

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: August 1, 2016****CASE NUMBER**

6053

**APPLICANT NAME**

Eco-Site (Baker Donelson/Mary Palmer, Agent)

**LOCATION**2617 Dauphin Street  
(Southeast corner of Dauphin Street and the CSX Railroad  
right-of-way)**VARIANCE REQUEST****HEIGHT:** Height Variance to allow a 185' monopole telecommunications tower in a B-3, Community Business District.**SETBACK:** Setback Variance to allow the tower within 17.0' of the lease parcel line.**RESIDENTIAL BUFFER SEPARATION:** Residential Buffer Separation Variance to allow the tower within 34.0' of residentially zoned property.**LANDSCAPING:** Landscaping Variance to allow no site landscaping.**TREE PLANTING:** Tree Planting Variance to allow no tree plantings.**CAMOUFLAGE:** Camouflage Variance to allow no camouflage details on the tower.**ZONING ORDINANCE  
REQUIREMENT****HEIGHT:** The Zoning Ordinance limits structures to a 45' height in a B-3, Community Business District.**SETBACK:** The Zoning Ordinance requires telecommunications towers to be setback the height of the tower (185') from the lease parcel line.**RESIDENTIAL BUFFER SEPARATION:** The Zoning Ordinance requires a residential buffer separation of 200' or 150% of the height of the tower, whichever is greater (277.5').

**LANDSCAPING:** The Zoning Ordinance requires 12% site landscaping for the tower lease parcel.

**TREE PLANTING:** The Zoning Ordinance requires one tree per every 30' of lease parcel perimeter.

**CAMOUFLAGE:** The Zoning Ordinance requires the tower to be of a camouflage design.

## **ZONING**

B-3, Community Business

## **AREA OF PROPERTY**

2,210 Square Feet / 0.05± 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).

## **CITY COUNCIL DISTRICT**

District 1

## **ANALYSIS**

The applicant is requesting Height, Setback, Residential Buffer Separation, Landscaping, Tree Planting and Camouflage Variances to allow a 185' monopole telecommunications tower setback 17.0' from a lease parcel line and 34.0' from residential zoned property, with no landscaping or tree planting provided, and without camouflage details in a B-3, Community Business District; the Zoning Ordinance limits structures to a 45' height, with telecommunications towers to be setback the height of the tower (185') from a lease parcel line, and with a residential buffer separation of 200' or 150% of the height of the tower, whichever is greater (277.5'), with 12% site landscaping and one tree per every 30' of lease parcel perimeter, in a B-3, Community Business District.

The applicant has also submitted a Planning Approval application to allow the proposed tower in a B-3 district, a two-lot Subdivision application to separate the lease parcel for the tower from the parent lot, and a Planned Unit Development (PUD) to allow shared access between the two proposed lots, scheduled to be heard at the August 4<sup>th</sup> Planning Commission meeting. If the variance requests are approved, they should be subject to the approval of those three requests.

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.

It should be noted that T-Mobile had antennas located at approximately 180’ atop the water tank at the GAF Building Materials Corporation facility about 1,300’ Southeast of the proposed location. The owners informed the applicant that the water tank is scheduled for demolition and the antennas would have to be removed on or before July 15<sup>th</sup> of this year. The property owner was not interested in leasing another area at that site for a cell tower and there are no alternatively suitable structures in the surrounding area upon which to collocate. The applicant proposes to construct a 185’ high monopole tower (with a 10’ lightning rod atop) and lease space to T-Mobile and other carriers; hence, this application to allow relief from certain aspects of the site plan for the tower in the proposed location.

Concerning the Height Variance request, as required by Section 64-4.J.4.4 of the Zoning Ordinance, the applicant has submitted written, technical evidence from an engineer that the proposed Tower or Telecommunications Facilities cannot be installed or collocated on another tower or usable Antennae Support Structure in order to meet the coverage requirements of the applicant’s wireless communications system. 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, and the site plan and tower elevation design indicate space to accommodate equipment and antennas for at least two additional cellular 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 meeting the Zoning Ordinance requirements for the tower height presents an unnecessary hardship that is neither economic in nature nor self-imposed. There were no alternative suitable structures within the area upon which to collocate and the only option is to build a new cell tower facility. The radio signal emitting from the tower is a fixed technology dictated by physics, and the signal from each tower must work in tandem with the signal from other nearby towers. It is further stated that, in order to meet engineering requirements for this site and to continue to provide service similar to that

which has been provided from atop the water tank, the requested 185' tower height is required. In light of the technical data submitted and the illustration of a hardship imposed by other unsuitable sites, the height Variance request would seem reasonable.

With regard to the Setback and Residential Buffer requests, the applicant states that the requirement to meet the Zoning Ordinance provisions for setbacks and residential buffer present a specific unnecessary hardship due to the constraints of the small parcel and existing structures on the site. It is stated that neither of these hardships is economic in nature or self-imposed by the applicant. It should be noted that, although the property adjacent to the East of the site (for which the Residential Buffer request is required) is zoned R-1, Single-Family Residential, it has a long-standing nonconforming use history as a variety of commercial uses. No other residentially-zoned or residentially-used properties are located within the 277.5' residential buffer separation requirement. As the site is limited in area by surrounding properties, a hardship is illustrated in meeting the required lease parcel setbacks and the Setback Variance request would be justified. And as the technical data submitted supports the selection of this location for the proposed tower, and as a hardship in meeting the Residential Buffer Separation requirement is imposed by the site's location, and as the residentially-zoned property is actually in commercial use, the Residential Buffer Separation Variance would be justified.

The applicant's request for a Landscaping Variance would stand to reason given the tight constraints of the tower compound and its utilitarian nature. And as the compound fence is along the lease parcel line, no area remains for tree plantings. However, as the site is located within a commercial site developed according to the tree planting requirements of the Zoning Ordinance, and as two existing required trees are proposed to be removed, their removal will require a tree removal permit, and should be coordinated with Urban Forestry.

With regard to the Camouflage Variance request, the applicant states that the proposed location on the site best serves the need to provide the least visually obtrusive alternative. Based on the fact that the tower would be placed on a commercial site and surrounded by commercial uses, the Camouflage Variance request would seem justified.

The tower elevation drawing in the application indicates the actual tower height to be 185' but with the antennas extending to an unspecified height above that. The Telecommunications towers and facilities section of the Zoning Ordinance specifies that tower height is determined by the height of the tower structure itself, the base pad, and any other telecommunications facilities attached thereto, and measured from grade. Therefore, as the height requested is 185', the proposed antennas should be lowered so that no portion thereof extends above the 185' top-of-tower structure elevation. A revised tower elevation drawing should be submitted to Planning and Zoning illustrating such.

The site plan submitted indicates a 30' ingress/egress and utility easement via a paved parking lot to the tower compound. Also indicated is an 8' high wooden fence along the compound/lease parcel perimeter with a 6' chain link fence topped with barbed wire just inside the wooden fence. However, the applicant has submitted email correspondence indicating that the chain link and barbed wire fence will no longer be placed on the site. If the variances are approved, a revised

site plan indicating the removal of the chain link and barbed wire fence should be submitted to Planning and Zoning.

In light of the fact that the associated Planning Approval to allow the tower in the B-2 District, two-lot Subdivision and Planned Unit Development are scheduled to be heard by the Planning Commission at the August 4<sup>th</sup> meeting, and should the Commission deny the Planning Approval request, then the need for the requested variances would become a moot point.

It should be noted that the site plan references the railroad right-of-way bordering along the South side of the site as under CSX Railroad ownership. The Canadian National Railway (CN) currently operates along that line.

The applicant has demonstrated that hardships would be imposed by a literal interpretation of the Zoning Ordinance with respect to the variances requested and the Board should consider them for approval, subject to conditions.

**RECOMMENDATION:** Staff recommends to the Board the following findings of facts for approval:

- 1) Based on the fact that the site is located within an area surrounded by commercial uses, the variances will not be contrary to the public interest;
- 2) These special conditions (the site is of limited space and adjacent to commercial uses) 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, this application is recommended for approval, subject to the following conditions:

- 1) the tower is limited to a monopole design with an over-all structure height of 185' with a 10' lightning rod atop;
- 2) subject to the Planning Commission approval of the Planning Approval, Planned Unit Development and Subdivision applications for the proposed tower;
- 3) removal of the two trees to be permitted by and coordinated with Urban Forestry;
- 4) submission to Planning and Zoning of a revised tower elevation drawing to indicate no portion of the antennas extending above the 185' tower structure height;
- 5) submission to Planning and Zoning of a revised site plan indicating the removal of the chain link/barbed wire fence within the tower compound;
- 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) revision of the site plan, if required, to correct the ownership (CN Railway) of the railroad right-of-way along the South border of the site; and
- 8) full compliance with all municipal codes and ordinances.

# LOCATOR MAP

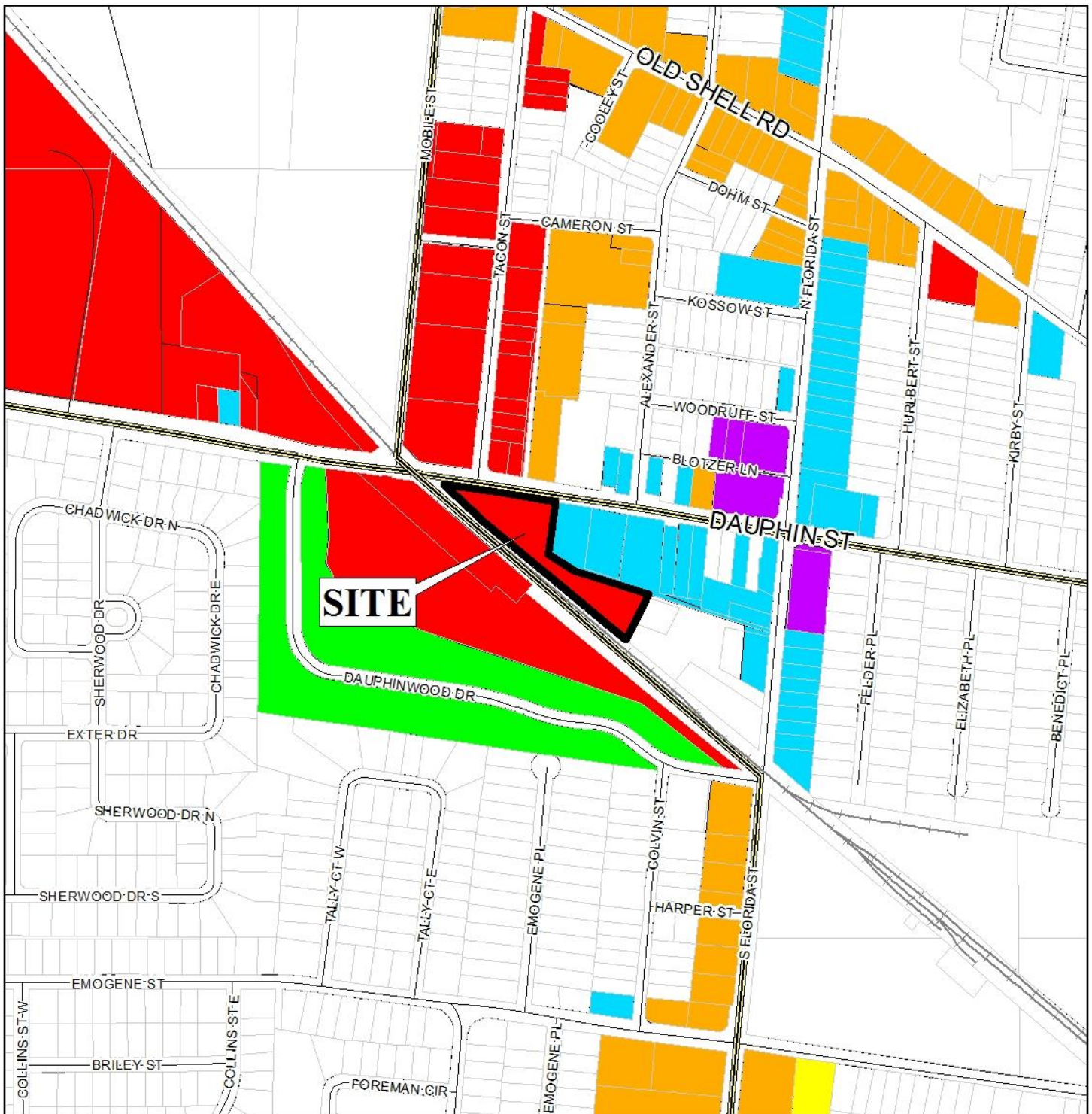


APPLICATION NUMBER 6053 DATE August 1, 2016  
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 REQUEST Height, Setback, Residential Buffer, Landscaping, Tree Planting and Camouflage Variances





# LOCATOR ZONING MAP



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The site is surrounded by miscellaneous commercial and residential units.

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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

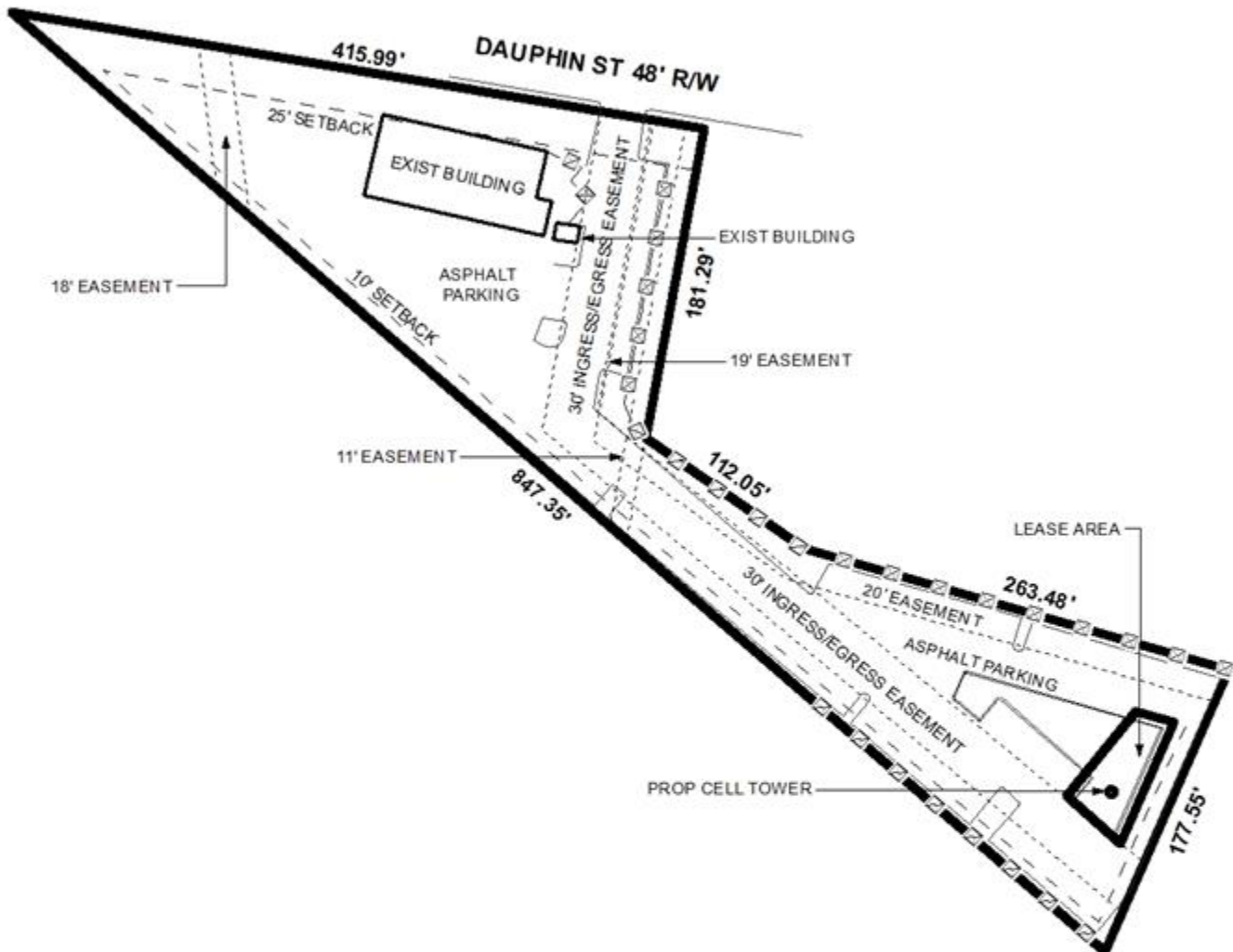


The site is surrounded by miscellaneous commercial and residential units.

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# SITE PLAN



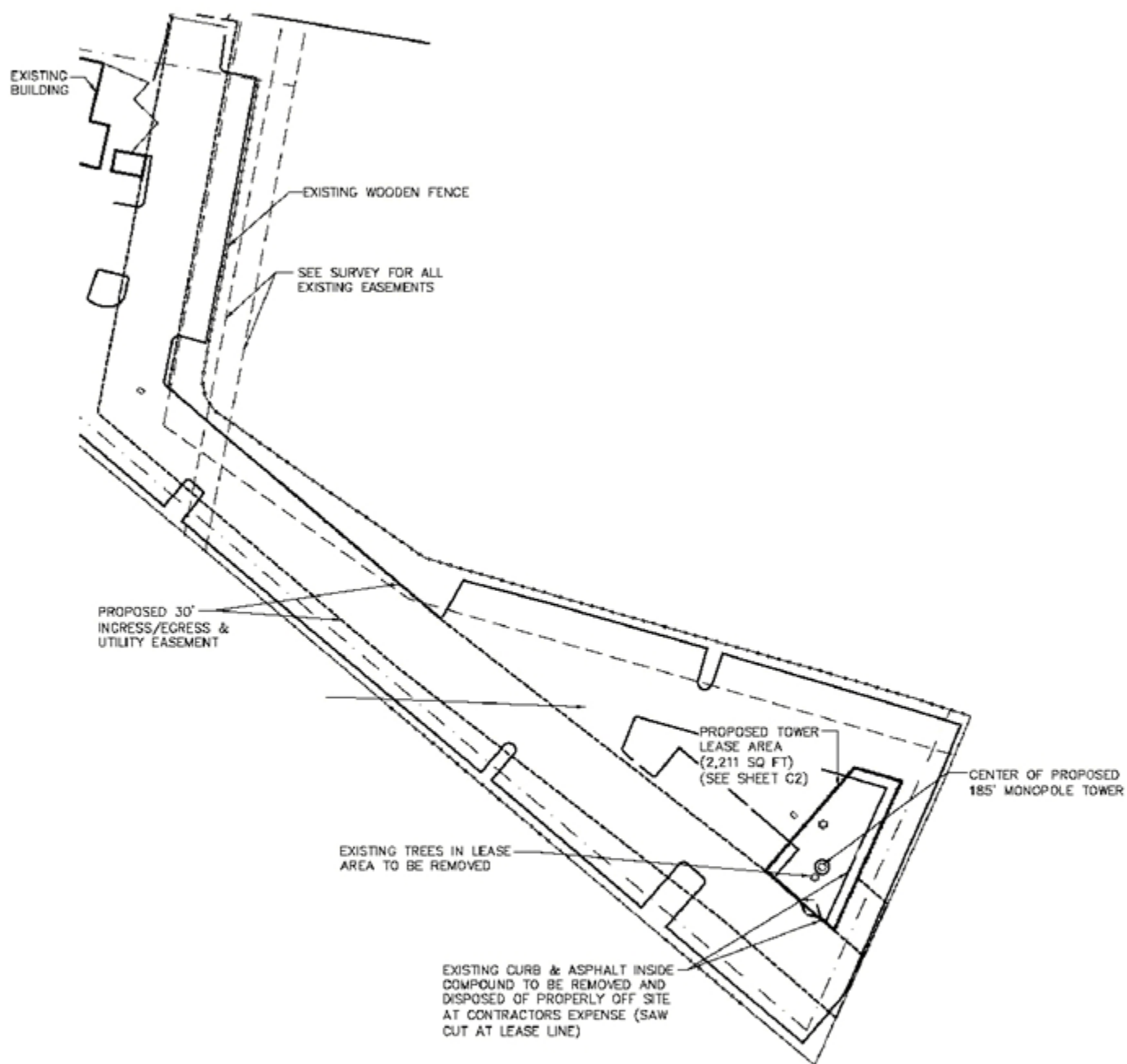
The site plan illustrates the existing building, existing parking facility, setbacks, easements, proposed lease area, and proposed cell tower location.

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# DETAIL SITE PLAN



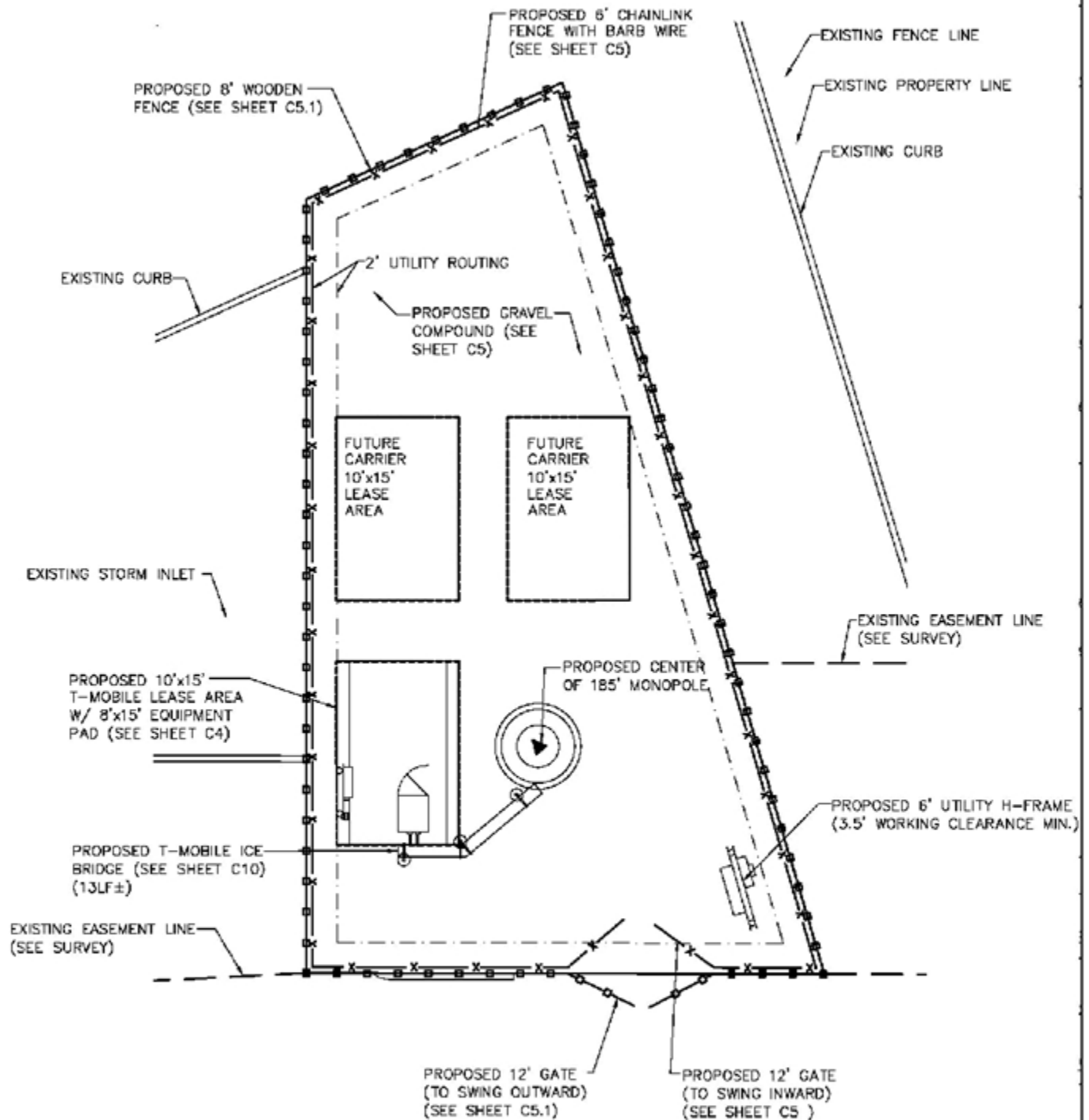
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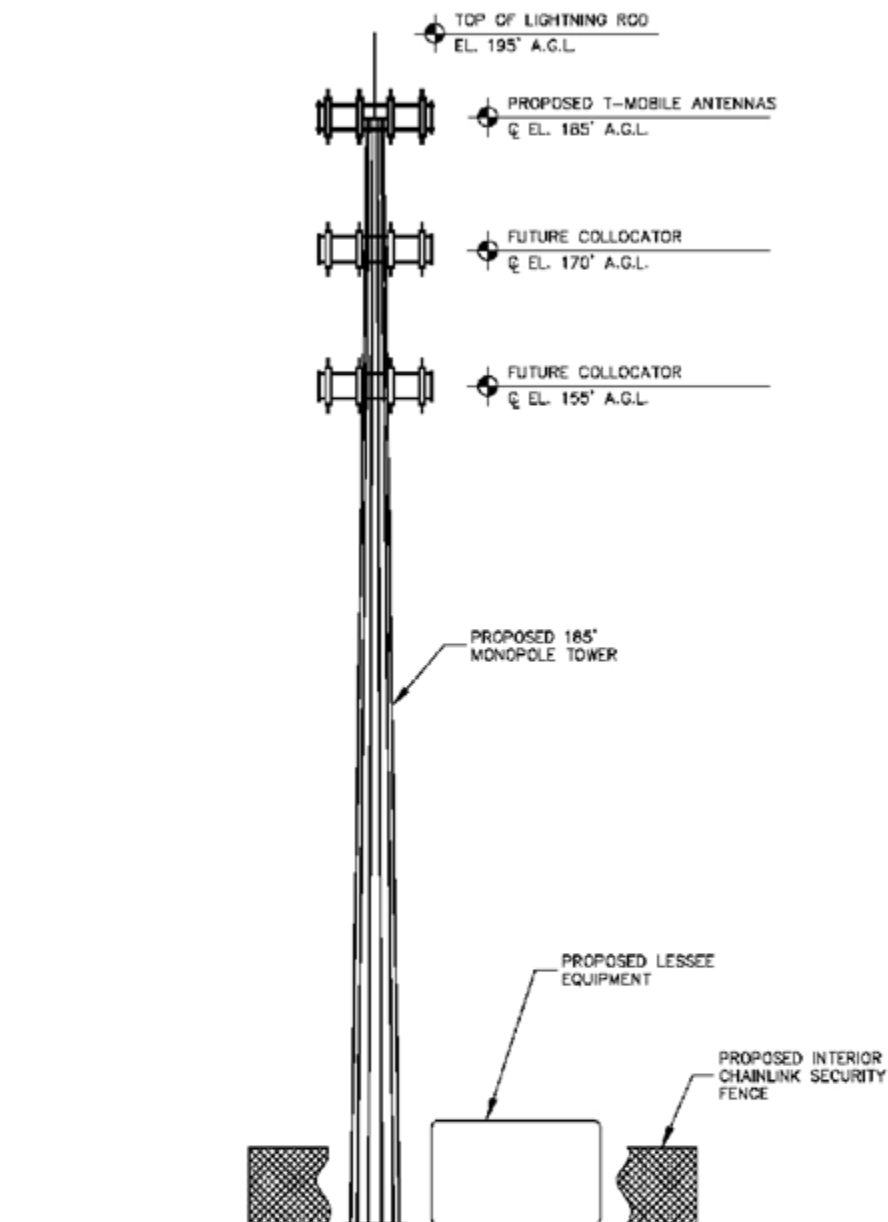


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# DETAIL SITE PLAN



3  
C11

MONOPOLE TOWER ELEVATION

NOT TO SCALE

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