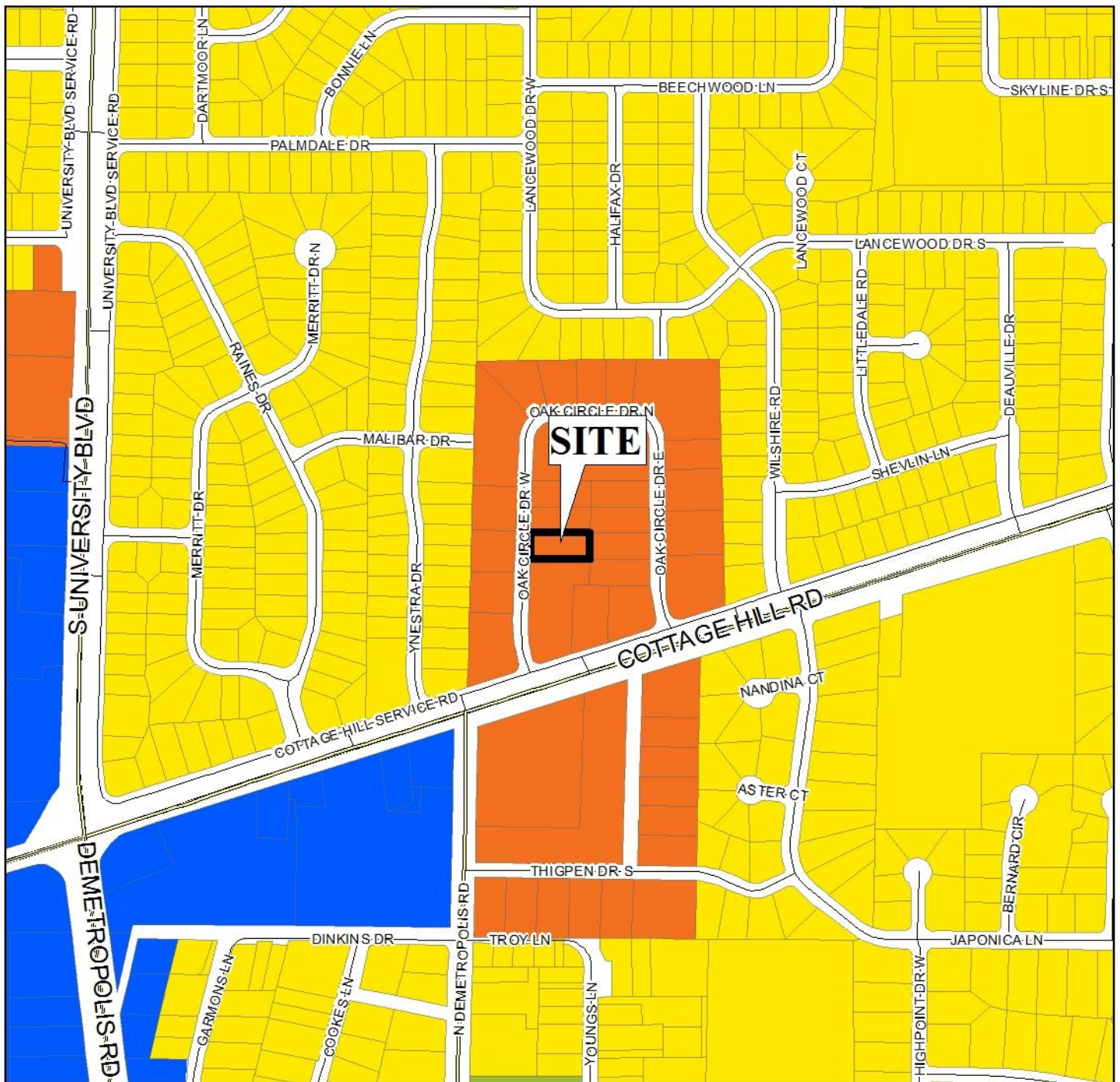
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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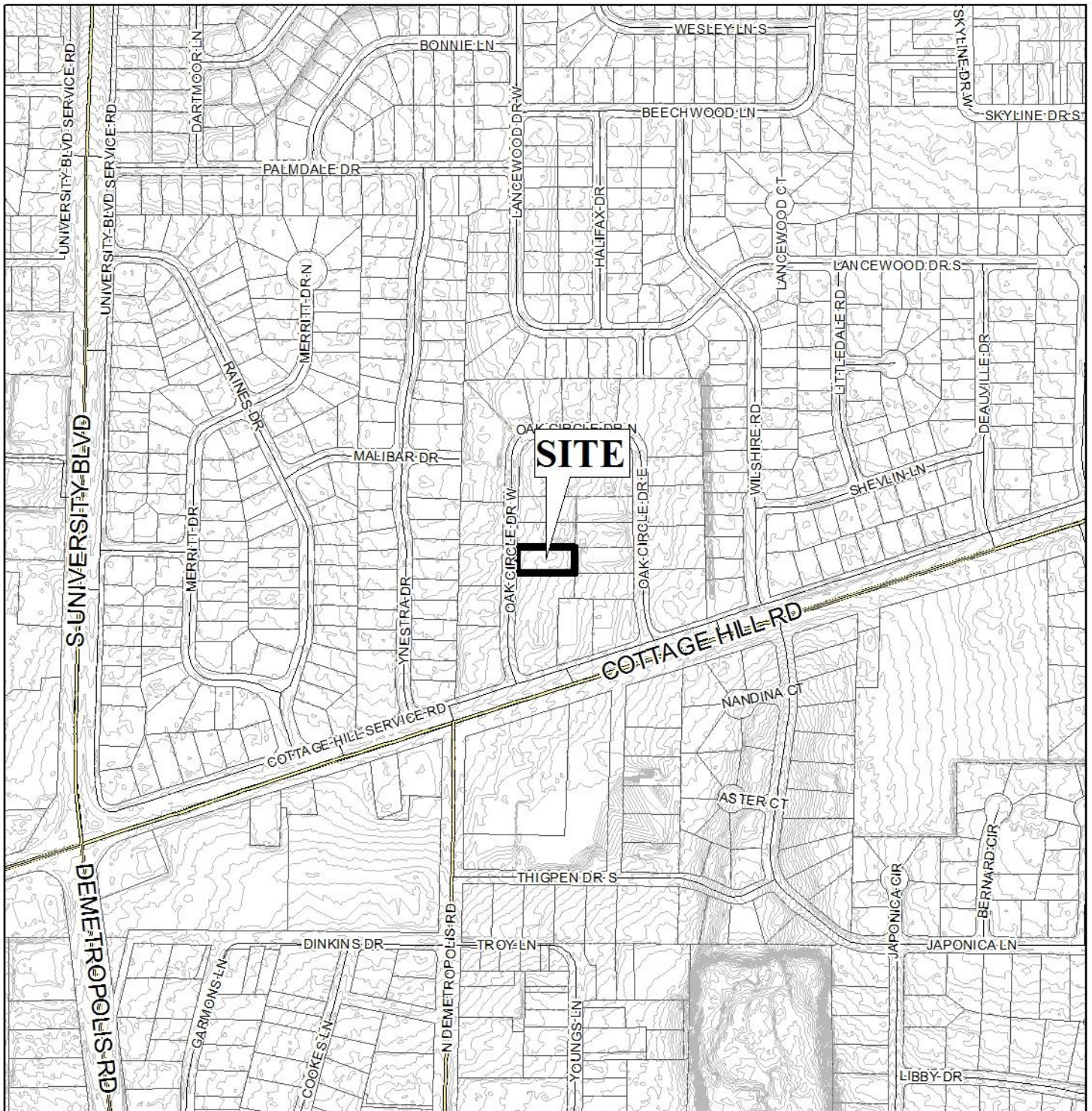
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REQUEST Tower Height Variance

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	



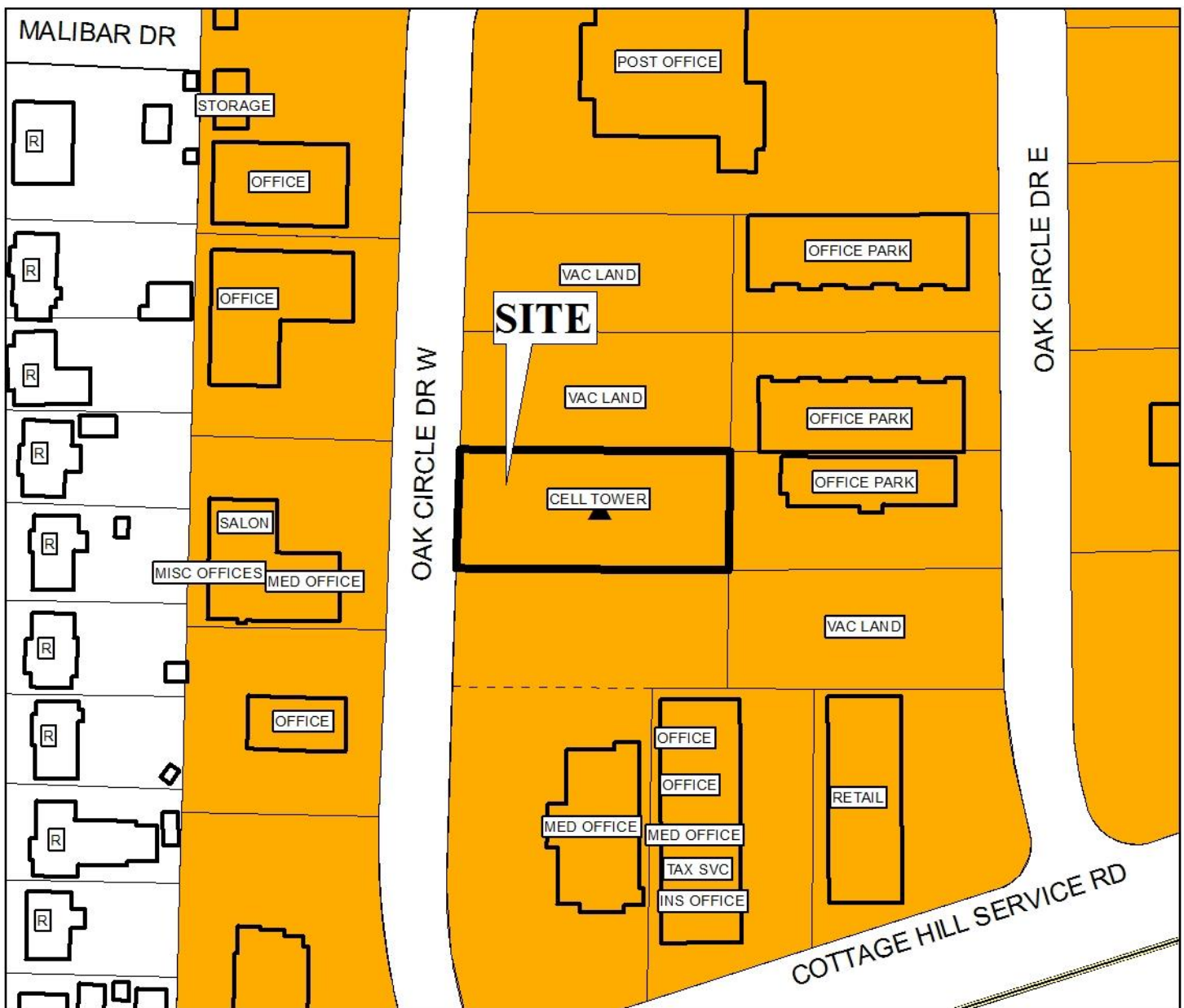
ENVIRONMENTAL LOCATOR MAP



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PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units. Residential units are located to the west.

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REQUEST Tower Height Variance

 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



PLANNING COMMISSION VICINITY MAP - EXISTING AERIAL

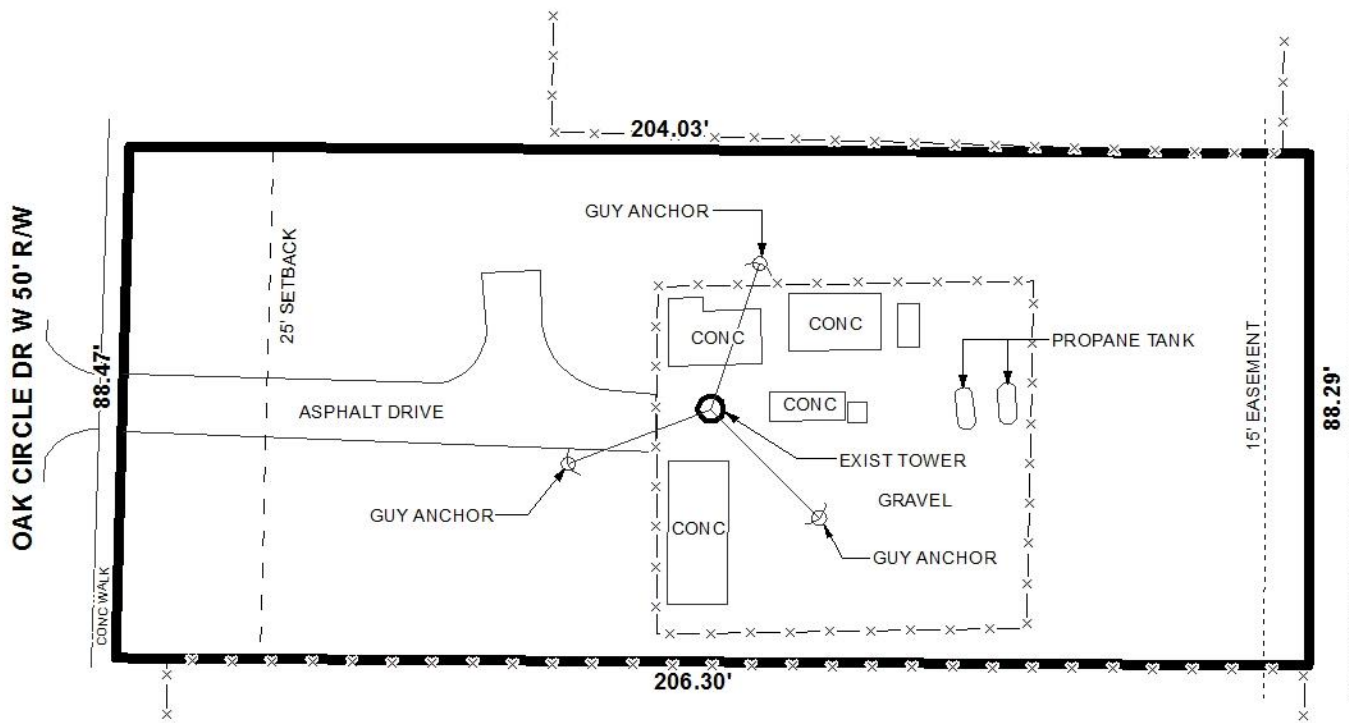


The site is surrounded by commercial units. Residential units are located to the west.

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EXISTING SITE PLAN



The site plan illustrates the existing tower, asphalt drive, setback, and easement.

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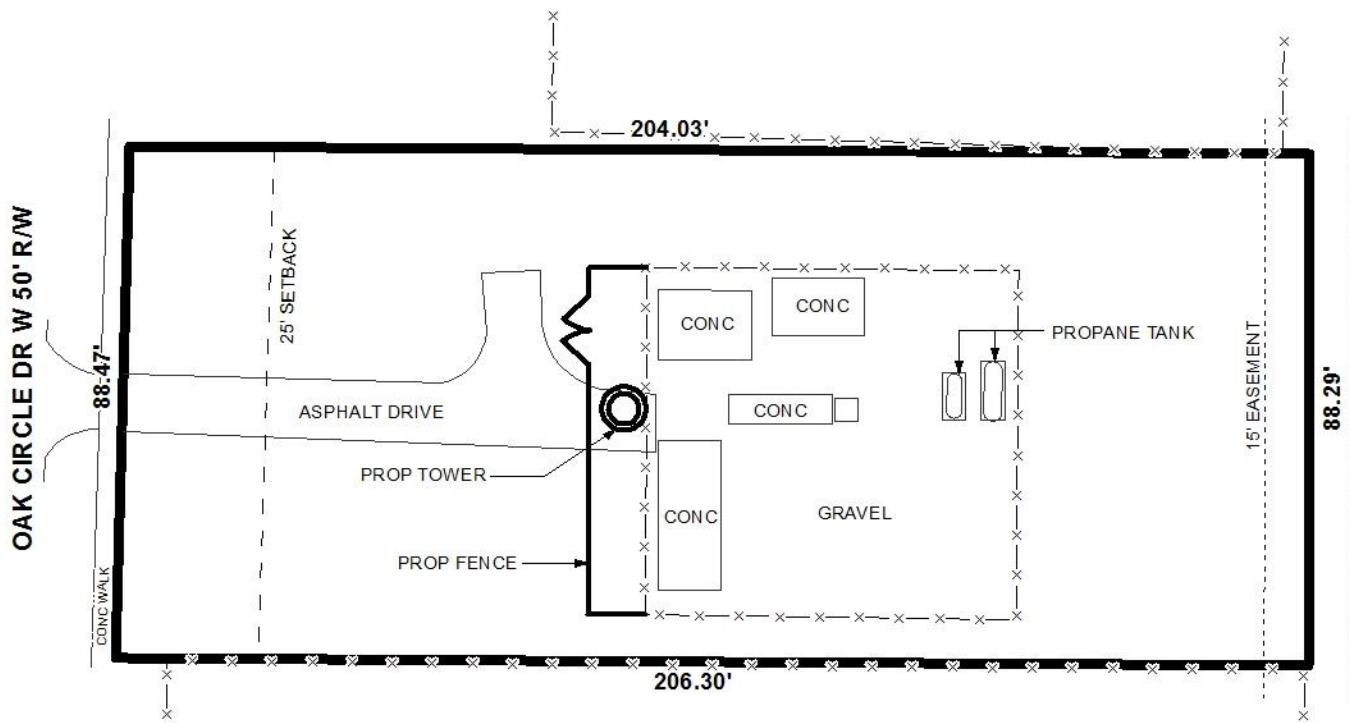
APPLICANT American Tower Corporation (Brian Sullivan, Crafton Communications, Inc – Agent)

REQUEST_____Tower Height Variance



NTS

PROPOSED SITE PLAN

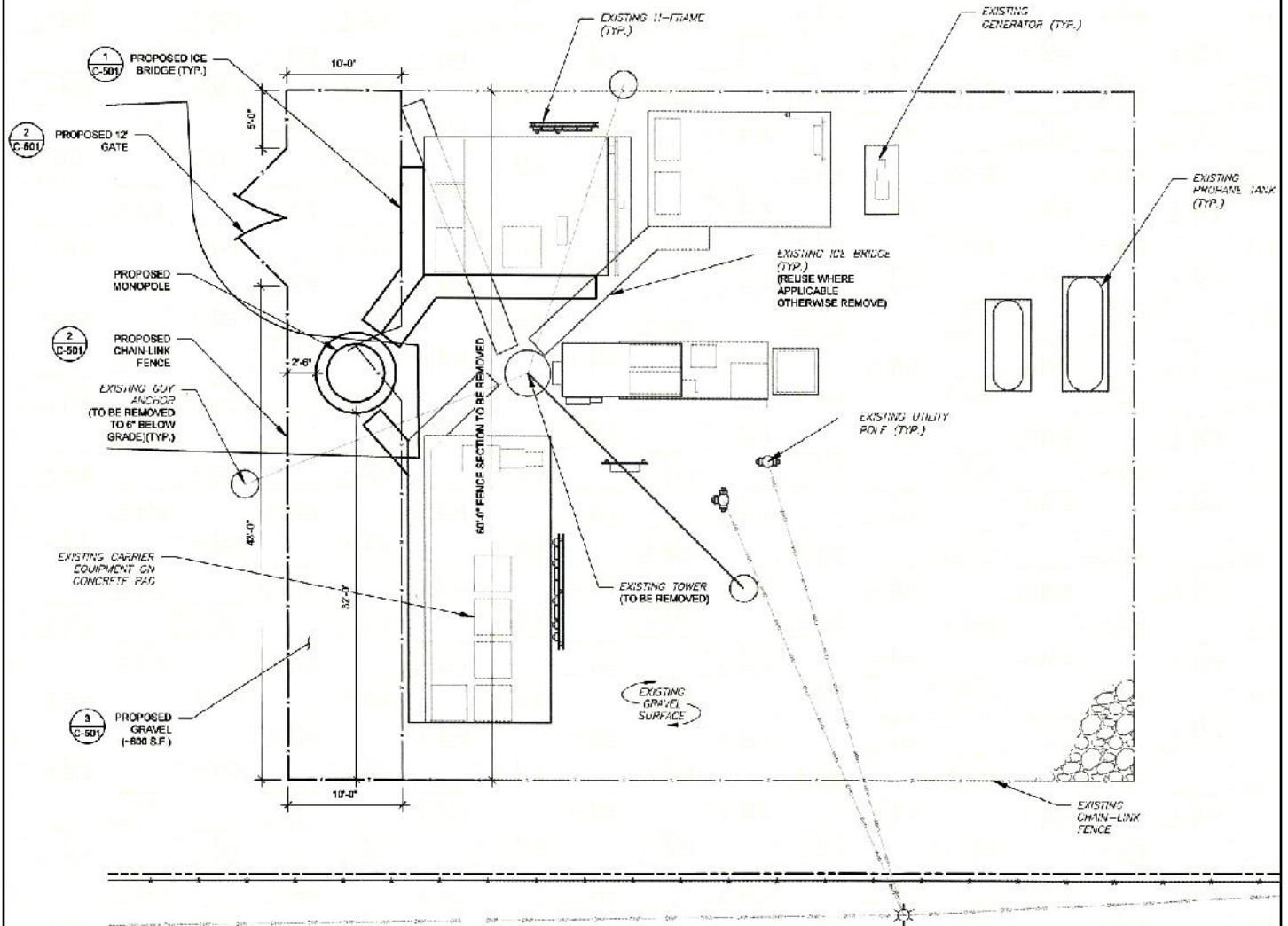


The site plan illustrates the proposed tower, proposed fence, asphalt drive, setback, and easement.

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REQUEST Tower Height Variance



DETAIL SITE PLAN



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REQUEST Tower Height Variance

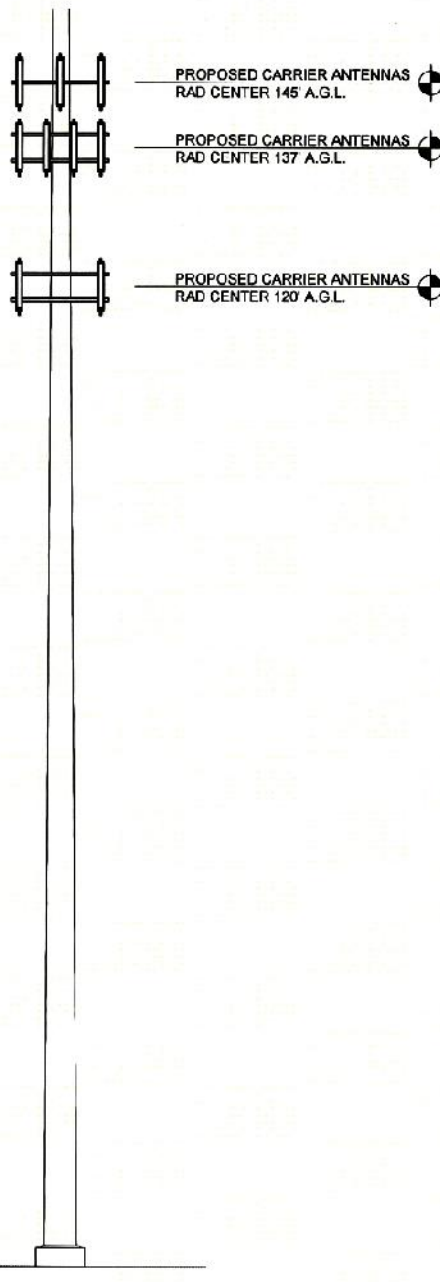


DETAIL SITE PLAN

TOP OF PROPOSED TOWER
ELEV. 337.0' AMSL
ELEV. 154' A.G.L.

TOWER NOTE:

1. NO LIGHTING IS REQUIRED BY FAA.



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