

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: November 2, 2015****CASE NUMBER**

6010

**APPLICANT NAME**

Cellular South Real Estate, Inc.

**LOCATION**3208 & 3210 Dauphin Island Parkway  
(West side of Dauphin Island Parkway 165'± North of  
Tallahassee Drive)**VARIANCE REQUEST****HEIGHT:** Height Variance to allow a 148' monopole telecommunications tower in a B-3, Community Business District.**SETBACK:** Setback Variance to allow the tower within 30' of the lease parcel line.**RESIDENTIAL BUFFER SEPARATION:** Residential Buffer Separation Variance to allow the tower within 60' of residentially zoned property.**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 (148') 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 (222').**ZONING**

B-3, Community Business

**AREA OF PROPERTY**

0.32± Acre

**TRAFFIC ENGINEERING  
COMMENTS**

No traffic impacts anticipated by these multiple variance requests.

**ENGINEERING  
COMMENTS**

No comments.

**URBAN FORESTRY  
COMMENTS**

No comments.

**CITY COUNCIL  
DISTRICT**

District 3

**ANALYSIS**

The applicant is requesting Height, Setback and Residential Buffer Variances to allow a 148' monopole telecommunications tower setback 30' from the lease parcel line and 60' from adjacent R-1, Single-Family Residential property, 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 (148') from a lease parcel line, and with a residential buffer separation of 200' or 150% of the height of the tower, whichever is greater (222'), 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 resubdivide and reconfigure two existing metes-and-bounds parcels, and a Planned Unit Development application to allow shared access for the two proposed lots, all scheduled for the November 5<sup>th</sup> Planning Commission meeting. The requests are similar to ones approved in 2003 for the 150' monopole tower located on the property directly adjacent to the South of the subject site. It should be noted that the tower itself is proposed to be 148' high with a 4' lightning rod atop that resulting in a total height of 152'. Therefore, if approved, the height should be limited for the tower to 148' with a maximum 4' high lightning rod atop.

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 applicant's narrative states:

*"Cellular South Real Estate, Inc. (CSRE) d/b/a C-Spire, is requesting a variance/waiver of the following restrictions in order to proceed with its proposed Wireless Communications Tower site."*

- *"Height Variance: CSRE requests a height variance of 103', in order to construct a 148' tower in a B-3 zone with a 45' height limit. In consideration of this variance, please see attached pictures which show a rather dense hardwood tree line to the West, along with some trees to the North, and another tree line to the South along the adjacent property. These should shield the bottom 100' or so of the proposed tower from view of the surrounding area. 148' is the minimum height for CSRE to provide reliable wireless coverage in the area, and will also provide space for any future tenants in the area that may need to co-locate or expand onto this tower."*
- *"Buffer Variance: The Ordinance states that a "buffer zone" of 200' or 150% of the tower height to Residential zoned, whichever is greater. The proposed tower is 148' in height, so the calculated required buffer is 222'. This site lies 60' from the adjacent parcel to the North, zoned R-1, so the buffer variance request is for 162'. Applicant requests consideration from the Board that the adjacent property to the North is used as a business, and the area just north of the proposed site lies well behind the existing business structure, and is currently wooded. Also for consideration, the applicant has submitted a site-specific engineering certification that in the unlikely event of catastrophic failure, the tower would collapse within a 60' radius from its base, per section J.5.a.(2)."*
- *"Buffer Variance: The Ordinance states that a "buffer zone" of 200' or 150% of the tower height to Residential zoned property, whichever is greater. The proposed tower is 148' in height, so the calculated required buffer zone is 222'. This site lies 191' from the adjacent parcel to the West, zoned R-1, so the buffer variance request is for 31'. Applicant requests consideration from the Board that the adjacent property to the West appears to be vacant, and there is a large, existing hardwood buffer between the site and the vacant property. The nearest residential structure lies over 300' from the proposed site."*
- *"Setback Variance: Per section J.5.a.(2) of the City's Ordinance, Applicant requests exemption from this requirement based on submittal of a site-specific engineering certification that in the unlikely event of catastrophic failure, the tower would collapse within a 60' radius from its base. The proposed site lies 60' from the North property line, and 61' from the South line (which is also zoned B-3)"*

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. The applicant has also submitted information indicating that the tower will be capable of accommodating three 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, there are three other cellular communications towers within a one-half mile radius of the subject site. One is on the adjacent property to the South, but has failed the structural analysis for collocation, and one North of B. C. Rain High School is too short and already has three collocated carriers. A third tower located at B.C. Rain High School is limited by a Variance approved in 2001 to the sole use of the Mobile County Public School system. In light of the technical data submitted and the illustration of a hardship imposed by inadequate collocation capabilities on other towers within the area, and the fact that 148' is the minimum height for the applicant to be able to provide reliable wireless coverage in the area, the Height Variance request would seem reasonable.

With regard to the Setback Variance request, the tower is proposed in the center of a 60' by 60' lease parcel (and proposed lot) which results in a 30' setback from the lease parcel lines to the North, West and South of the tower. As the site is limited in area by surrounding properties, a hardship is illustrated in meeting the tower height setback of 148' from the lease parcel lines, and technical data submitted by the applicant and the unavailability of other suitable sites, supports the selection of the subject site for the proposed tower. The same justification could be used for the Residential Buffer Separation request. The closest residentially zoned property is located 60' North of the proposed tower, but is used commercially as an office, and the next property North of that, also zoned residentially, is used as a church. To the South, the closest residentially-zoned property is approximately 250' distant. To the West, residentially zoned property is within approximately 190' of the proposed tower, with the closest dwelling within approximately 600'.

The site plan indicates the required 12' wide drive to the compound with an associated turnaround. However, they are proposed to be of gravel surface and not the required asphalt, concrete or approved alternative surface, or the variance requests can be heldover one month to allow for the additional request, with appropriate fees and notifications. As no Surface Variance request was applied for, the site plan should be revised to indicate the drive and turnaround to be paved in asphalt, concrete or an approved alternative paving surface.

A landscaping plan was submitted by the applicant indicating understory trees around the tower compound. As overstory trees are required, the landscaping plan should be revised to indicate overstory trees, to be coordinated with Urban Forestry, at a ratio of one tree per every 30 linear feet of compound perimeter.

The site plan indicates chain link fencing and gates around the tower compound. As the Zoning Ordinance requires an 8' high wooden privacy fence, the site plan should be revised to indicate wooden privacy fencing and gates 8' high around the tower compound.

The applicant has demonstrated that hardships would be imposed by a literal interpretation of the Zoning Ordinance with respect to the height limitations, setback, and residential buffer separation requirements for telecommunications towers and the Board should consider these requests for approval, subject to conditions.

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

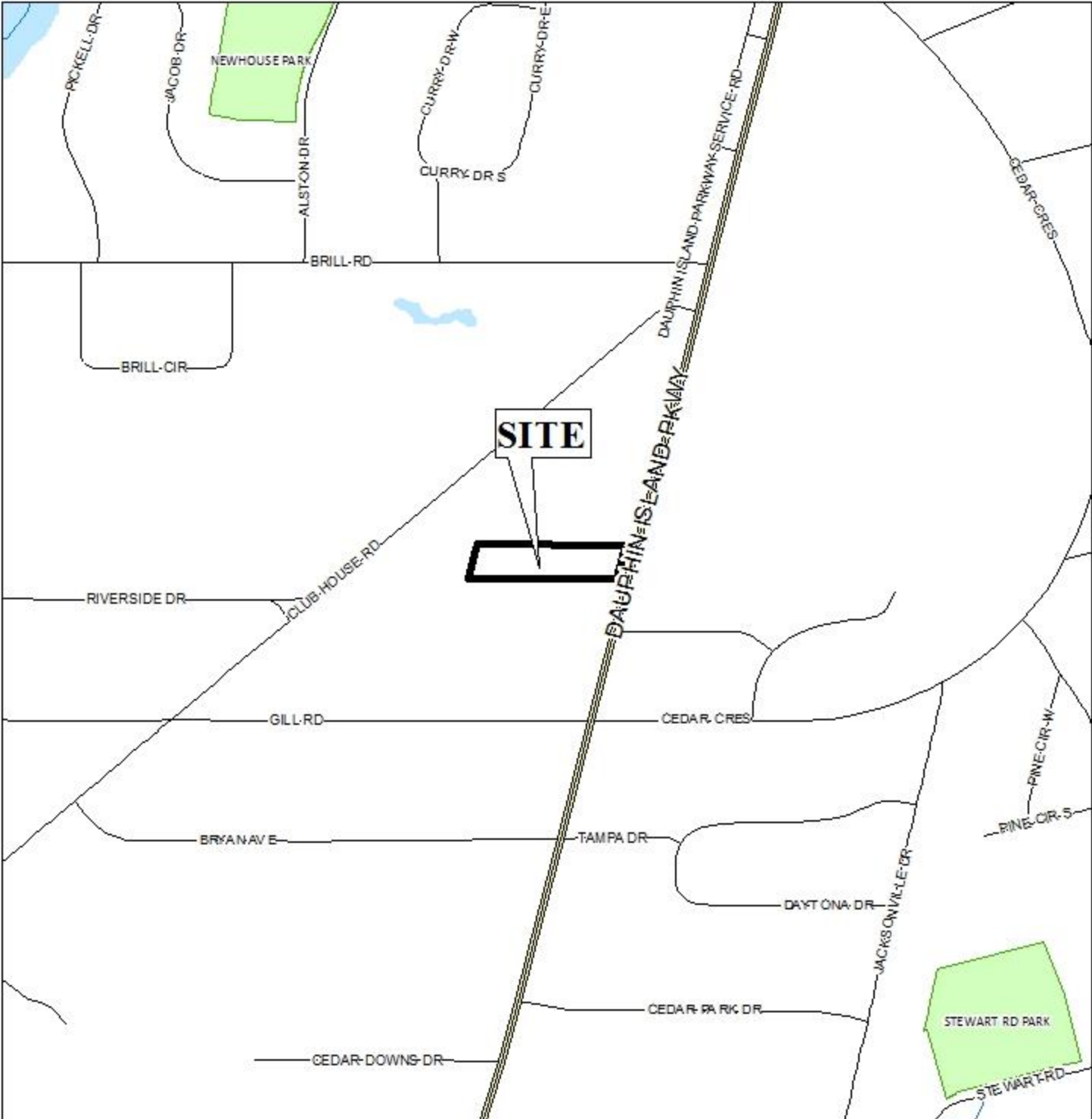
approval:

- 1) Based on the fact that the site is adjacent to an existing cellular communications tower approved by the Board and not contested, the variance will not be contrary to the public interest;
- 2) These special conditions (the site is of limited space and other sites were either not suitable or were unavailable) 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 variance in that no other tower sites were available for collocation.

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 height of 152', including the lightning rod;
- 2) subject to the Planning Commission approval of the Planning Approval, Planned Unit Development, and two-lot Subdivision applications;
- 3) revision of the site plan to indicate the drive and turnaround paved with asphalt, concrete or an approved alternative paving surface;
- 4) revision of the site plan to indicate overstory trees, to be coordinated with Urban Forestry, at a ratio of one tree per every 30 linear feet of compound perimeter;
- 5) revision of the site plan to indicate wooden privacy fencing and gates 8' high around the tower compound; and
- 6) full compliance with all municipal codes and ordinances.

## LOCATOR MAP



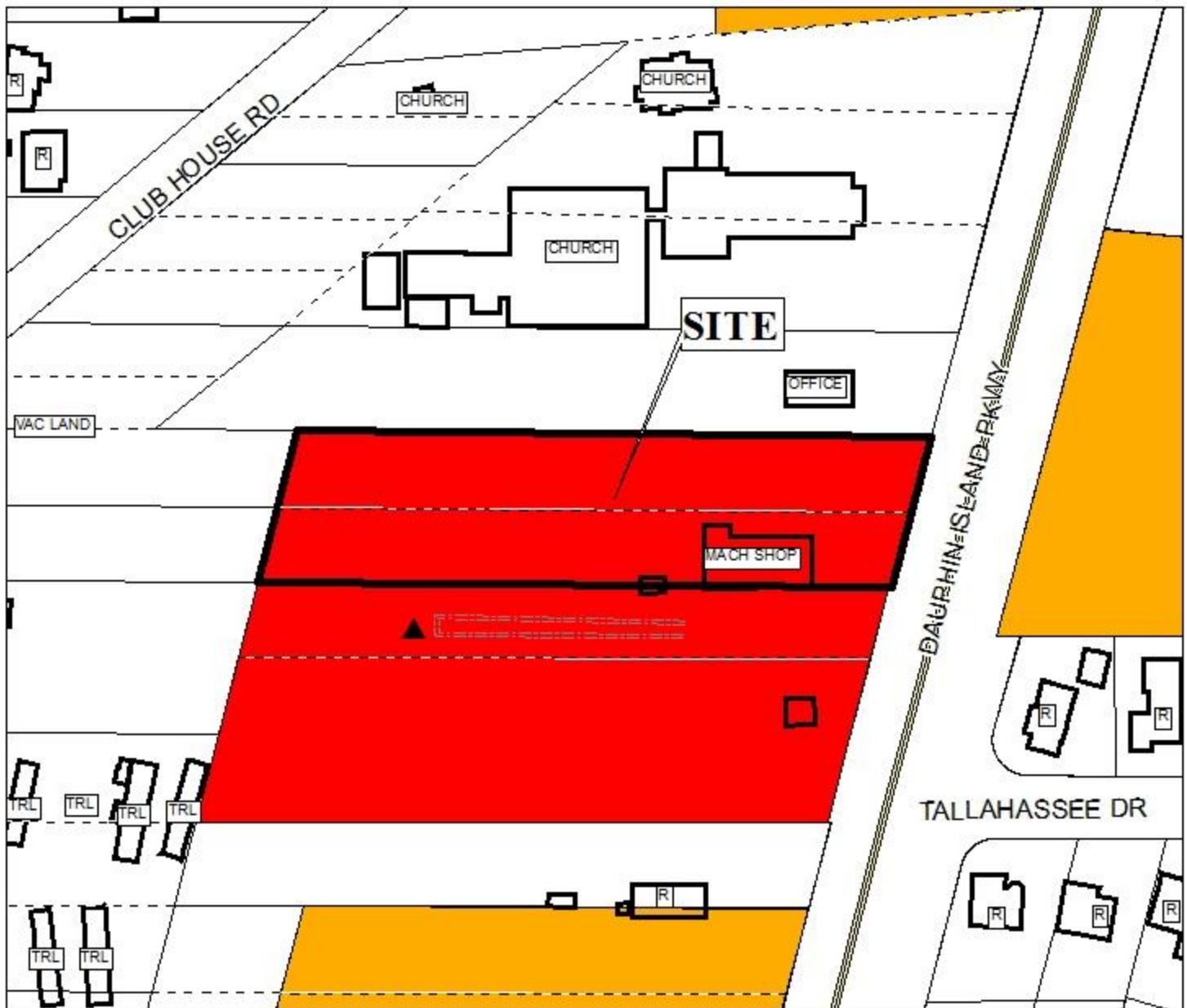
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REQUEST Height, Setback and Residential Buffer Variances



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. An office and church lie north of the site.

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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





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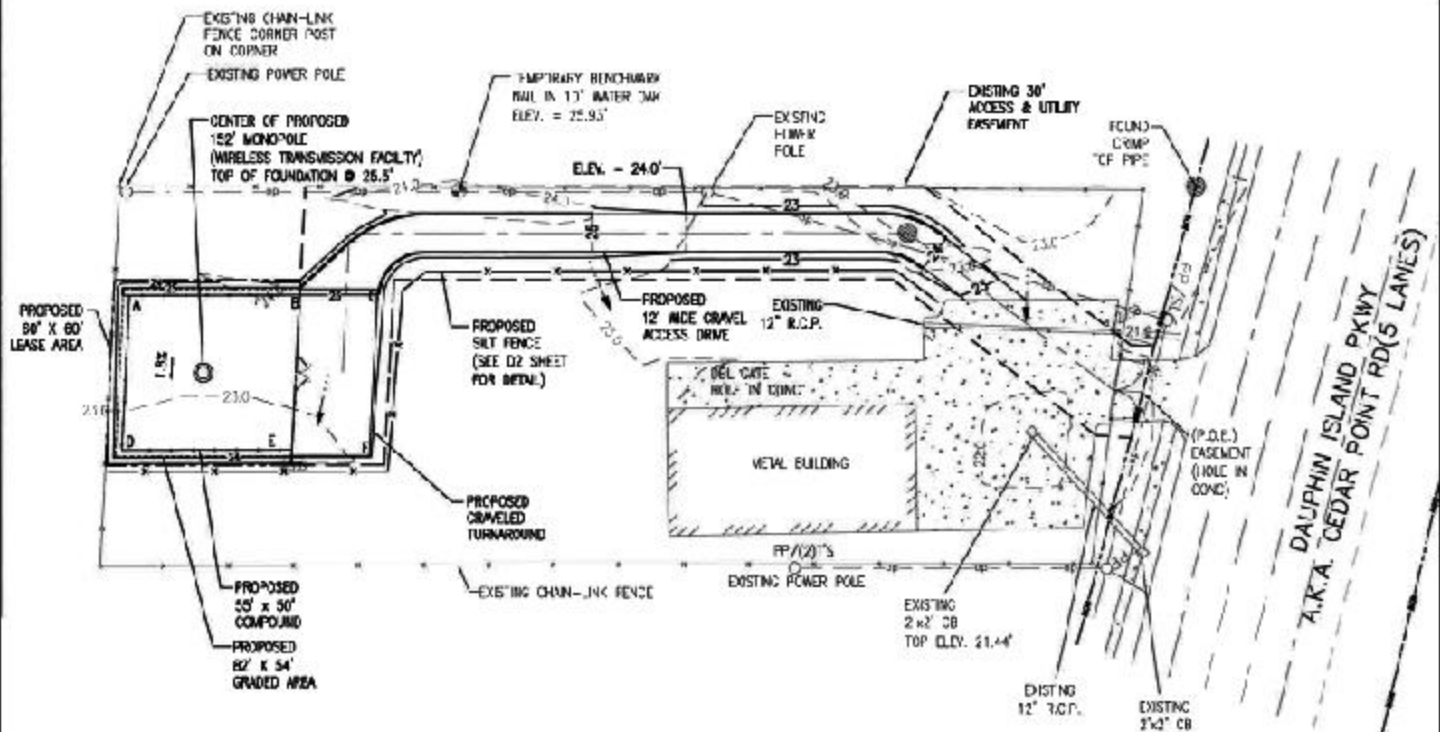
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# DETAIL SITE PLAN



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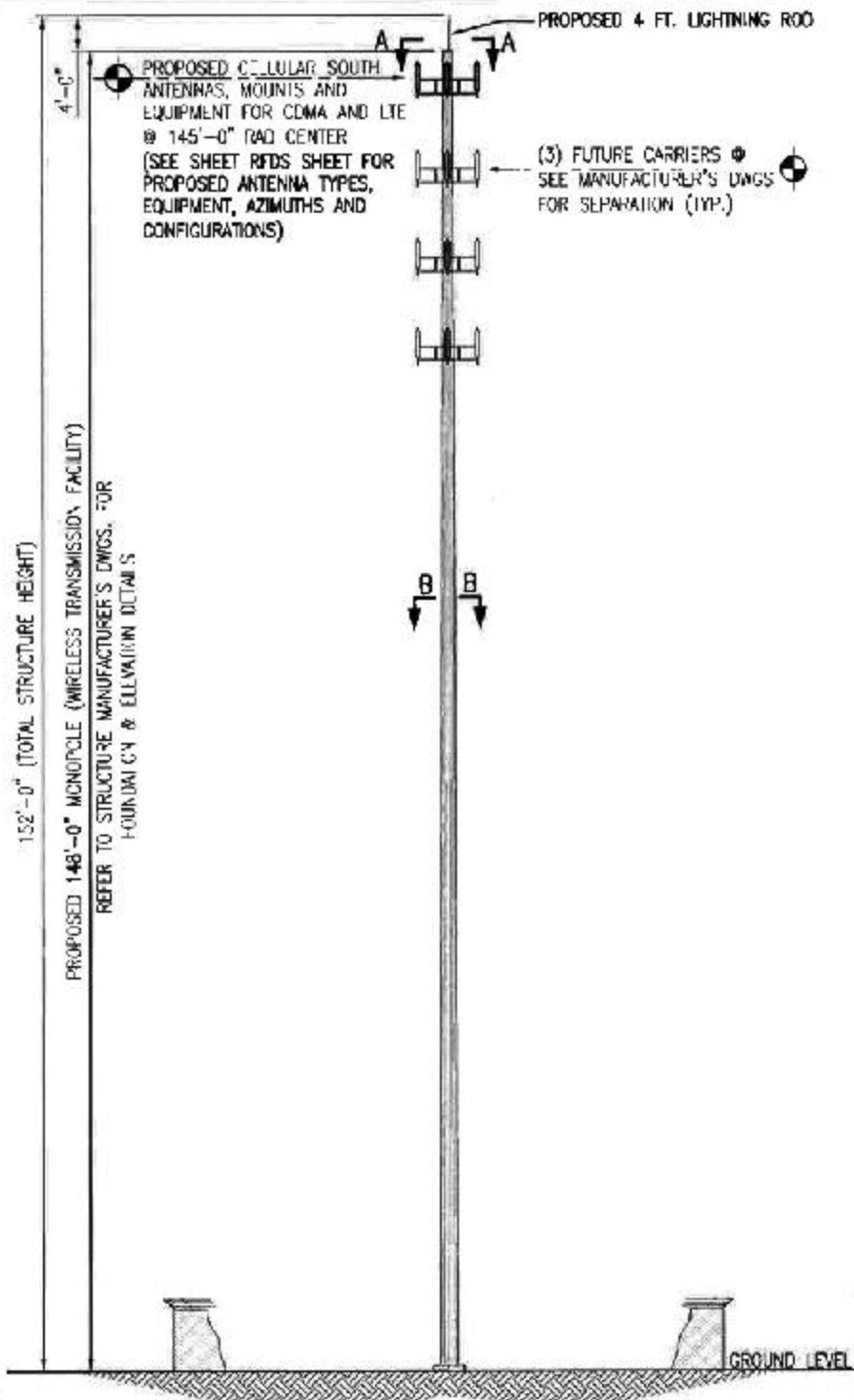
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NTS



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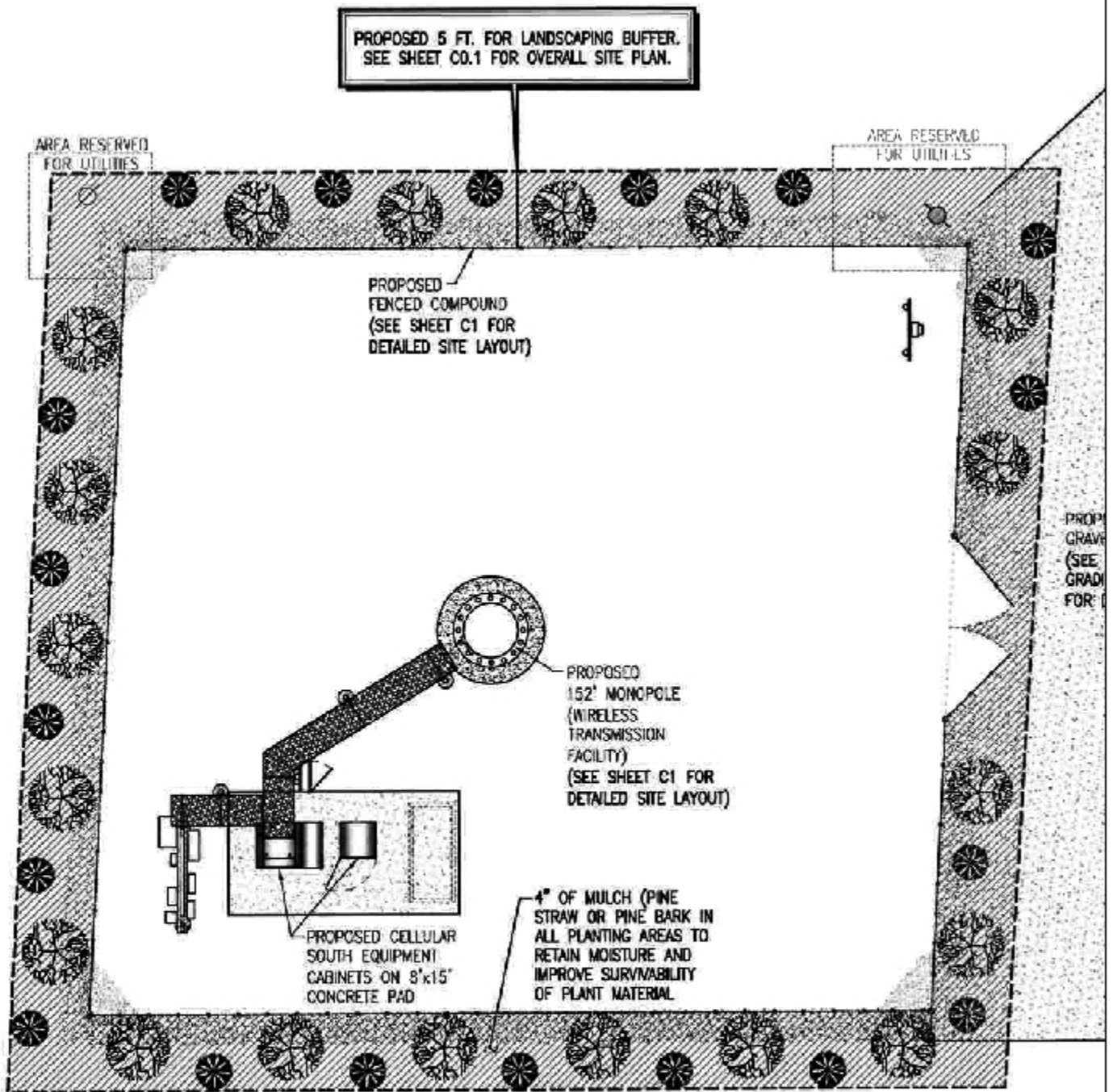
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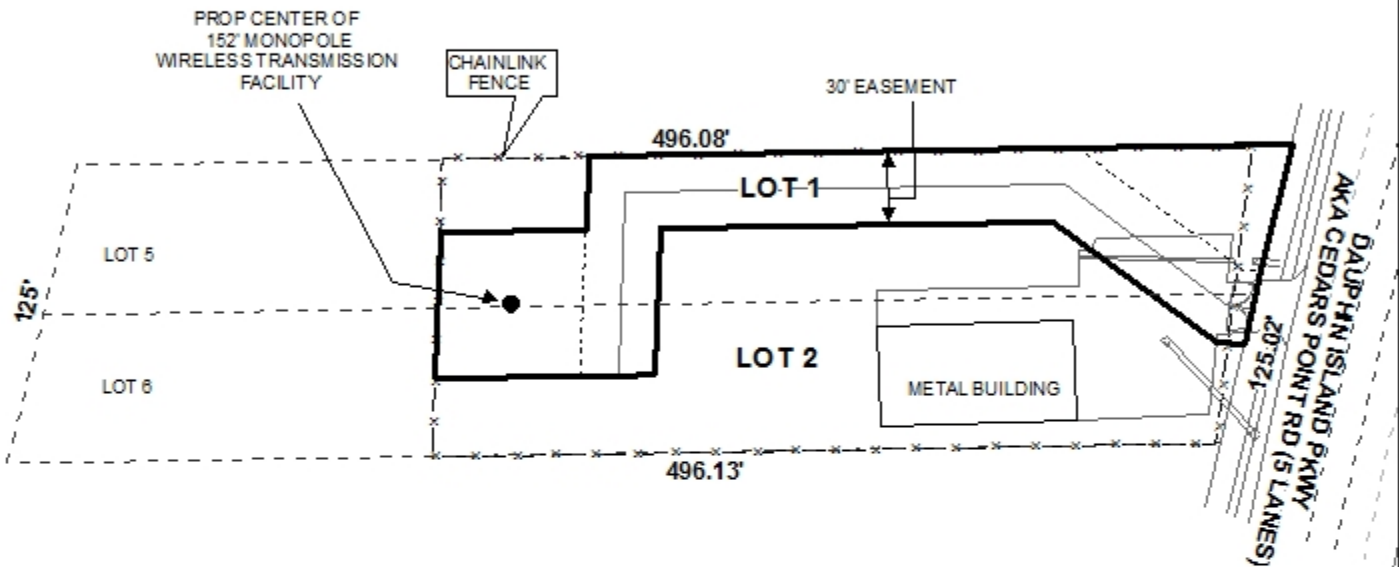
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# SITE PLAN



The site plan illustrates the existing building, easements, lots, and the proposed center of proposed tower.

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