

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 10, 2018****CASE NUMBER**

6205

APPLICANT NAME

Branch Towers III, LLC

LOCATION2500 Burden Lane
(West terminus of Burden Lane)**VARIANCE REQUEST****SURFACING:** Surfacing Variance to allow aggregate surfacing in an I-1, Light Industry District.**ZONING ORDINANCE
REQUIREMENT****SURFACING:** The Zoning Ordinance requires all roads and parking areas to be surfaced in asphalt, concrete, or an approved alternative paving surface in an I-1, Light Industry District.**ZONING**

I-1, Light Industry

AREA OF PROPERTY

22± Acres

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**ENGINEERING
COMMENTS**

If the aggregate surfacing is approved for use the applicant will need to have the following conditions met:

1. The proposed improvements will require a TIER 2 Land Disturbance Permit, submitted through Central Permitting.
2. Designated handicapped accessible spaces and routes must be paved (i.e. concrete, asphalt).

**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).

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).

CITY COUNCIL**DISTRICT**

District 1

ANALYSIS

The applicant is requesting a Surfacing Variance to allow aggregate surfacing for an access road and parking lot for a proposed telecommunications tower in an I-1, Light Industry District. The Zoning Ordinance requires all roads and parking areas to be surfaced in asphalt, concrete, or an approved alternative paving surface in an I-1, Light Industry District.

The applicant proposes to construct a 150' monopole telecommunications tower on the subject site. As telecommunications towers are allowed up to 180' by right in an I-1 District, no Height Variance is required. In I-1 districts, towers do not require Lease Parcel Setbacks as the setback requirement is equal to the underlying district setback, which is currently zero. And as there are no residentially zoned properties within 150% (225') of the height of the tower, no Residential Buffer Separation Variance is required. Also, no Landscaping or Tree Planting Variance is required as the site is zoned I-1 and does not require landscaping or trees on the site. However, as the applicant proposes no paved access to or parking for the tower site, a Surfacing Variance would be required to allow such; hence this application.

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 Parks and Open Space 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 applies to parkland maintained in a natural, semi-natural state, or developed with facilities and set aside for human

enjoyment and recreation or for the protection of wildlife or natural habitats. Parks may include squares, playgrounds, playfields, gardens, greens, greenways and blueways, and other recreational areas and facilities that are accessible to the public. Open space may include any open piece of land, publicly or privately held, that is undeveloped (has no buildings or other built structures). This designation is not intended to identify public land acquisition or to prohibit the development potential of individual properties.

The designation applies to all existing and future parks and open space within the City, including both active and passive uses. Open space, including public access to water bodies, is generally consistent with all other land use categories, i.e., a park can be located within any other land use category, either incidental to a development or as part of a publicly-owned or publicly-sponsored local, community or regional park. Therefore, a Parks and Open Space designation is deemed consistent with all land use categories in the Future Land Use Map.

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:

IMPROVEMENTS: *The property is vacant with no improvements; proposed improvements are a 150' tapered tubular steel monopole with lightning rod, and 50' x 50' graveled compound with one parking space and lease area for T-Mobile's equipment; there is plenty of room in the compound for 2 other tenants. Time schedule for development is as soon as possible after all necessary approvals.*

VARIANCE: *To allow gravel access road, parking and turnaround. Most of the proposed access road is an existing, well-established rock road. In order to comply with the ordinance we would have to remove the existing road and replace it with an impervious road. The total impervious surface would be approximately 630' long x 12' wide (7,560 SF). Also, part of the existing road crosses wetlands. If we make an impervious road across the wetlands, we would have to get a permit from the US Army Corps of Engineers and one of the conditions of the permit would be that asphalt couldn't be used.*

This situation occurred because the existing road is the only practical access to the parcel. It is a well-established road as it was used for many years to access the Smith Kelly concrete beam-forming site. The existing road is the only access to the property because there is a large ditch on the east boundary of the parcel and Three Mile Creek is the south boundary of the parcel.

This property and surrounding area has a lot of wetlands and flood hazard zones. The access road variance will greatly reduce storm water runoff into the wetlands and flood prone area. Attached is the U.S. Fish and Wildlife Service Wetlands map, the FEMA Flood Map and a City of Mobile map which is a composite of both the wetlands and flood map.

As stated by the applicant, the site was used in the past as a concrete beam forming facility but that facility is no longer in operation and all structures are now removed from the site. However, the gravel surface road which once extended from near the West terminus of Burden Lane to the facility still exists. It should be noted that the pavement on Burden Lane appears to stop short of its actual West terminus and slightly East of the abandoned railroad right-of-way. Therefore, the subject road does not actually extend to the paved public right-of-way. The road crosses the Northern portion of the parcel on which the tower lease area is proposed and onto the adjacent parcel to the West. This area is identified as wetlands on the GIS database.

The applicant has demonstrated that a hardship may be imposed by a literal interpretation of the Zoning Ordinance with respect to the surfacing requirement of providing a paved access road to the site as the U.S. Army Corps of Engineers will not allow such crossing the wetlands area. That fact, combined with the fact that the existing gravel road does not extend to the paved public right-of-way at the West terminus of Burden Lane, and the fact that this area was once used in an I-2, Heavy Industry capacity, would seem to justify the granting of the Surfacing Variance request.

It should also be noted that the Fire Department does not require paved access to cellular communications tower sites as they are not considered habitable.

Various legal descriptions and deeds have been presented to staff for the parcels involved with the subject site. Staff has concerns that a one- or two-lot Subdivision and/or a Planned Unit Development for shared access across adjacent property may be required. However, this should not impact the Board making a decision on the Surfacing Variance request. As staff has not had sufficient time to review all legal descriptions and deeds provided, and if the Board approves the Variance request, a condition of approval should be coordination with the Planning and Zoning staff on any required Subdivision and/or Planned Unit Development applications required.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the **Surfacing** Variance request:

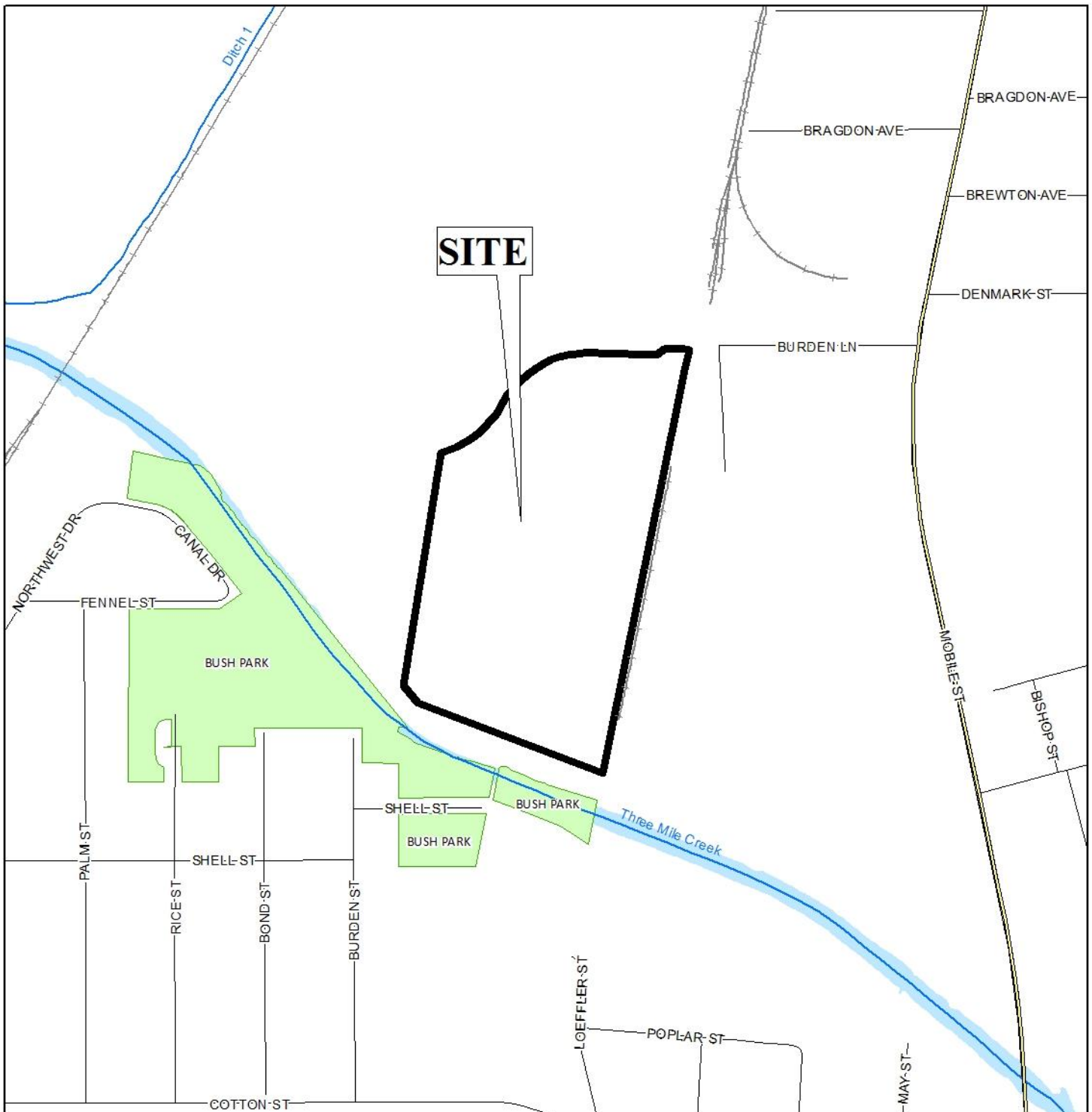
- 1) Based on the fact that the site was previously used in an I-2, Heavy Industry capacity with unpaved internal roads, the variance will not be contrary to the public interest;
- 2) These special conditions (the U.S. Army Corps of Engineers will not allow asphalt paving within the wetlands area) exist 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 the pavement within the Burden Lane public right-of-way does not extend to the existing gravel road.

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

- 1) full compliance with all municipal codes and ordinances; and
- 2) coordination with the Planning and Zoning staff for any possible applications which may be required to be submitted to the Planning Commission.

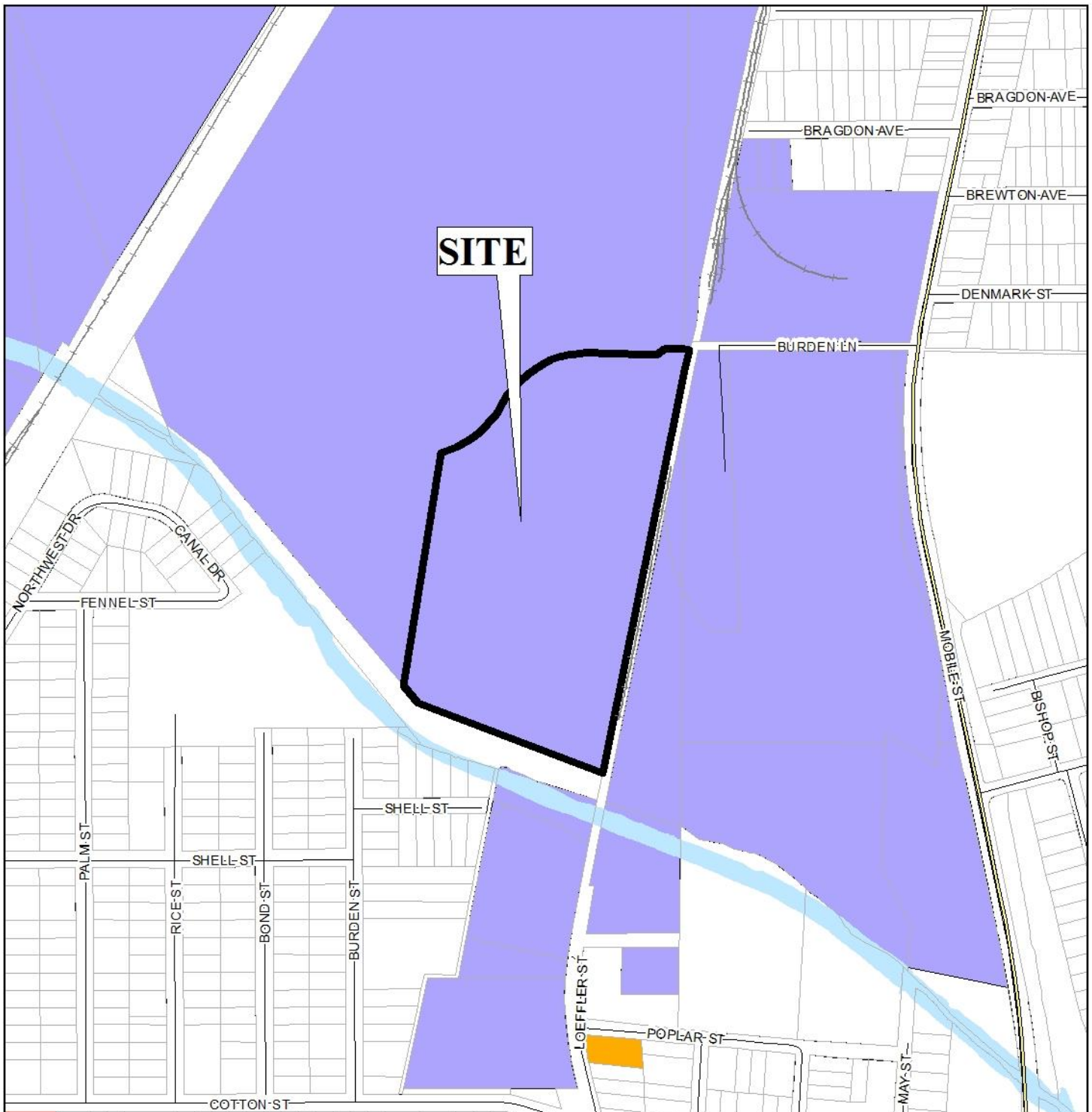
LOCATOR MAP



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LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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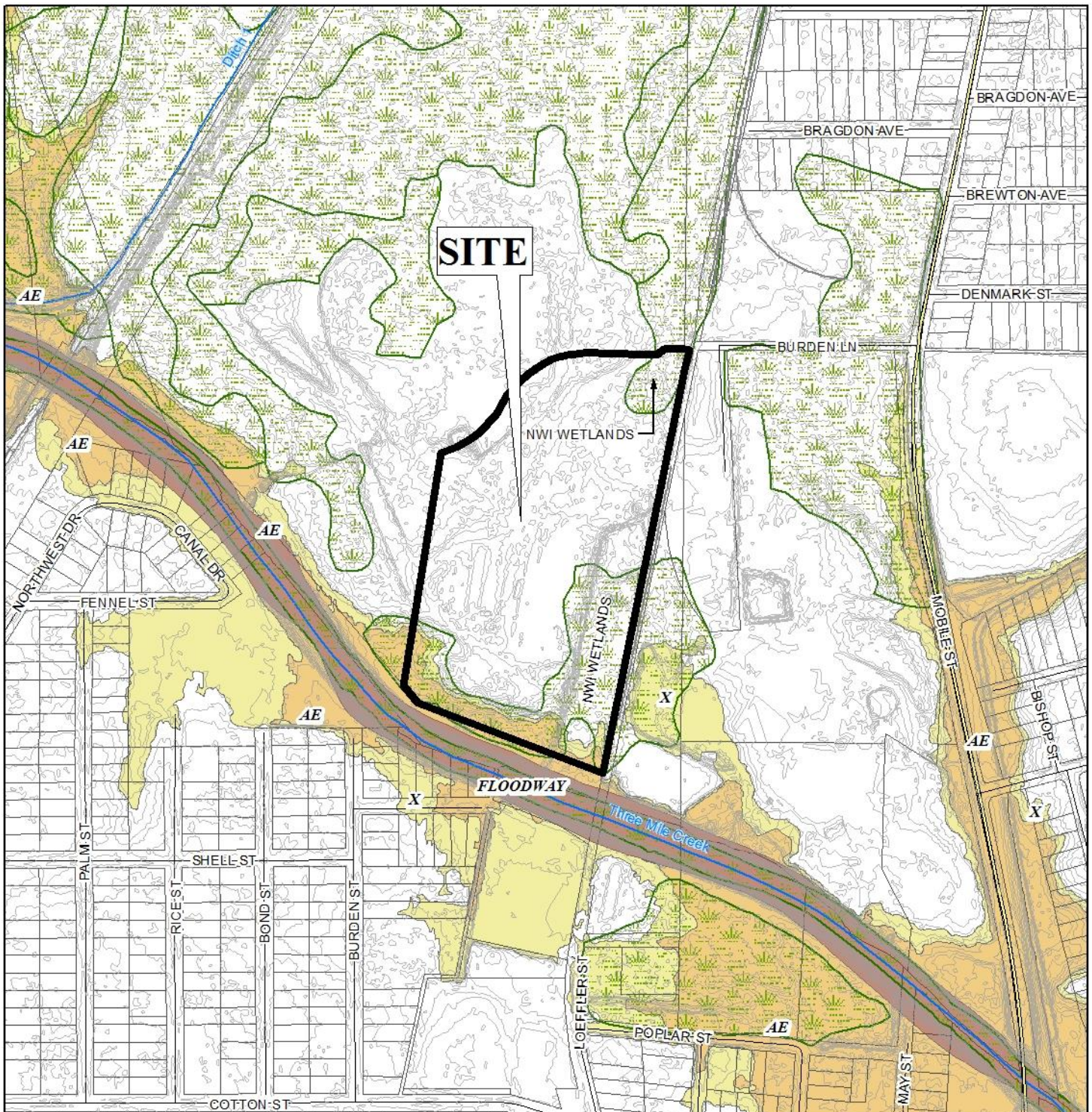
APPLICANT Branch Towers III, LLC

REQUEST Surfacing 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	



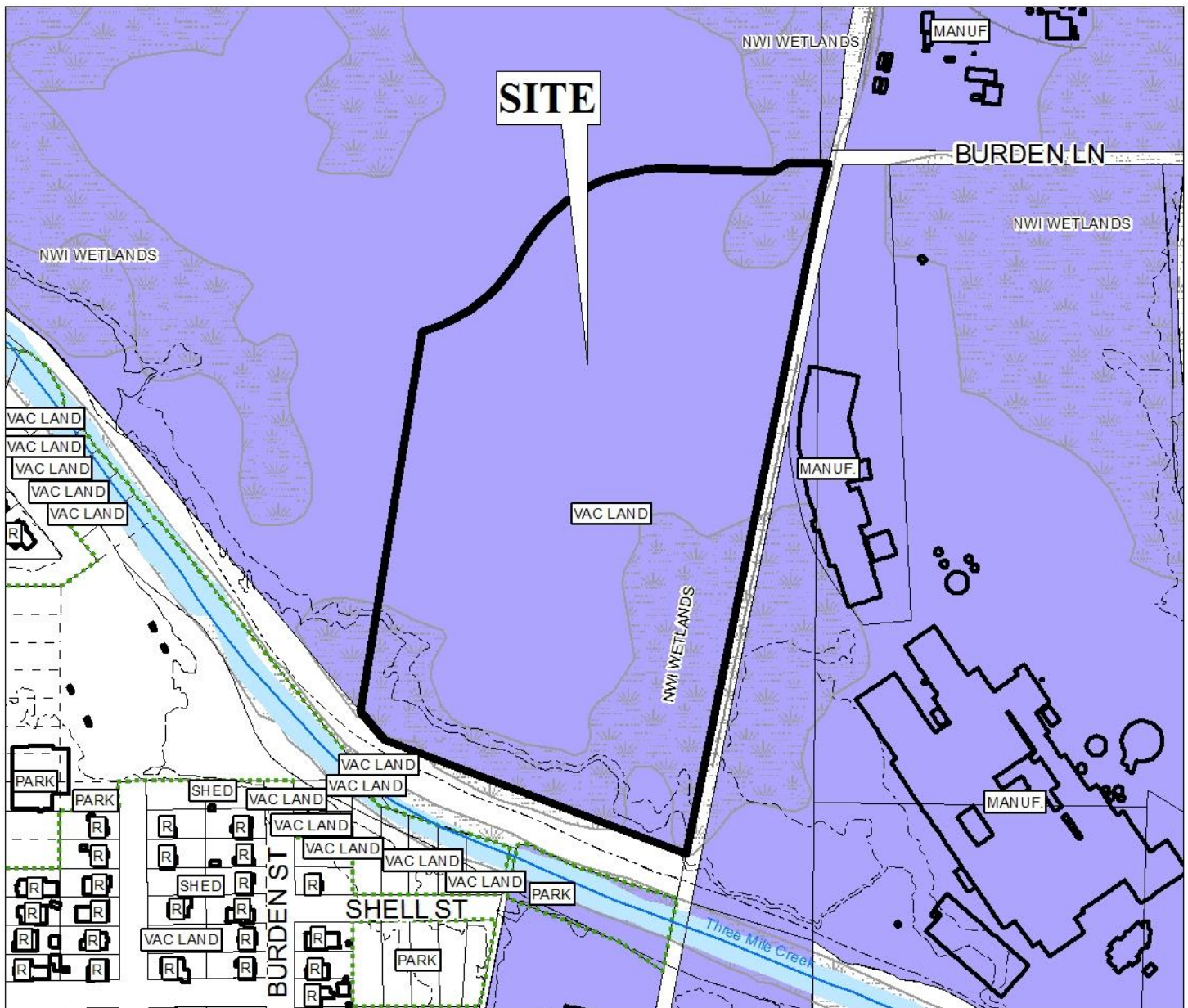
ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the southwest and industrial units to the east.

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REQUEST Surfacing 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



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING AERIAL

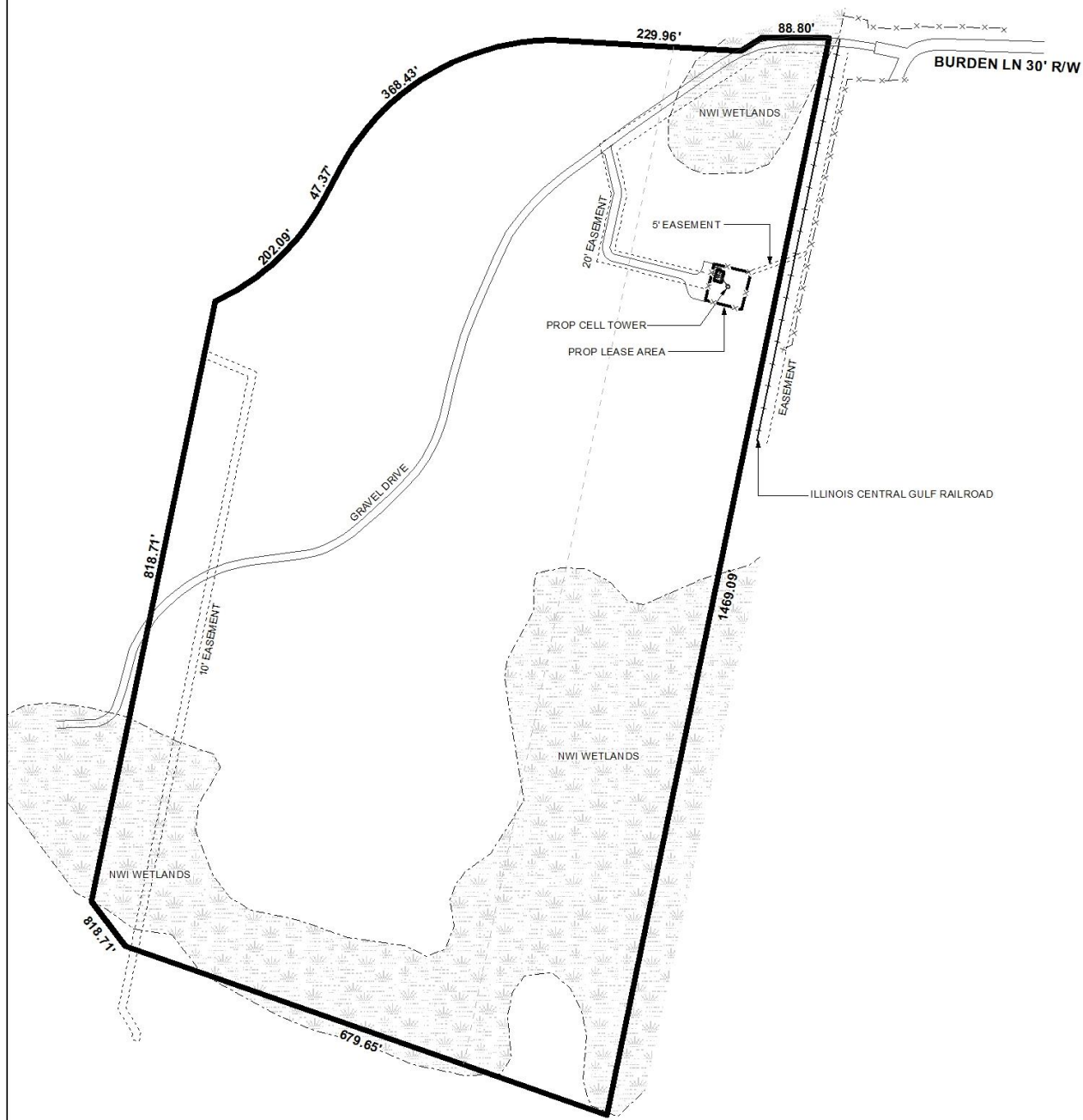


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SITE PLAN



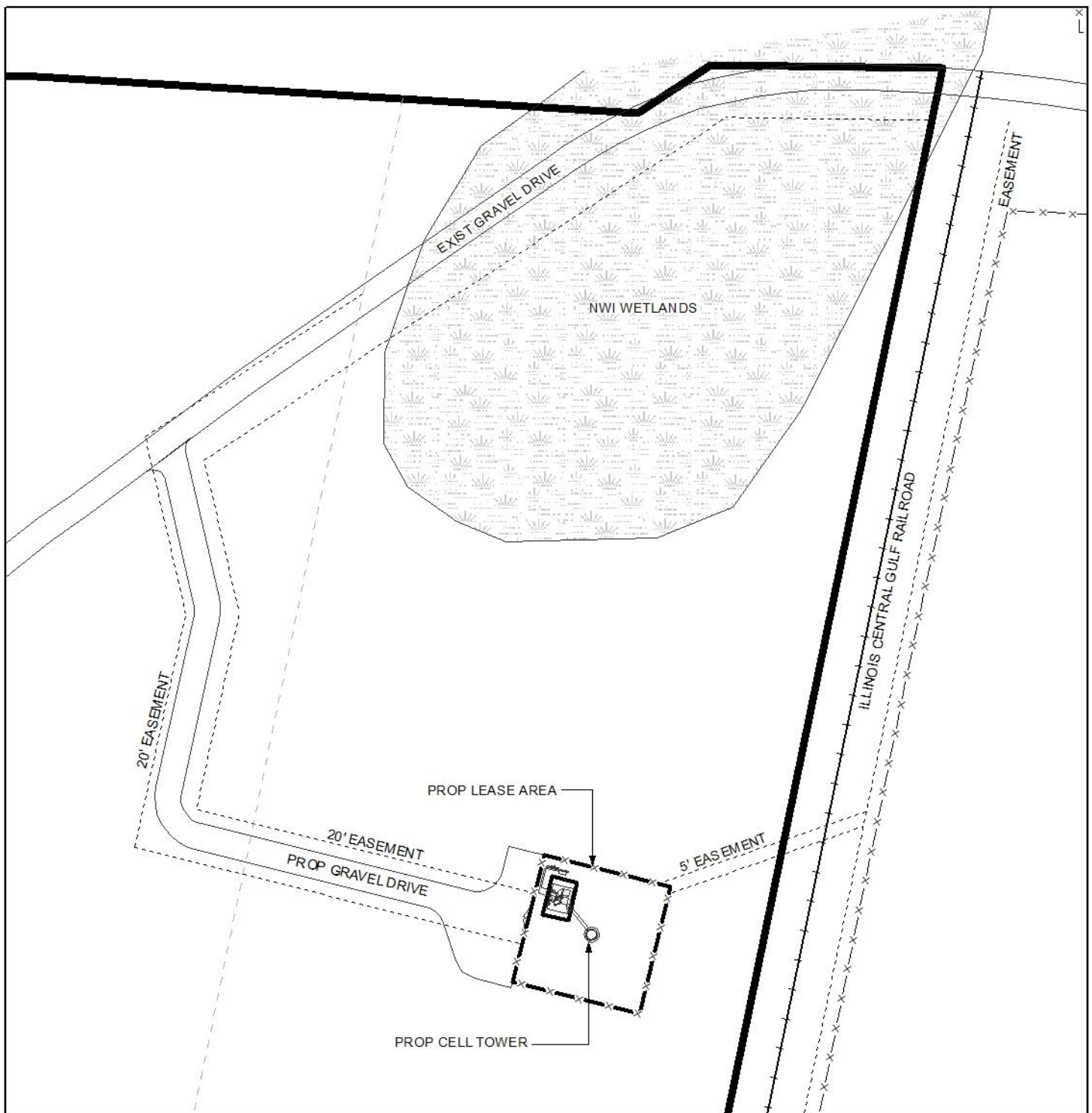
The site plan illustrates the drive, easements, and proposed cell tower location.

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NTS

DETAIL SITE PLAN



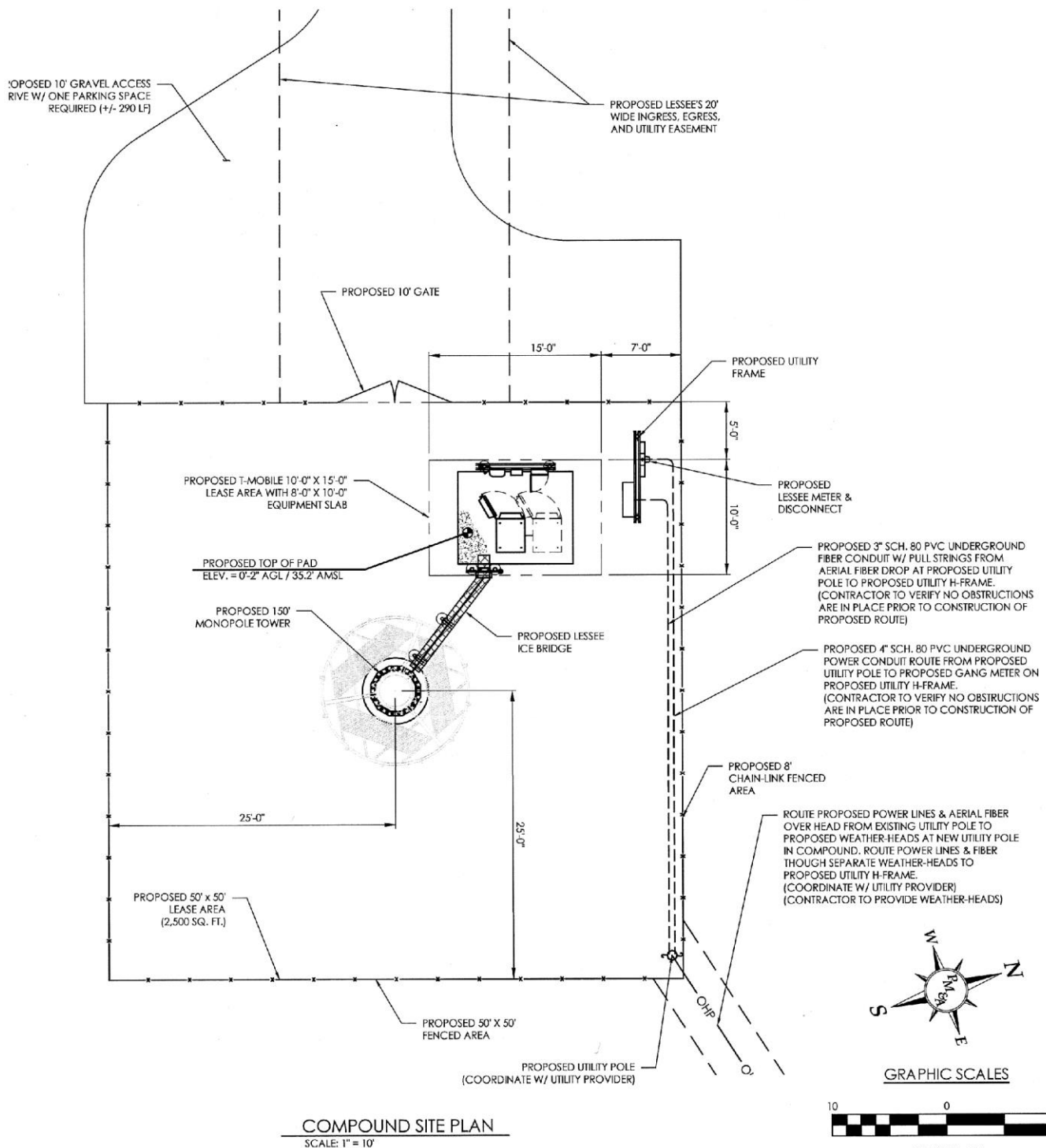
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DETAIL SITE PLAN



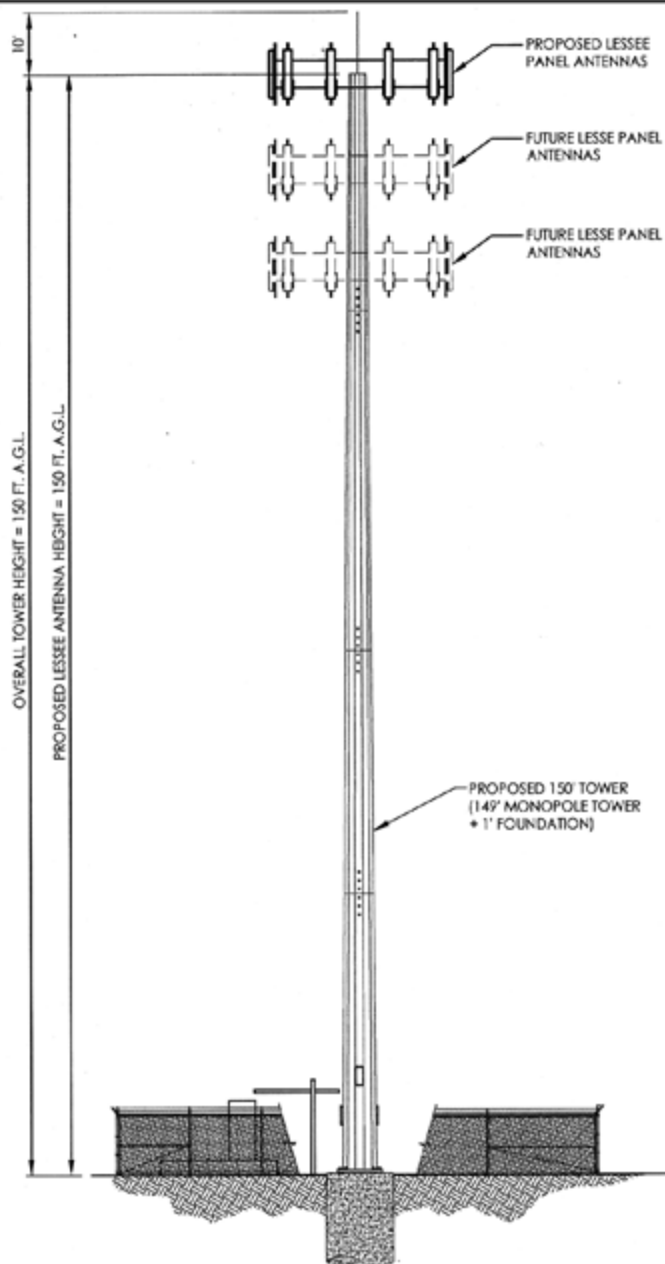
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DETAIL SITE PLAN



NOTES:

1. TOWER ELEVATION SHOWN IS NOT DRAWN TO SCALE AND IS INTENDED ONLY FOR REFERENCE PURPOSES. REFER TO ORIGINAL TOWER DESIGN FOR ADDITIONAL INFORMATION.

TOWER ELEVATION
NOT TO SCALE

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