

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: May 6, 2019

CASE NUMBER

6250

APPLICANT NAME

Eco-Site II, LLC

LOCATION

431 Azalea Road
(East side of Azalea Road, 340'± South of Bourgeois Drive).

VARIANCE REQUEST

HEIGHT: Height Variance to allow a 150' monopole telecommunications tower with a 10' lightning rod in a B-1, Buffer Business District.

SETBACK: Lease Parcel Setback Variance to allow the tower within 27.25'± from the lease parcel line.

RESIDENTIAL BUFFER SEPARATION: Residential Buffer Separation Variance to allow the tower 105'± from residentially zoned property.

LANDSCAPING: 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-1, Buffer Business District.

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-1, Buffer Business

AREA OF PROPERTY 1.67± Acres

**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 Height, Setback, Residential Buffer, and Landscape Variances to allow a 150' monopole with a 10' lightning rod, 27.25'± setback from the lease parcel line, approximately 105'± from R-1, Single Family Residential Districts, and no tree planting or landscape area requirements in a B-1, Buffer Business District; the Zoning Ordinance limits structures in a B-1, Buffer Business District to 45' tall, requires monopoles to be setback a distance equal to the height of the tower from the lease parcel line, requires a 225' buffer from R-1, Single Family Residential Districts, and full compliance with tree planting and landscape area requirements.

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 (MCC) 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 mostly applies to transportation corridors west of I-65 serving primarily the low-density (suburban) residential neighborhoods. MCC includes a wide variety of retail, services and entertainment uses.

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; improved 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.

In conjunction with the Variance requests, the applicant has also submitted a Planning Approval request to allow the proposed tower in a B-1 District which is scheduled for the May 2nd Planning Commission meeting. A subsequent one-lot Subdivision application for the site has also been submitted and is scheduled to be heard at the Commission's May 16th meeting. As both applications should be heard concurrently, staff has recommended that the Planning Approval be heldover to also be heard at the May 16th meeting with the Subdivision. If the variance requests are approved, they should be subject to the approval of those other two requests.

It should also be noted that there is a discrepancy in the boundary dimensions and site configuration between the Planning Approval site plan and the one-lot Subdivision preliminary plat. The site plan indicates an area along Azalea Road as being a part of the site but which was dedicated to the City for public right-of-way in 1970 as a condition of the 1969 rezoning of the site to its current B-1 classification. This discrepancy also appears on the site plan submitted for the application at hand. However, as the discrepancy can be corrected on a revised site plan should the Variance requests be approved, staff does not see a need for a holdover on the review of the Variance requests.

The subject site is bordered on the North and East sides by B-2, Buffer Business, used as governmental offices; to the South by R-1, Single-Family Residential, used as a church; and to the West across Azalea Road by R-1 in use as single-family residential.

The applicant states:

DESCRIPTION OF IMPROVEMENTS: *Existing improvements, on the frontage parcel that will be used for access, are a building and paved parking with 2 curb cuts connected by U-shaped drive off Azalea Road. This parcel is used for masonic Lodge meetings and charity events. The parcel in the back where the tower site is proposed is vacant and heavily wooded. Proposed improvements are a 150' monopole tower with a 20' lightning rod on top and a 50' x 50' fenced compound; time schedule for development is immediately after city approvals and building permit.*

VARIANCES: *Height variance to allow 150' monopole with 10' lightning rod; setback variance to allow 27.25' setback from lease parcel line; buffer/separation variance to allow approximately 105' from residential zoning; 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 54.5' x 55' lease area is plenty of area for required ground space for the proposed use; the buffer/separation situation occurred because all of the prospective commercial sites have residential zoning within the required buffer separation distance; and the landscape variance is requested because the proposed site will have heavily wooded area on the north, east and south sides of the compound. The compound gate will be on the north end of the west side of the compound and the south end of the west side of the compound 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 residential uses of any available site*

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. 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 use. 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 54.5' x 55' equipment compound provides ample area for the required ground space. The tower is proposed at the center of the compound lease parcel placing it 27.25' from the nearest point of 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 need for a residential buffer separation variance is 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, the tower cannot be located in such a position as to achieve the required 225' setback from residential property. Its proposed location also allows the access easement to the compound to align with the drive aisle of the existing parking lot on the parent site. 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 to the North, East and South, and that the existing trees and building shield the site from view from the West. 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, it appears that the tower compound would be easily visible from the Northwest due to the open space along Azalea Road and the adjacent Mobile County office site. Some relief from the tree planting requirements may be considered if a site plan is submitted showing the location and types of trees proposed to remain on site.

It should be mentioned that the site plan indicates compliance with the requirement for paved access and parking for the tower compound. No barbed wire fencing is indicated on the site plan, and it should be noted that barbed wire fencing is not allowed in B-1 districts. Therefore, a note should be added to a revised site plan stating that no barbed wire fencing may be utilized on the site.

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, but modified to allow possible coordination with the Planning and Zoning staff on a modified landscaping and tree planting plan.

With regard to the previously-mentioned site plan discrepancy, the site plan should be revised to remove the line labeled as "APPARENT RIGHT OF WAY LINE" and indicate the current right-of-way line along the East side of the area labeled as "RIGHT OF WAY FOR PUBLIC STREET AND SERVICE ROAD PURPOSES INSTRUMENT #179870 BOOK 961 PAGE 683". Since that area is actually City property, it should not be included within the property boundary.

In light of the fact that Planning Approval and a one-lot Subdivision must also 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) 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.

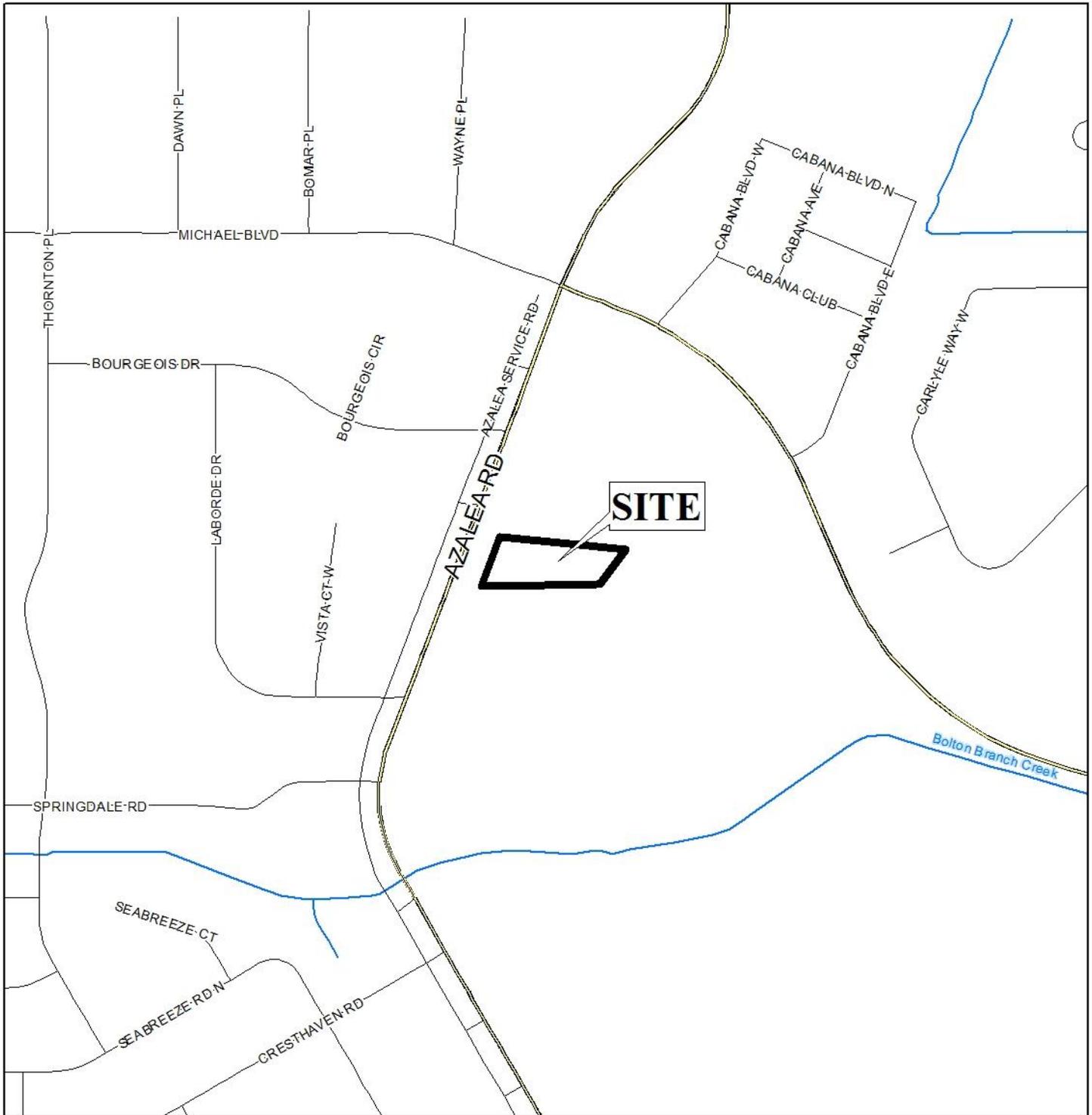
Therefore, the Height, Lease Parcel Setback and Residential Buffer Separation Variances are recommended for Approval, subject to the following conditions:

- 1) the tower is limited to a monopole design with an over-all structure height of 150', including antennae, with a 10' lighting rod atop;
- 2) subject to the approval of the Planning Approval and Subdivision 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;
- 5) revision of the site plan to remove the line labeled as "APPARENT RIGHT OF WAY LINE" and indicate the current right-of-way line along the East side of the area labeled as "RIGHT OF WAY FOR PUBLIC STREET AND SERVICE ROAD PURPOSES INSTRUMENT #179870 BOOK 961 PAGE 683";
- 6) 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).]*;
- 7) subject to the submittal of a site plan showing the location and types of trees proposed to remain on site and coordination with the Planning and Zoning Department on a landscaping and tree planting plan;
- 8) 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 was provided to justify lack of compliance with landscaping and tree plantings;
- 2) Special conditions do not exist and there are no hardships which exist that make the Landscaping and Tree Planting Variance necessary; and
- 3) The spirit of the chapter would not be observed and substantial justice would 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.

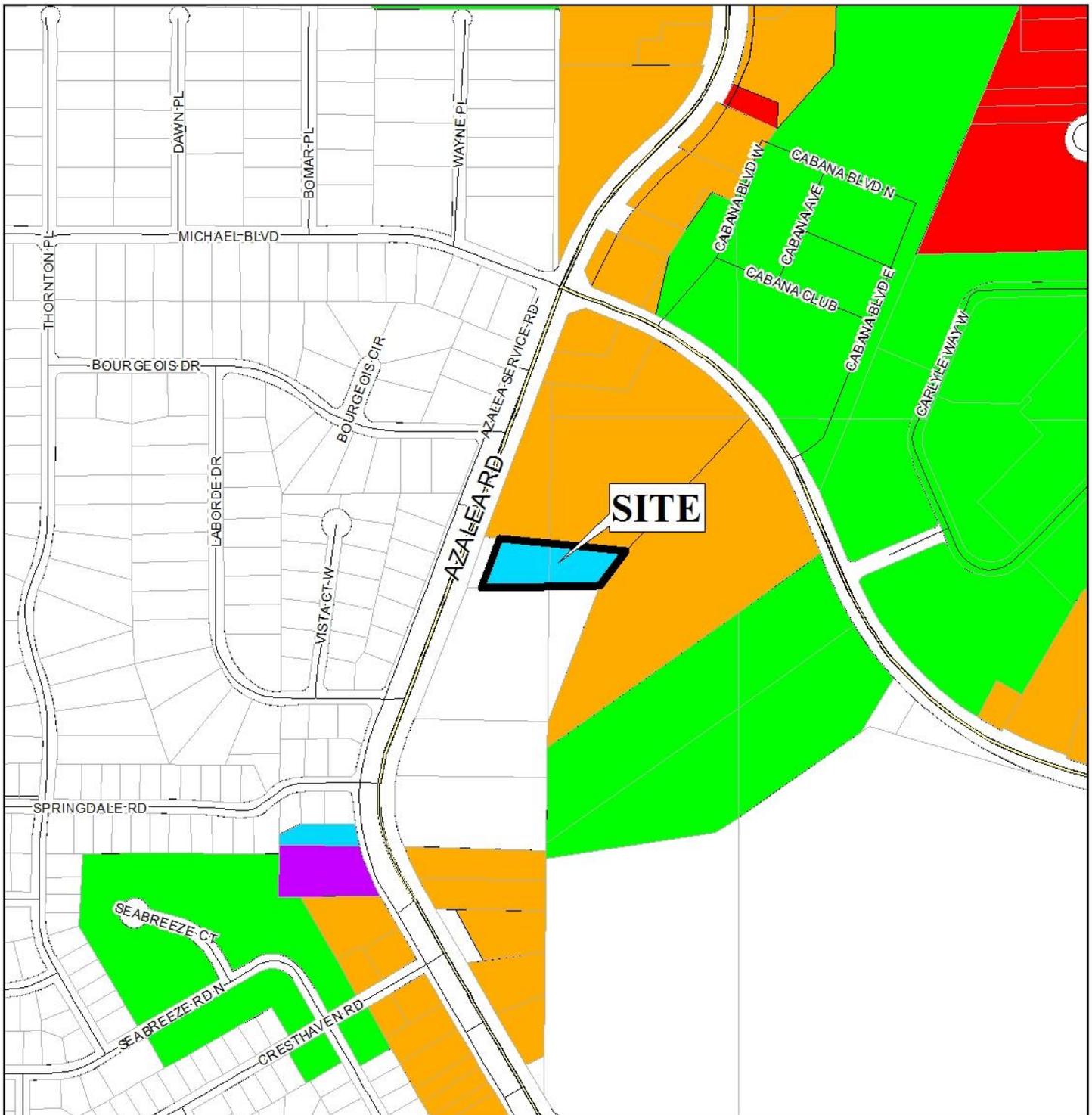
LOCATOR MAP



APPLICATION NUMBER 6250 DATE May 6, 2019
APPLICANT Eco-Site II, LLC
REQUEST Height, Setback, Residential Buffer, and Landscape Variances



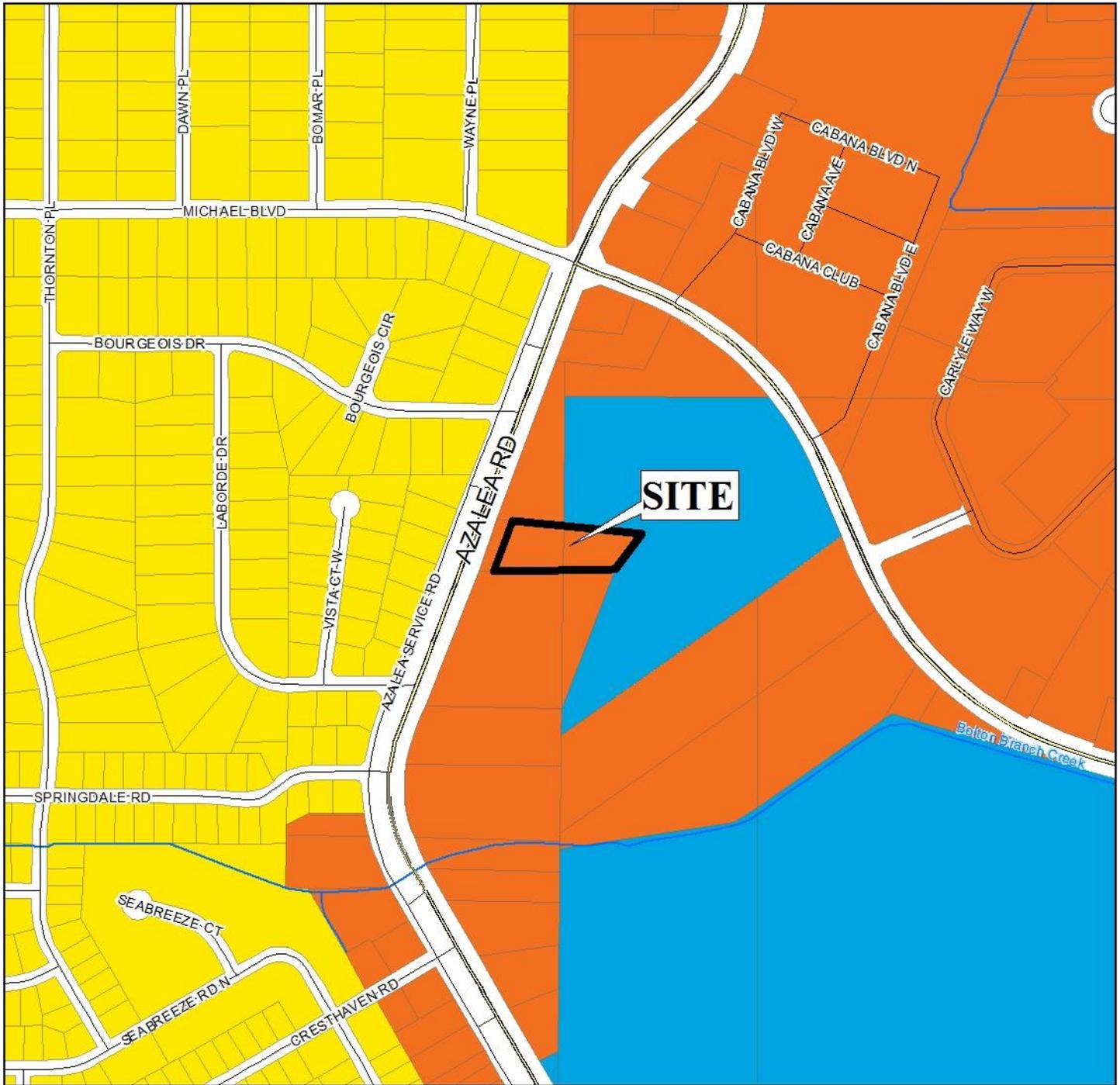
LOCATOR ZONING MAP



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FLUM LOCATOR MAP

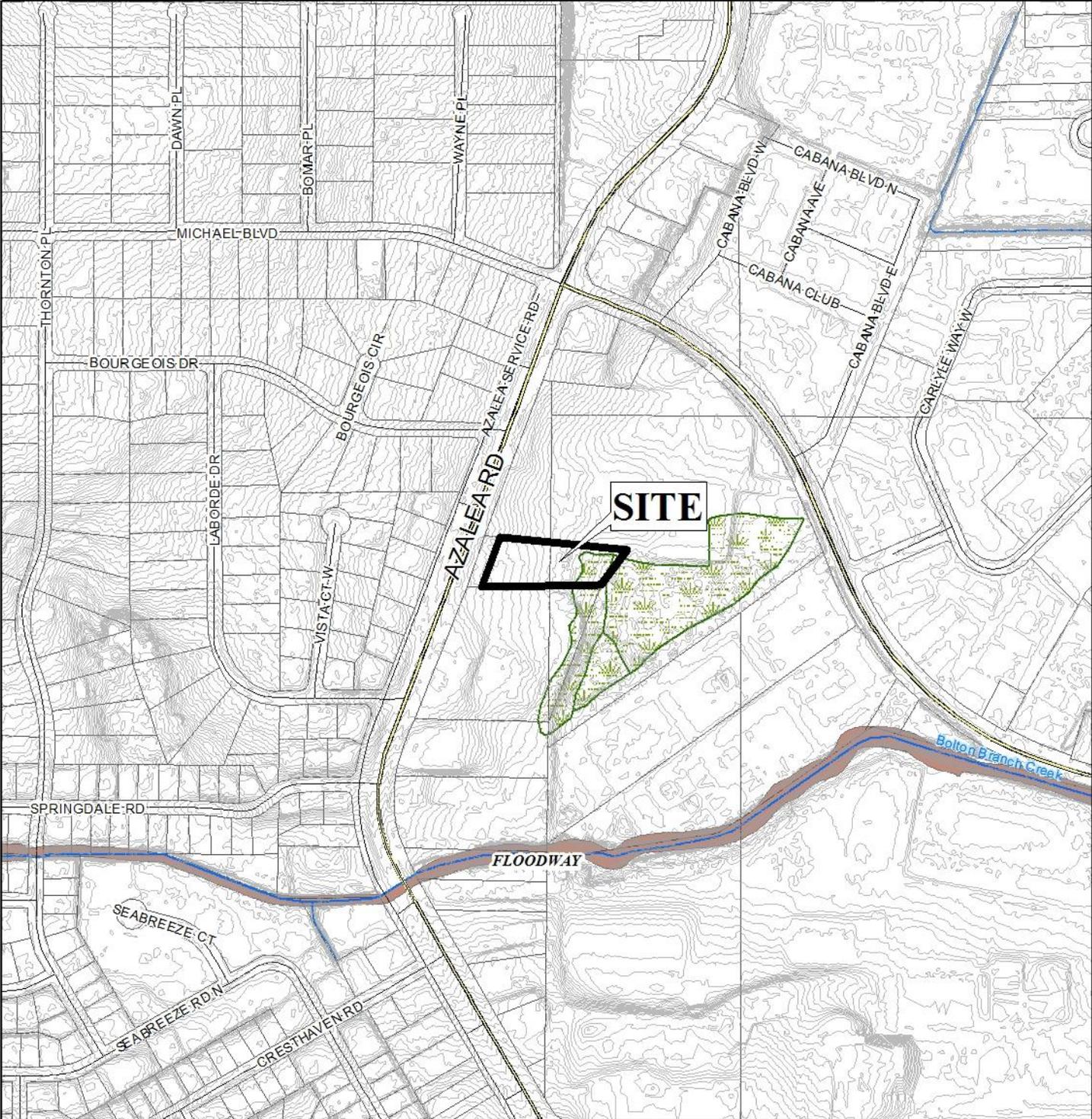


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 REQUEST Height, Setback, Residential Buffer, and Landscape Variances

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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 | |



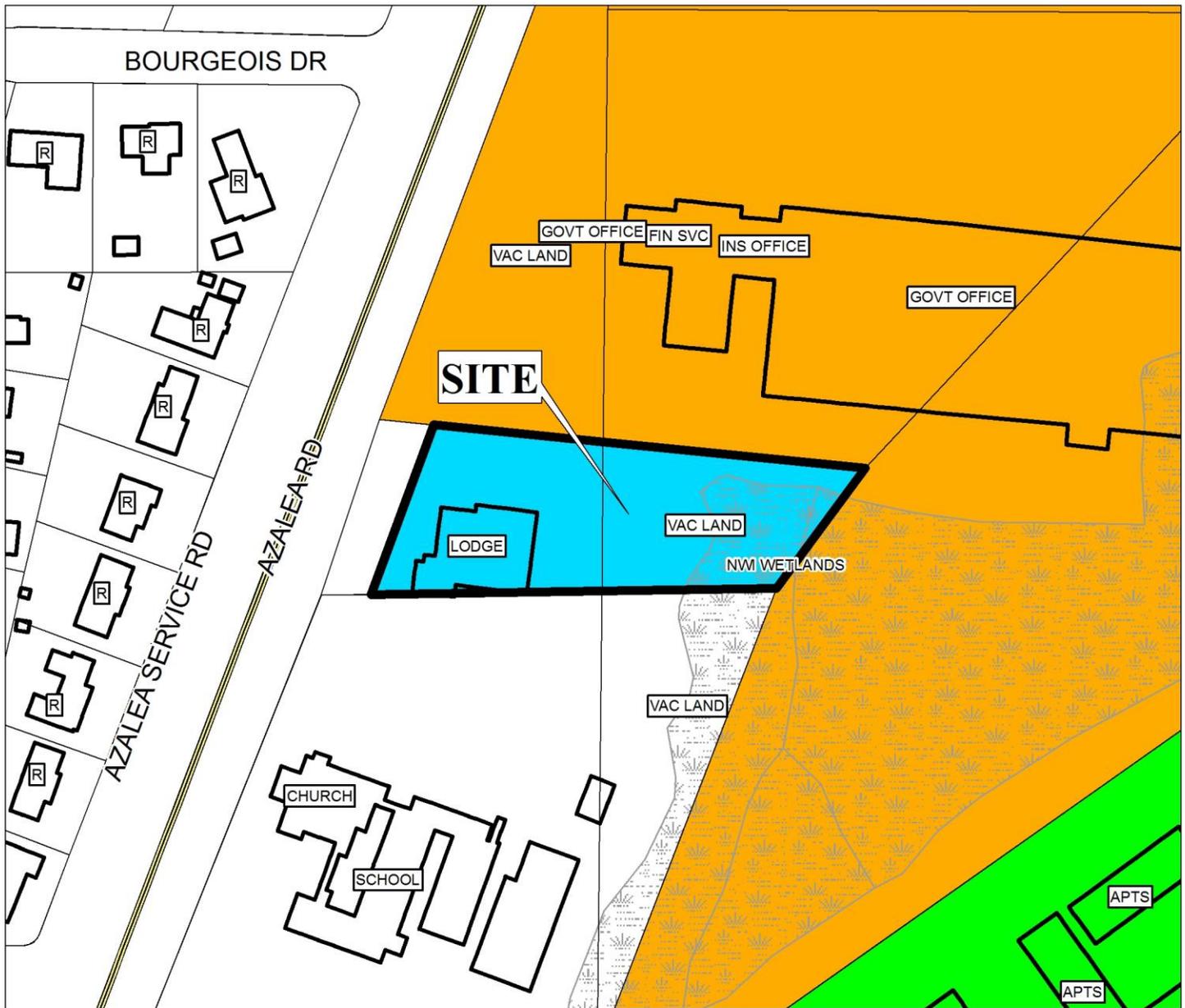
ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER	6250	DATE	May 6, 2019
APPLICANT	Eco-Site II, LLC		
REQUEST	Height, Setback, Residential Buffer, and Landscape Variances		

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential and commercial units.

APPLICATION NUMBER 6250 DATE May 6, 2019
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 REQUEST Height, Setback, Residential Buffer, and Landscape Variances

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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

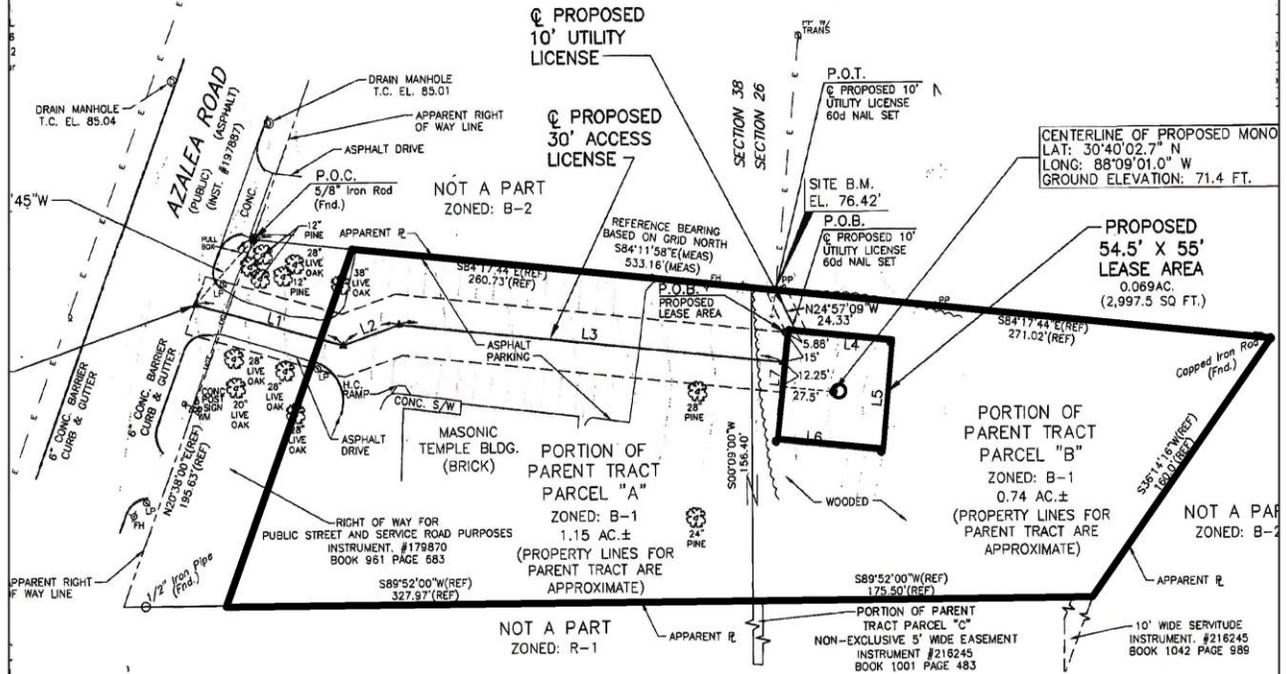


The site is surrounded by residential and commercial units.

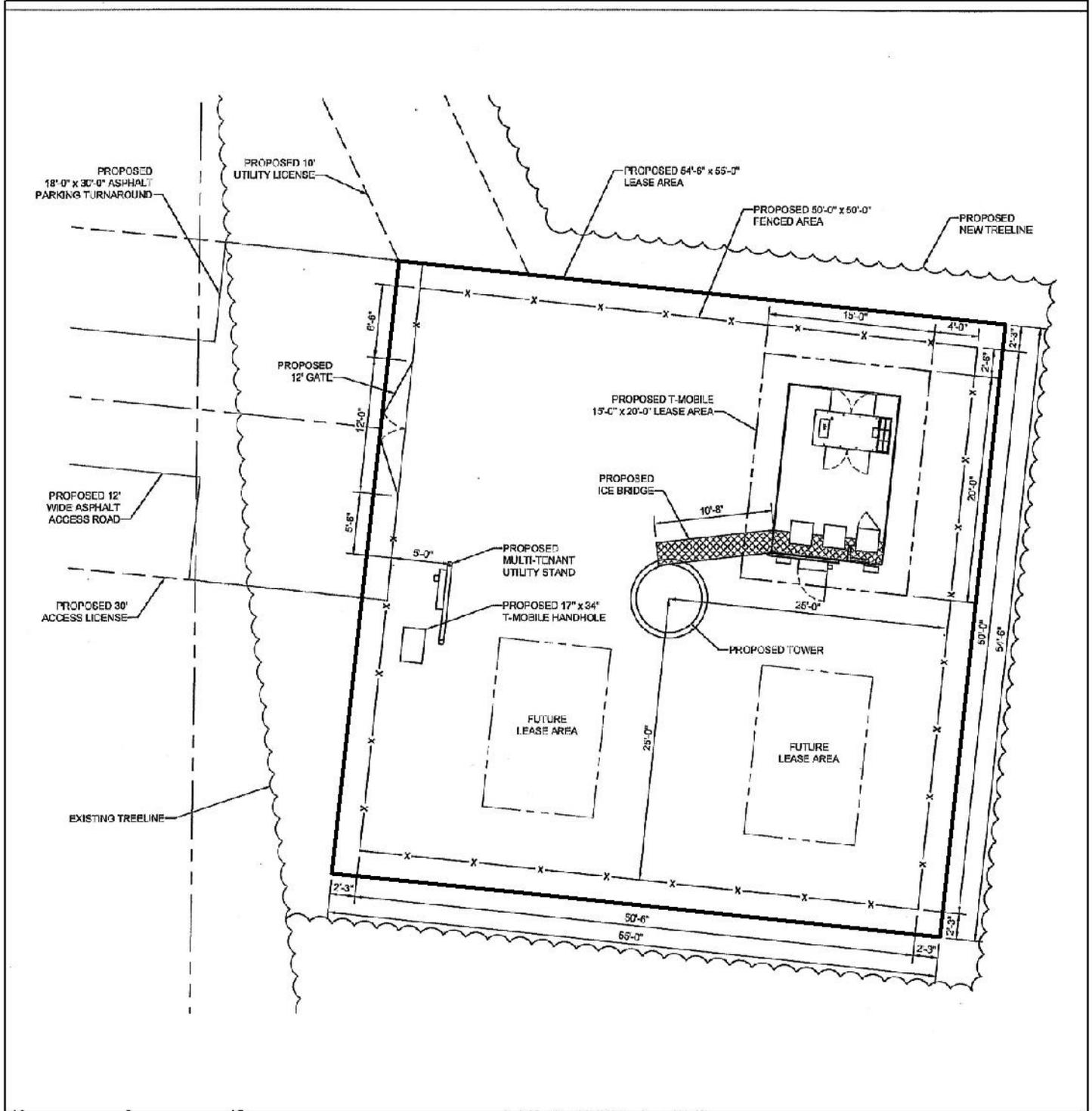
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SITE PLAN



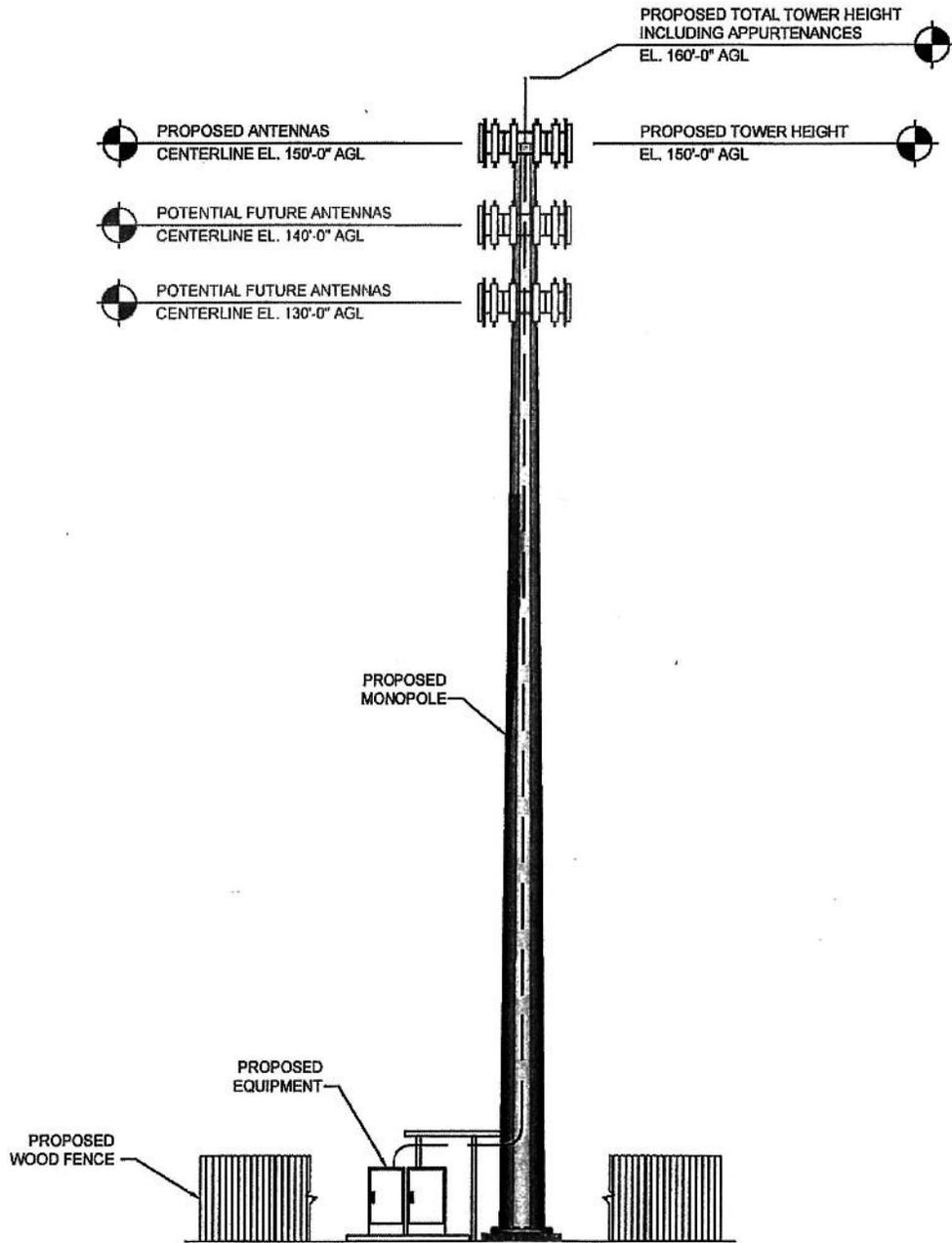
DETAIL SITE PLAN



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DETAIL SITE PLAN



1
C5
MONOPOLE TOWER ELEVATION
 NOT TO SCALE

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REQUEST Height, Setback, Residential Buffer, and Landscape Variances

