

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 1, 2020****CASE NUMBER**

6325

APPLICANT NAME

Branch Towers III, LLC

LOCATION

3170 Dauphin Street
(Northwest corner of Dauphin Street and Dauphin Square Connector).

VARIANCE REQUEST

HEIGHT: Height Variance to allow a 150' high monopole telecommunications tower in a B-3, Community Business District.

SETBACK: Setback Variance to allow the tower to be setback 27' from the lease parcel line.

**ZONING ORDINANCE
REQUIREMENT**

HEIGHT: The Zoning Ordinance limits structures to a maximum height of 45' in a B-3, Community Business District.

SETBACK: The Zoning Ordinance requires telecommunications towers must be setback at least the tower height in a B-3, Community Business District.

ZONING

B-3, Community Business

AREA OF PROPERTY

6.5± Acres

**CITY COUNCIL
DISTRICT**

District 1

**ENGINEERING
COMMENTS**

Please attach the following CONDITIONS to any approval:

1. Submit and receive a Land Disturbance Permit for the proposed site development.
2. Submit a ROW Permit (City of Mobile) for any work within the public ROW. Aggregate surfacing is NOT allowed within the public ROW; only pavement will be allowed.

**TRAFFIC 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.

FIRE DEPARTMENT**COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code).

ANALYSIS

The applicant is requesting Height and Setback Variances to allow a 150' monopole telecommunications tower setback 27' from the lease parcel line in a B-3, Community Business District; the Zoning Ordinance limits structures to a maximum height of 45', and telecommunications towers must be setback at least the tower height in a B-3, Community Business District.

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 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.

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 also submitted a Planning Approval request to allow the proposed tower in a B-3 District, which is scheduled to be heard at the June 4th Planning Commission meeting. If the variance requests are approved, they should be subject to the approval of the Planning Approval request.

The subject site is bordered by B-3 to the East, North and West, and by B-2, Neighborhood Business, to the South across Dauphin Street, all in various commercial uses.

The applicant states:

DESCRIPTION OF IMPROVEMENTS: Existing improvements are commercial buildings and paved parking with access from Dauphin Street or Sage Avenue. The northeast corner of the parcel, where the proposed tower site will be, is vacant. Proposed improvements are a 150' monopole tower in a fenced compound; time schedule for development is immediately after city approvals and building permit.

VARIANCES: Height variance to allow 150' monopole; setback variance to allow 27' setback from lease parcel line. The height/setback situation occurred because of the necessary height of the structure required for the proposed use, but 54' x 54' lease area is plenty of area for required ground space for the proposed use; this property is different from other parcels because it was the best property where there was room and the owner was agreeable to lease.

It should be noted that the applicant had a similar request for a tower approximately 1/3 mile to the Southwest of the subject site approved by the Board at its July 2019 meeting. However, the

accompanying Planning Approval application while approved by the Planning Commission, was appealed to the City Council, which granted the appeal (thus denying the Planning Approval)

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.8. of the Zoning Ordinance and current building code as certified by a letter from a Professional Engineer licensed in the State of Alabama.

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 46' x 46' equipment compound provides ample area for the required ground space. The tower is proposed at the center of the 54' x 54' lease parcel placing it 27' 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 site plan indicates compliance with the requirement for paved access and parking for the tower compound. Also indicated is a compliant 8' high wooden privacy fence surrounding the tower facility with a 12' wide gated access at the Northwest corner of the compound. No barbed wire fencing is indicated on the site plan. However, a note should be placed on a revised site plan stating that, if barbed wire fencing is proposed, it must be approved by the Director of Build Mobile. A note on the site plan references a tower light beacon. Illumination is prohibited by Section 64-4.J.11. of the Zoning Ordinance unless required by the Federal Aviation Administration (FAA). Therefore, the applicant should either submit documentation verifying that a tower illumination beacon is required by the FAA, or a note should be placed on the site plan stating that no tower light beacon is allowed.

The site plan does not indicate any proposed landscaping or tree plantings. A 4' wide buffer surrounds the compound between the compound and the lease parcel line. As this buffer consists of 800 square feet, it satisfies the 12% landscape area (500 square feet) requirement. This buffer would also accommodate tree plantings as there are no structures within that area which would interfere with tree plantings. Therefore the site plan should be revised to provide compliant tree plantings around the compound. As the City is looking closely at the spacing of heritage overstory tree plantings to provide a more favorable growth space, tree selection and placement should be based upon the Right Tree/Right Place concept. Therefore, the applicant should coordinate with staff on the location of heritage trees and the possibility of reducing the number

of required trees with contributions to the Mobile Tree Commission for any reduction in required plantings.

The applicant has demonstrated that hardships may be imposed by a literal interpretation of the Zoning Ordinance with respect to the height limitations and lease parcel setback requirements for telecommunications towers and the Board should consider these requests for approval.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the **Height and Setback** Variance requests:

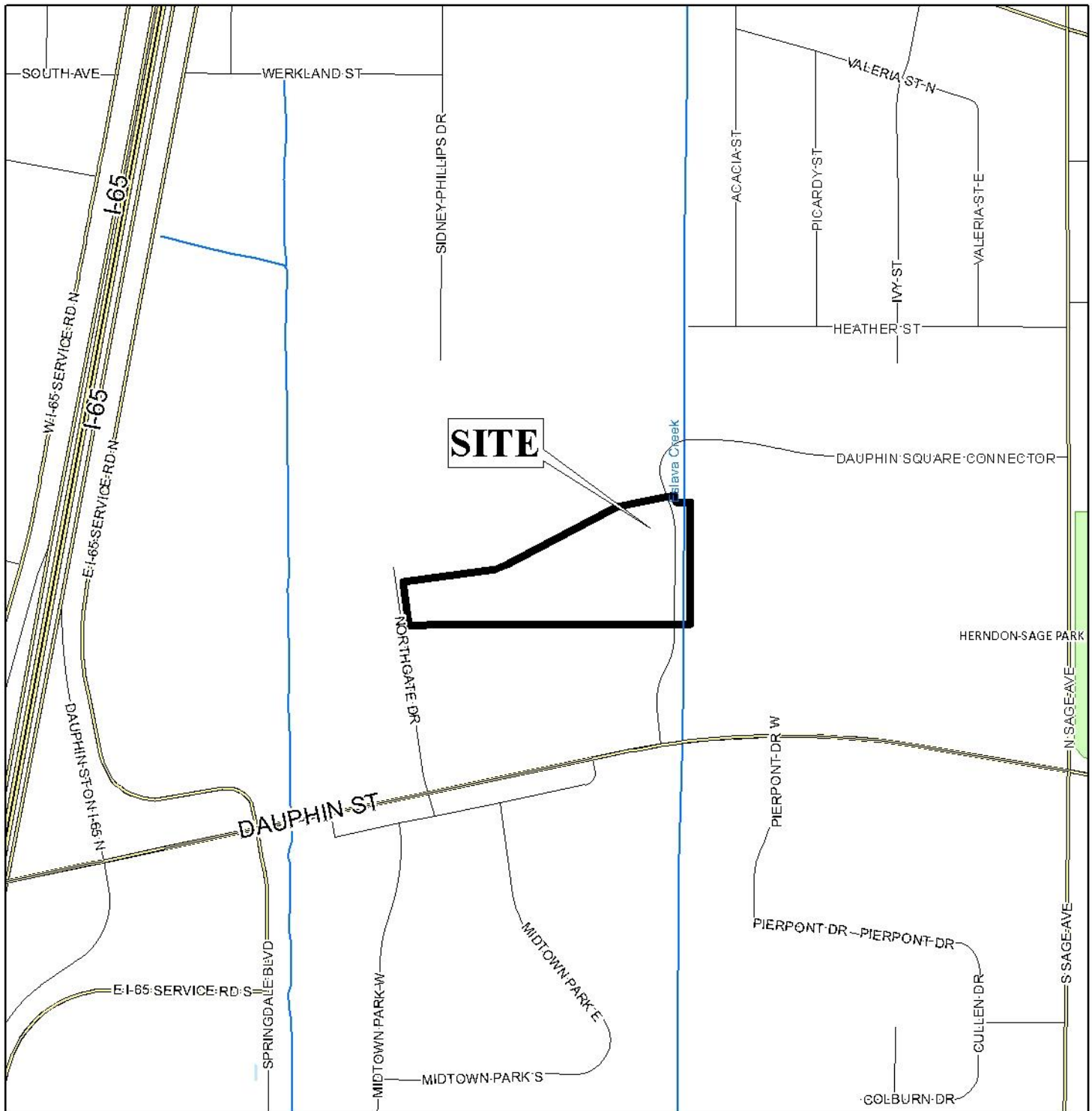
- 1) Based on the fact that site selection was limited by non-availability of other larger sites, the variances will not be contrary to the public interest;
- 2) Special conditions (no sites in the area allow a for a 150' high structure and the site is of limited space) exist such that a literal enforcement 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 and Setback 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';
- 2) placement of a note on a revised site plan stating that, if barbed wire fencing is proposed, it must be approved by the Director of Build Mobile;
- 3) submission of documentation verifying that a tower illumination beacon is required by the Federal Aviation Administration (FAA), or placement of a note on the site plan stating that no tower light beacon is allowed;
- 4) revision of the site plan to provide compliant tree plantings around the compound, to be coordinated with staff, and the possibility of reducing the number of required trees with contributions to the Mobile Tree Commission for any reduction in required plantings;
- 5) subject to the Engineering comments: *(Please attach the following CONDITIONS to any approval: 1. Submit and receive a Land Disturbance Permit for the proposed site development. 2. Submit a ROW Permit (City of Mobile) for any work within the public ROW. Aggregate surfacing is NOT allowed within the public ROW; only pavement will be allowed.);*
- 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 Fire Department comments: *(All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code).);*
- 8) subject to the approval by the Planning Commission of a Planning Approval to allow the tower in a B-3 District;

- 9) submittal to and approval by Planning and Zoning of a revised site plan prior to submittal for building permits; and
- 10) full compliance with all municipal codes and ordinances.

LOCATOR MAP



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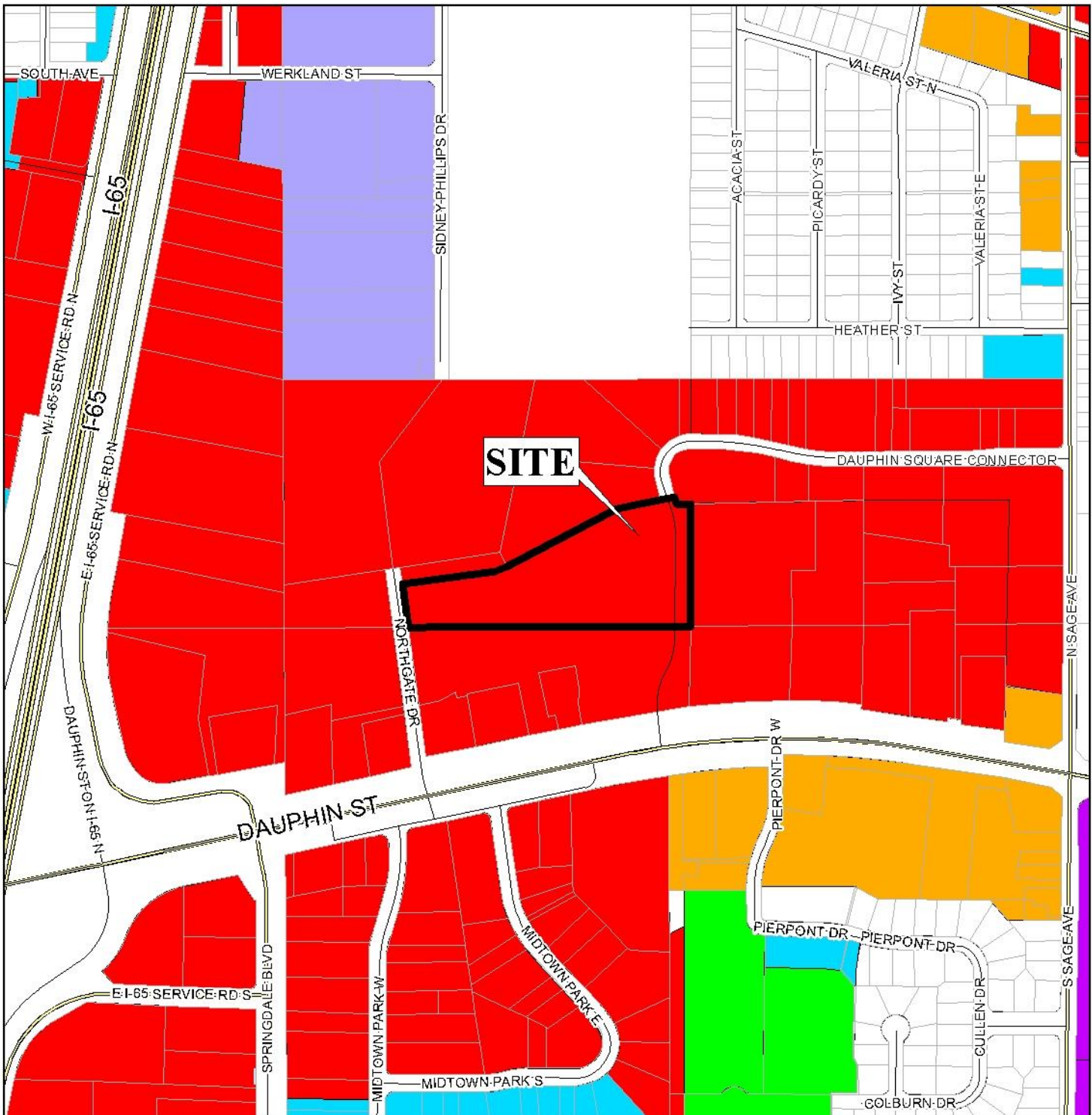
APPLICANT Branch Towers III LLC

REQUEST Height and Setback Variances



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LOCATOR ZONING MAP



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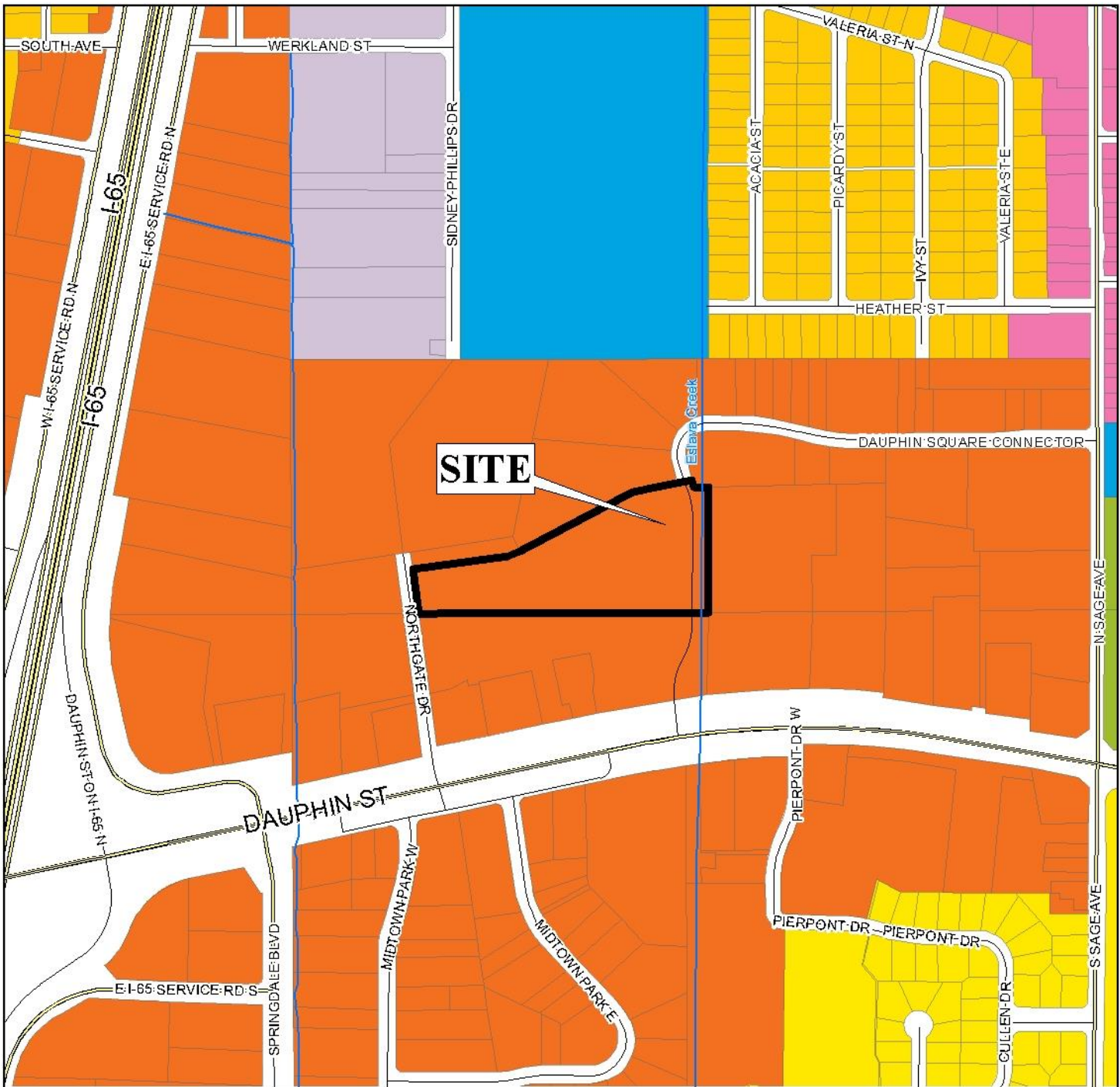
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REQUEST Height and Setback Variances



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FLUM LOCATOR MAP



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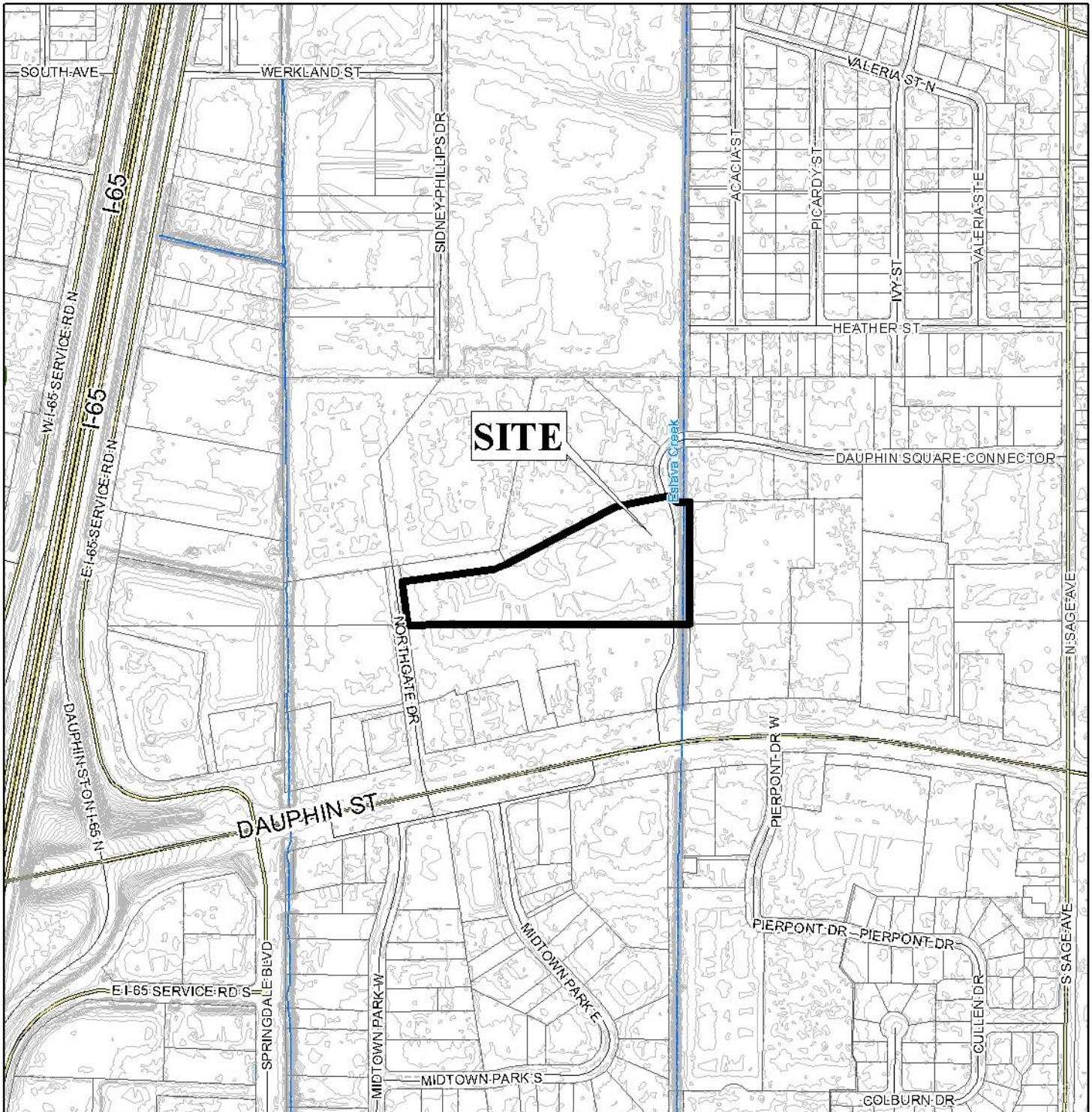
REQUEST Height and Setback Variances

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	



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ENVIRONMENTAL LOCATOR MAP



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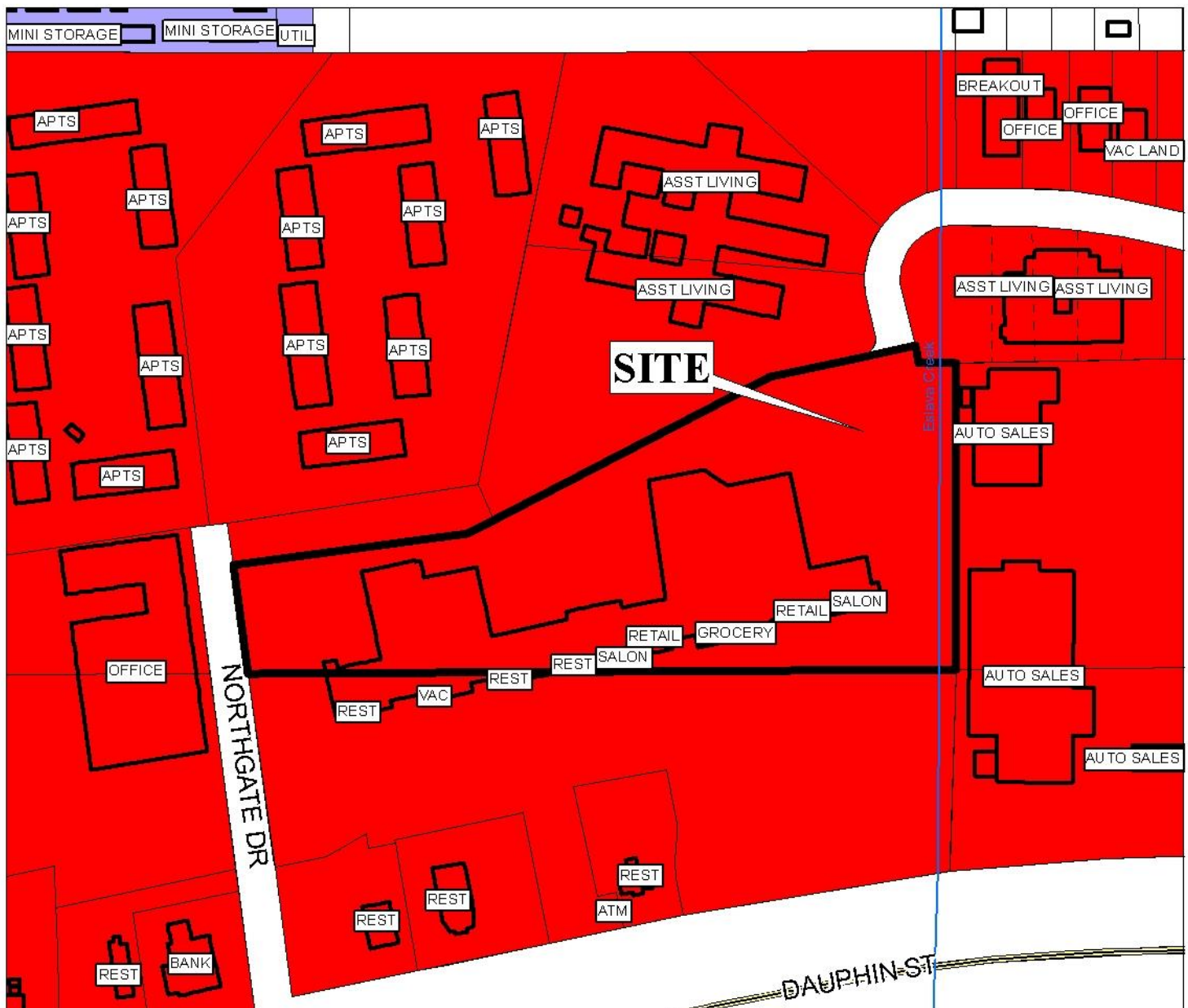
APPLICANT Branch Towers III LLC

REQUEST Height and Setback Variances



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the north,
and commercial units to the south and east.

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REQUEST Height and Setback 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 units to the north,
and commercial units to the south and east.

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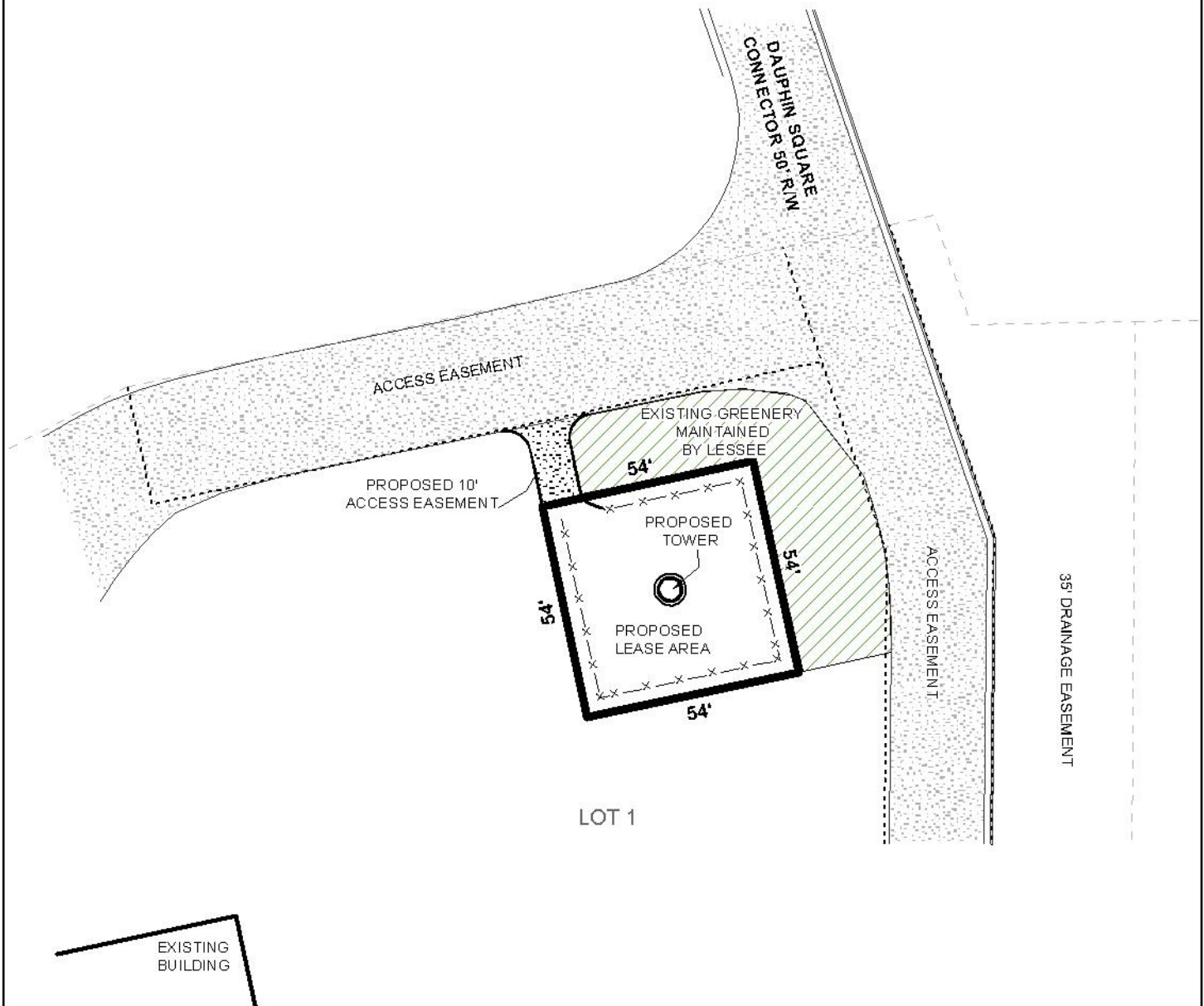
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SITE PLAN



The site plan illustrates proposed and existing easements, proposed lease area and proposed tower.

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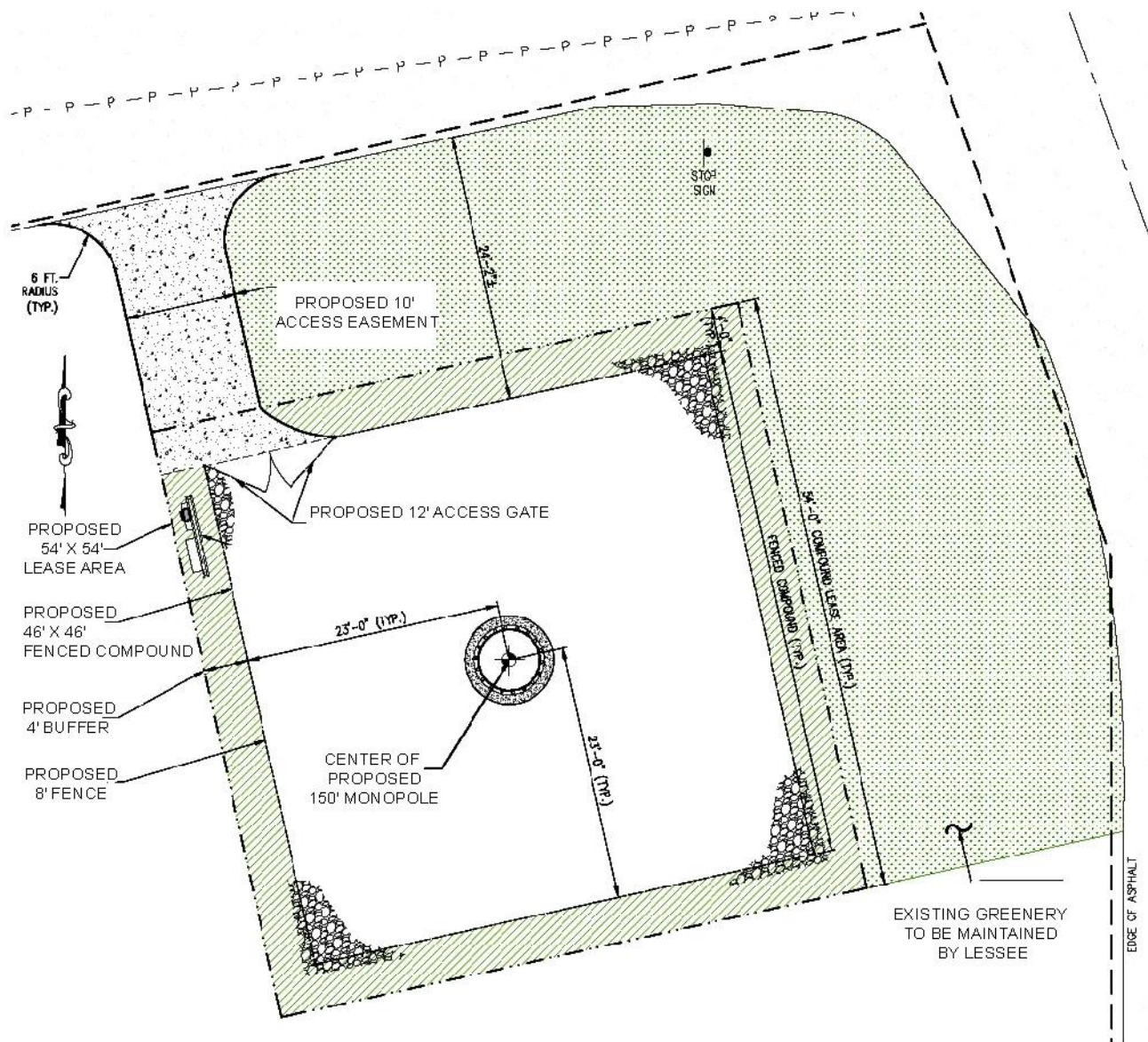
APPLICANT Branch Towers III LLC

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DETAIL SITE PLAN



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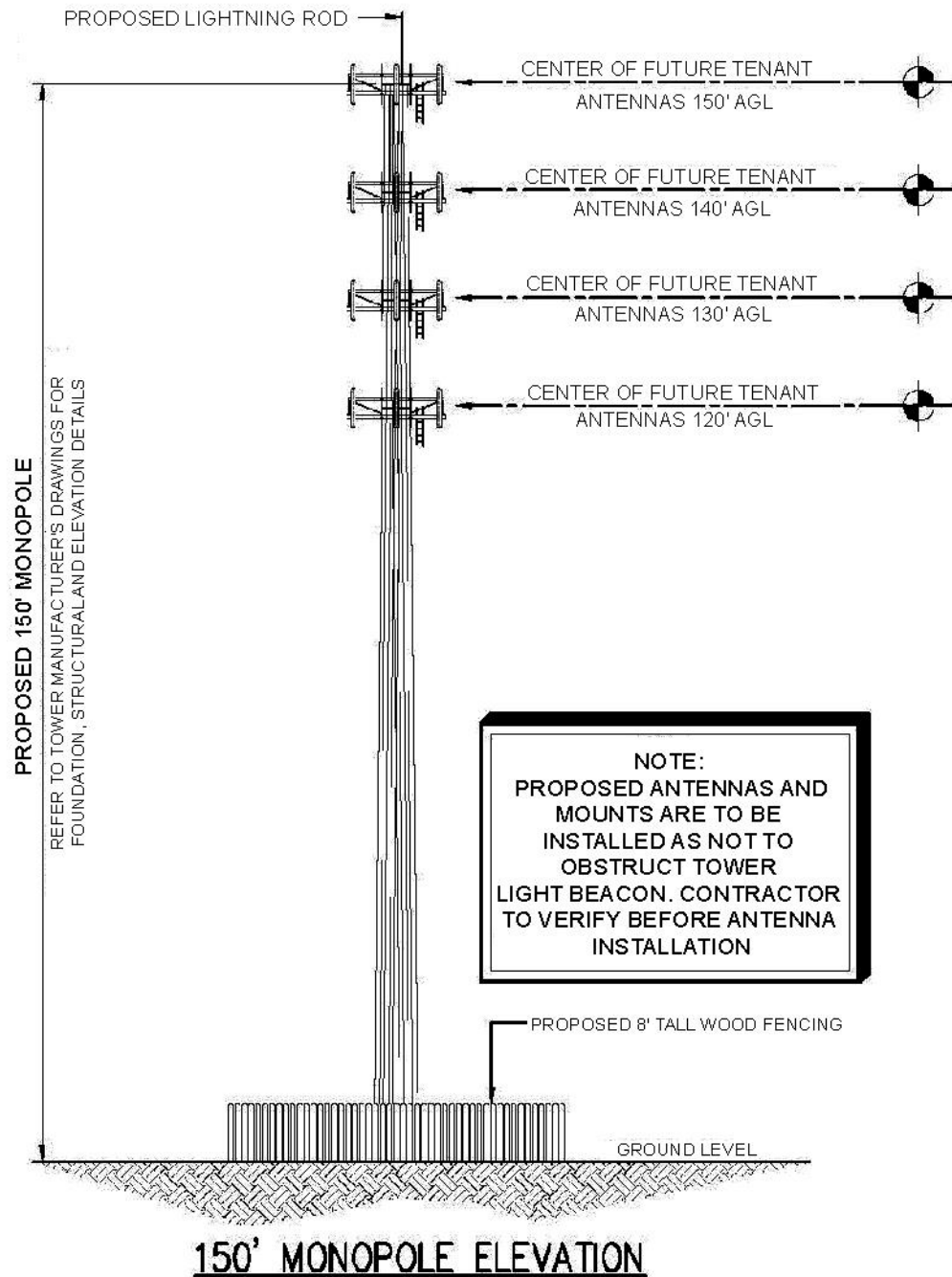
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DETAIL SITE PLAN



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