

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: December 6, 2010****CASE NUMBER**

5643/5040

APPLICANT NAME

Crown Communications, Inc.

LOCATION2007 Nicholas Lane
(Southwest corner of Nicholas Lane and Dauphin Island
Parkway)**VARIANCE REQUEST****USE:** Use Variance to allow a monopole communications tower (already constructed) in an R-1, Single-Family Residential District.**HEIGHT:** Height Variance to allow the tower to be 156' high in an R-1, Single-Family Residential District.**SETBACK:** Setback Variance to allow the tower within 34' of the lease parcel line.**SEPARATION BUFFER:** Separation Buffer Variance to allow the tower within 68' of another residentially zoned property.**ACCESS:** Access Variance to allow aggregate access and no designated parking.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance does not allow communications towers in R-1, Single-Family Residential Districts.**HEIGHT:** The Zoning Ordinance limits structures to a maximum height of 35' in an R-1, Single-Family Residential District.**SETBACK:** The Zoning Ordinance requires the lease parcel line setback to be equal to the height of the tower (156').**SEPARATION BUFFER:** The Zoning Ordinance requires a communications tower to be separated from residentially-zoned properties a minimum of 150% the height of the tower, or 234'.**ACCESS:** The Zoning Ordinance requires access and parking to be paved in asphalt, concrete, or an approved alternative paving surface.**ZONING**

R-1, Single-Family Residential

AREA OF PROPERTY

6,400 Square Feet (lease compound)

TRAFFIC ENGINEERING
COMMENTS

No comments.

CITY COUNCIL
DISTRICT

District 4

ANALYSIS

The applicant is requesting Use, Height, Setback, Separation Buffer, and Access Variances to allow a 156-foot high monopole communications tower (already constructed) in an R-1, Single Family Residential District, within 34 feet of a lease parcel line and within 68 feet of another residentially zoned property, and with aggregate access ways and no designated parking; the Zoning Ordinance does not allow communications towers in R-1, Single Family Residential Districts, and requires a minimum setback from the lease parcel line of 156 feet, a minimum separation buffer of 234 feet from another residentially zoned property, and requires adequate access ways and parking paved with either asphalt or concrete.

The subject site was granted similar variances in May, 2001, for a 145' monopole communications tower. During a recent building permit review to collocate and replace antennae on the tower, it was discovered that the tower was actually constructed to a height of 150' instead of the originally-approved 145', and a 6' lightning rod atop brought the total height to 156'; therefore, staff determined that the original variance requests must be amended for the as-built height and other aspects.

The tower has existed at its current height since its initial construction in 2001 without any adverse impacts on or complaints from the surrounding neighborhood and modification to its originally-approved height would seem impracticable. An FAA review of the tower at its current height revealed that it does not exceed obstruction standards and would not be a hazard to air navigation. No site changes are proposed at this time. The applicant should verify that the site is in compliance with the originally-approved tree plan (Tree Plan 01-1190) or make remedial plantings to bring the site into compliance.

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.

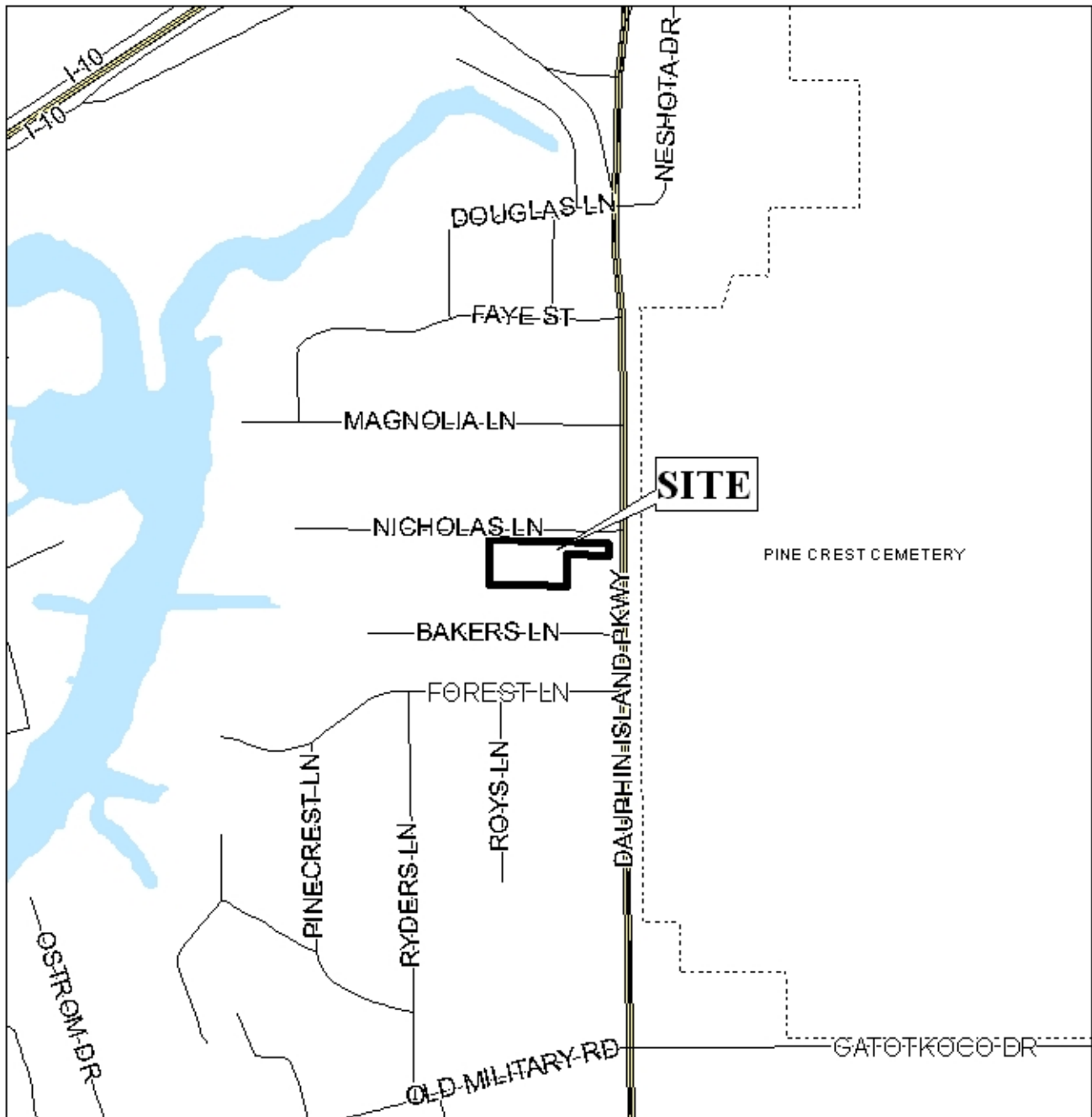
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

As the tower has existed since its original construction at its current height, the Board should consider the approval of this request, subject to conditions.

RECOMMENDATION: Based on the preceding, this application is recommended for approval, subject to the following conditions:

- 1) verification that the site is in compliance with the originally-approved tree plan (Tree Plan 01-1190) or making remedial plantings to bring the site into compliance; and
- 2) full compliance with all municipal codes and ordinances.

LOCATOR MAP



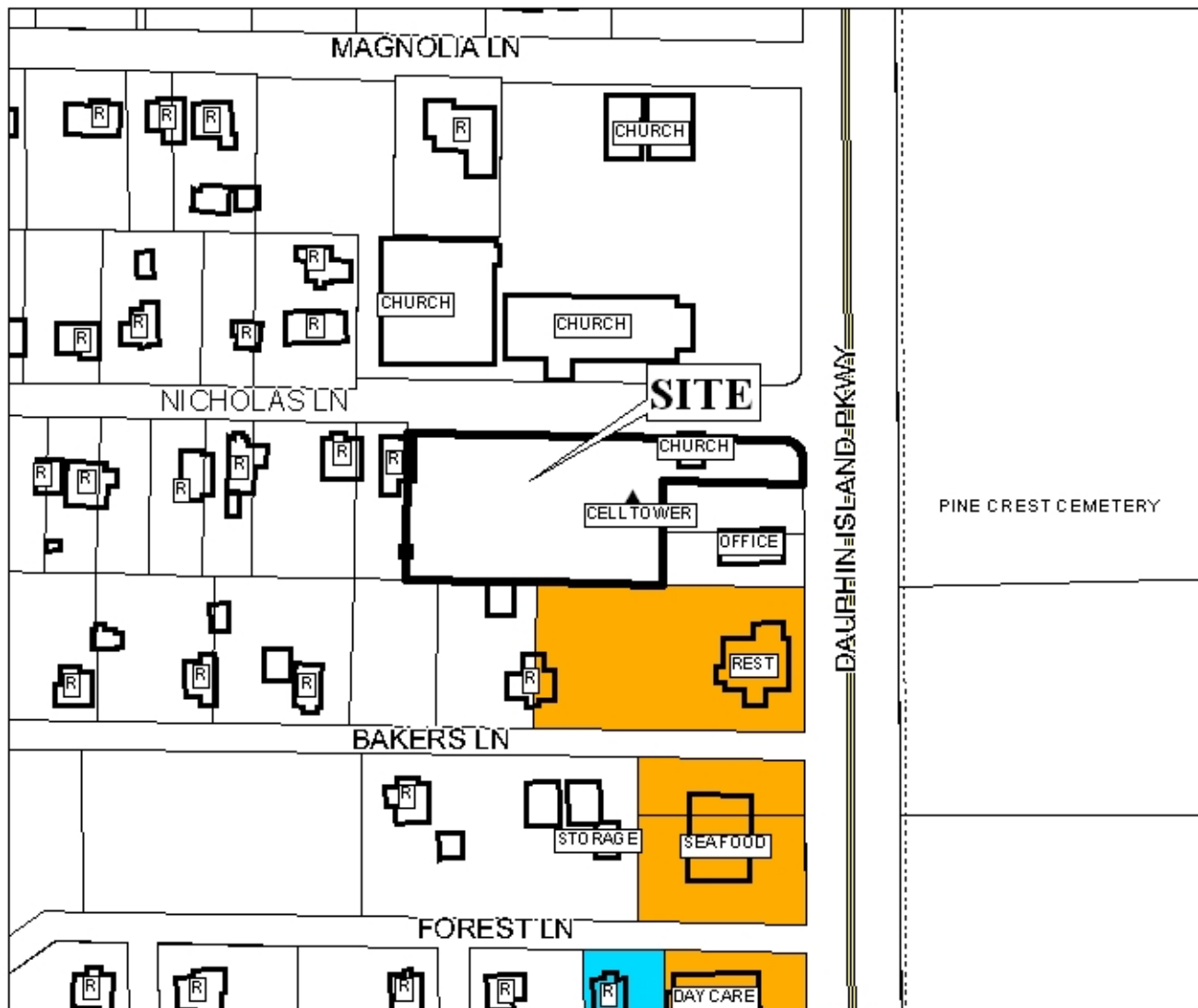
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REQUEST Use, Height, Setback, Separation Buffer, and Access Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous land use.

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LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	T-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2
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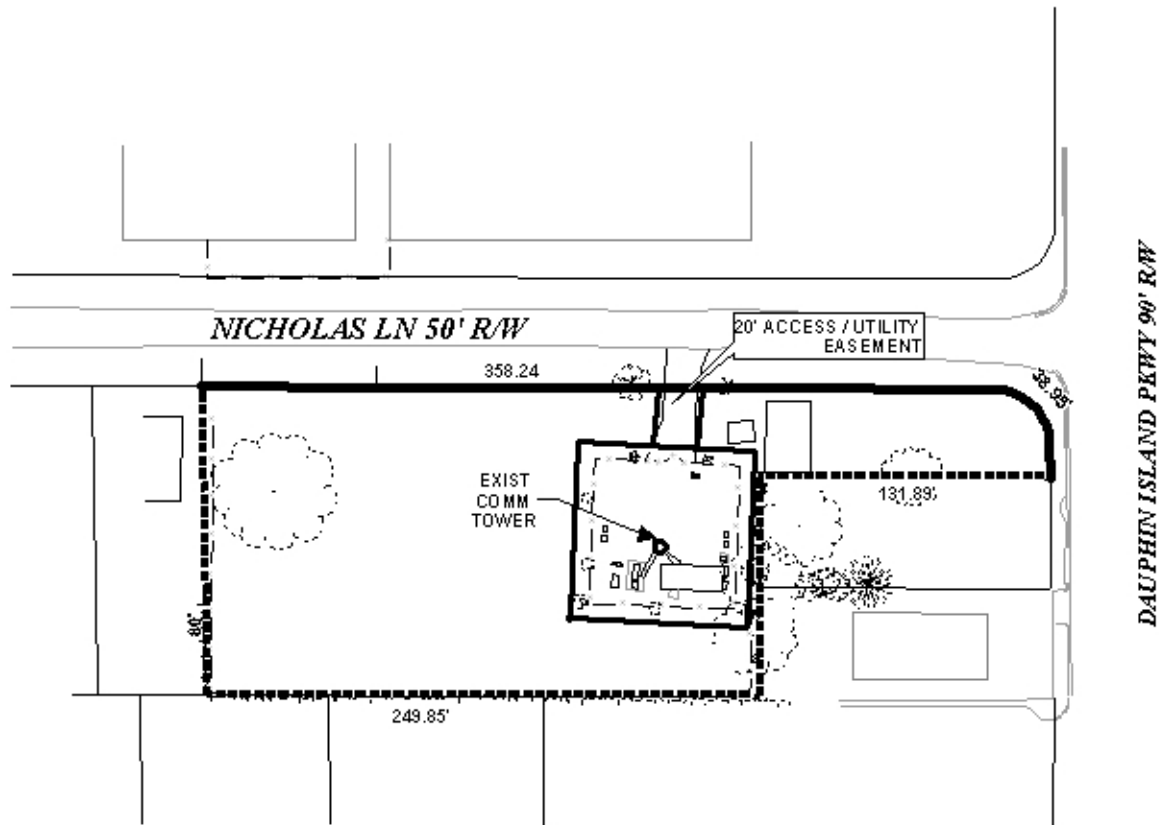
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SITE PLAN



The site plan illustrates the existing communications tower and structures.

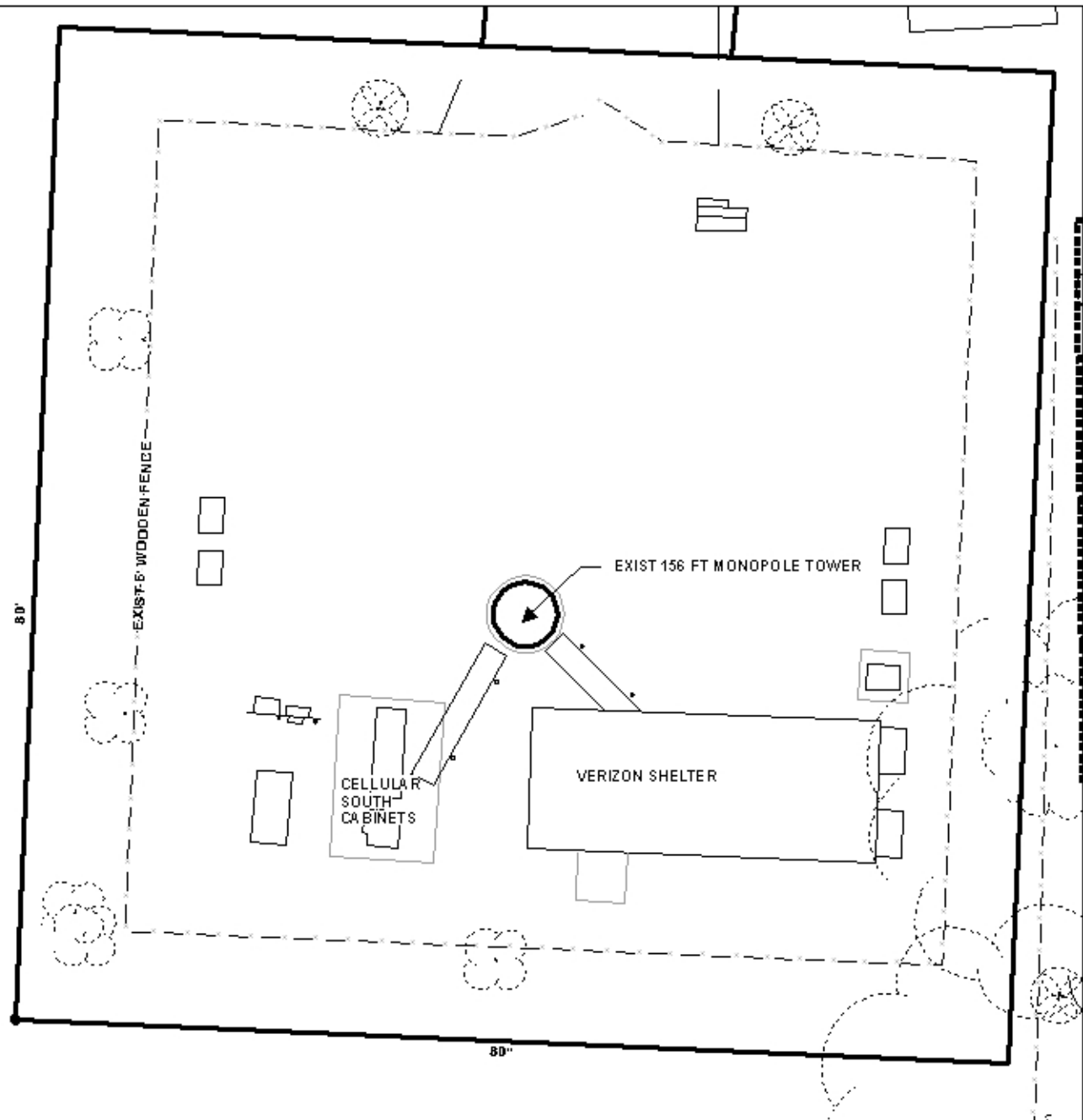
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DETAIL SITE PLAN



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DETAIL SITE PLAN

156' TIP OF LIGHTNING ROD

← VERIZON 150' PROPOSED
← CELLULAR SOUTH 139'

← OPEN PORT 119'

← OPEN PORT 109'

← BOTTOM OF STEEL
BASE PLAT 43'5"

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