

**ZONING AMENDMENT,  
PLANNING APPROVAL &  
SUBDIVISION STAFF REPORT****Date: June 2, 2011**

<b><u>NAME</u></b>	Alabama Realty Company, Inc.
<b><u>SUBDIVISION NAME</u></b>	Alabama West Subdivision, Unit Four
<b><u>LOCATION</u></b>	2600 McVay Drive North (North side of McVay Drive North, 290'± West of Navco Road).
<b><u>CITY COUNCIL DISTRICT</u></b>	District 4
<b><u>PRESENT ZONING</u></b>	R-1, Single-Family Residential District
<b><u>PROPOSED ZONING</u></b>	B-3, Community Business District
<b><u>REASON FOR REZONING</u></b>	To allow the construction and use of a cellular communications tower.
<b><u>AREA OF PROPERTY</u></b>	1 Lot / 1.1 Acres ±
<b><u>CONTEMPLATED USE</u></b>	<p>Subdivision approval to create one legal lot of record from a portion of an existing metes-and-bounds parcel, Planning Approval to allow the construction and use of a 130' monopole communications tower in a B-3, Community Business District, and Rezoning from R-1, Single-Family Residential District, to B-3, Community Business District, to allow the construction and use of a cellular communications tower.</p> <p><b>It should be noted, however, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning Commission may consider zoning classifications other than that sought by the applicant for this property.</b></p>
<b><u>TIME SCHEDULE</u></b>	30 days after approval

**ENGINEERING****COMMENTS**

Show Minimum Finished Floor Elevation on each lot on Plat. There is to be no fill placed within the limits of the flood plain without providing compensation. There is to be no work performed within the limits of the wetlands without prior approval from the US Army Corps of Engineers and the City of Mobile. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit in addition to any required land disturbance permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.

**TRAFFIC ENGINEERING****COMMENTS**

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.

**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 61-929 and City Code Chapters 57 and 64).

**FIRE DEPARTMENT****COMMENTS**

All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.

**REMARKS**

The applicant is requesting Subdivision Approval to create one legal lot of record from a portion of an existing metes-and-bounds parcel, Planning Approval to allow the construction and use of a 130' (140' with appurtenances) monopole communications tower in a B-3, Community Business District, and Rezoning from R-1, Single-Family Residential District, to B-3, Community Business District, to allow the construction and use of a cellular communications tower. The entire site is currently vacant.

The site is bounded entirely along the East side by developed B-2, Neighborhood Business (across the Bolton Branch drainage ditch); on the North and West by vacant R-1; across McVay Drive to the South by vacant B-3; and across McVay Drive and Bolton Branch to the Southeast by developed B-2.

As stated in Section 64-9. of the Zoning Ordinance, the intent of the Ordinance and corresponding Zoning Map is to carry out the comprehensive planning objective of sound, stable and desirable development. While changes to the Ordinance are anticipated as the city grows, the established public policy is to amend the ordinance only when one or more of the following conditions prevail: 1) there is a manifest error in the Ordinance; 2) changing conditions in a particular area make a change in the Ordinance necessary and desirable; 3) there is a need to increase the number of sites available to business or industry; or 4) the subdivision of land into building sites makes reclassification of the land necessary and desirable.

The site is depicted as commercial on the General Land Use Component of the Comprehensive Plan, which is meant to serve as a general guide, not a detailed lot and district plan or mandate for development. The accuracy of recommended land uses on the General Land Use Component map is limited due to the large scale of the map. Moreover, the General Land Use Component 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 zoning classification.

The applicant states that the commercial changes in the area would make rezoning necessary and desirable. It is further stated that a cell tower does not create any excess noise during operation nor will there be any excessive exterior lighting and this development should have no adverse affect on the surrounding area.

Indeed, the large vacant B-3 tract across McVay Drive was rezoned from R-1 to B-3 by the applicant in 2005 and subdivided into commercial lots at that time. However, all of that area rezoned in 2005 remains vacant; therefore, no change in conditions has been exhibited. Until that area is substantially developed to the point that additional sites need to be rezoned to allow further development, there is no justification for further commercial rezoning in the immediate area.

The review required for Planning Approval examines the applicant's location and site plan with regard to transportation, parking and access, public utilities and facilities, traffic congestion and hazard, and to determine if the proposal is in harmony with the orderly and appropriate development of the district.

It is very important to note that the Planning Approval review is site plan specific; therefore *any* future changes to the site plan or to the scope of operations for the tower, as approved, by current or future applicants must be submitted for Planning Approval.

The purpose of the Telecommunications Ordinance is: to protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities; to minimize adverse visual impact of Towers and Telecommunications Facilities through careful design, siting, landscaping, and innovative camouflaging techniques; to promote and encourage shared use/collocation of Towers and Antenna support Structures as a primary option rather than construction of additional single-use Towers; to avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or determined to be structurally unsound; to ensure that Towers and Telecommunications Facilities are compatible with surrounding land uses; and to facilitate the provision of wireless telecommunications services to the residents and businesses of the City in an orderly fashion.

To this end, the Tower and Telecommunications Facility Ordinance requires very specific documentation relating to the carrier's service area and the number of potential co-locatable towers within a ½ mile radius to be submitted with the application; as well as specific buffers

from residential properties; and certain site improvements be made. The applicant's radio frequency engineer states that there are no towers located within a half-mile radius of the proposed site which will meet the coverage and capacity objectives, and the antennas cannot be installed or collocated on any other towers to meet the objectives. However, there is no evidence submitted that limits the required tower location to this specific site for favorable propagation as opposed to the vacant B-3 land directly across McVay Drive North just a few hundred feet away.

Subdivision review examines the site with regard to promoting orderly development, protecting general health, safety and welfare, and ensuring that development is correlated with adjacent developments and public utilities and services, and to ensure that the subdivision meets the minimum standards set forth in the Subdivision Regulations for lot size, road frontage, lot configuration, etc.

The site fronts McVay Drive North with a compliant 80' right-of-way; therefore, no dedication would be required. As a means of access management, a note should be required on the Final Plat stating that the driveway number, size, location and design are to be approved by Traffic Engineering and conform to AASHTO standards. The plat should be revised to illustrate the 25' minimum building setback line along McVay Drive North. The plat should also be revised to label the lot with its size in square feet and acres, or a table should be furnished on the Final Plat providing the same information. As on the preliminary plat, the area labeled Future Development should be so labeled on the Final Plat.

The site is within flood zones and a floodway associated with Bolton Branch. The presence of floodplains would indicate that the area may be environmentally sensitive; therefore, if approved, the approval of all applicable federal, state and local environmental agencies would be required prior to the issuance of any permits or land disturbance activities.

### **RECOMMENDATION**

**Rezoning:** The request for Rezoning approval is recommended for **denial** for the following reason:

- 1) there are currently undeveloped B-3 sites directly across McVay Drive which have remained vacant since their rezoning from R-1 to B-3 in 2005; and
- 2) there have been no changing conditions within the area which demonstrate the need for additional commercial sites to be made available.

**Planning Approval:** The request for Planning Approval is recommended for **denial** for the following reasons:

- 1) no evidence has been submitted which limits the required tower location to this specific site for favorable propagation; and
- 2) there is vacant B-3 land directly across McVay Drive North just a few hundred feet away which could possibly be utilized.

**Subdivision:** The Subdivision request is recommended for approval, subject to the following conditions:

- 1) placement of a note on the Final Plat stating that the driveway number, size, location and design are to be approved by Traffic Engineering and conform to AASHTO standards;
- 2) revision of the plat to illustrate the 25' minimum building setback line along McVay Drive North;
- 3) revision of the plat to label the lot with its size in square feet and acres, or the furnishing of a table on the Final Plat providing the same information;
- 4) labeling of the Future Development area as such on the final Plat;
- 5) placement of a note on the Final Plat stating that the approval of all applicable federal, state and local environmental agencies would be required prior to the issuance of any permits or land disturbance activities; and
- 6) subject to the Engineering comments: *(Show Minimum Finished Floor Elevation on each lot on Plat. There is to be no fill placed within the limits of the flood plain without providing compensation. There is to be no work performed within the limits of the wetlands without prior approval from the US Army Corps of Engineers and the City of Mobile. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit in addition to any required land disturbance permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer).*

**Revised for the June 2<sup>nd</sup> meeting:**

*This application was heldover from the May 19<sup>th</sup> meeting by the Commission in order to allow staff to develop conditions of approval for the Zoning and Planning Approval requests. The Subdivision was originally recommended for approval. The applicant also submitted a propagation chart indicating the need for the tower in the proposed location.*

**RECOMMENDATION**

**Rezoning:** *The request for Rezoning approval is recommended for approval, with a modification to B-1, Buffer Business District, subject to the following conditions:*

- 1) *completion of the Subdivision process;*
- 2) *subject to 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 61-929 and City Code Chapters 57 and 64]);*
- 3) *subject to Traffic Engineering comments: (Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards);*
- 4) *subject to the Engineering comments: (Show Minimum Finished Floor Elevation on each lot on Plat. There is to be no fill placed within the limits of the flood plain without providing compensation. There is to be no work performed within the limits of the wetlands without prior approval from the US Army Corps of Engineers and the City of Mobile. Must comply with all storm water and flood control ordinances. Any work*

*performed in the right of way will require a right of way permit in addition to any required land disturbance permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.);*

- 5) the provision of a 6' high wooden privacy fence where the site abuts residentially-zoned property; and*
- 6) subject to the approval of all applicable federal, state and local environmental agencies prior to the issuance of any permits or land disturbance activities.*

**Planning Approval:** *The request for Planning Approval is recommended for approval, subject to the following conditions:*

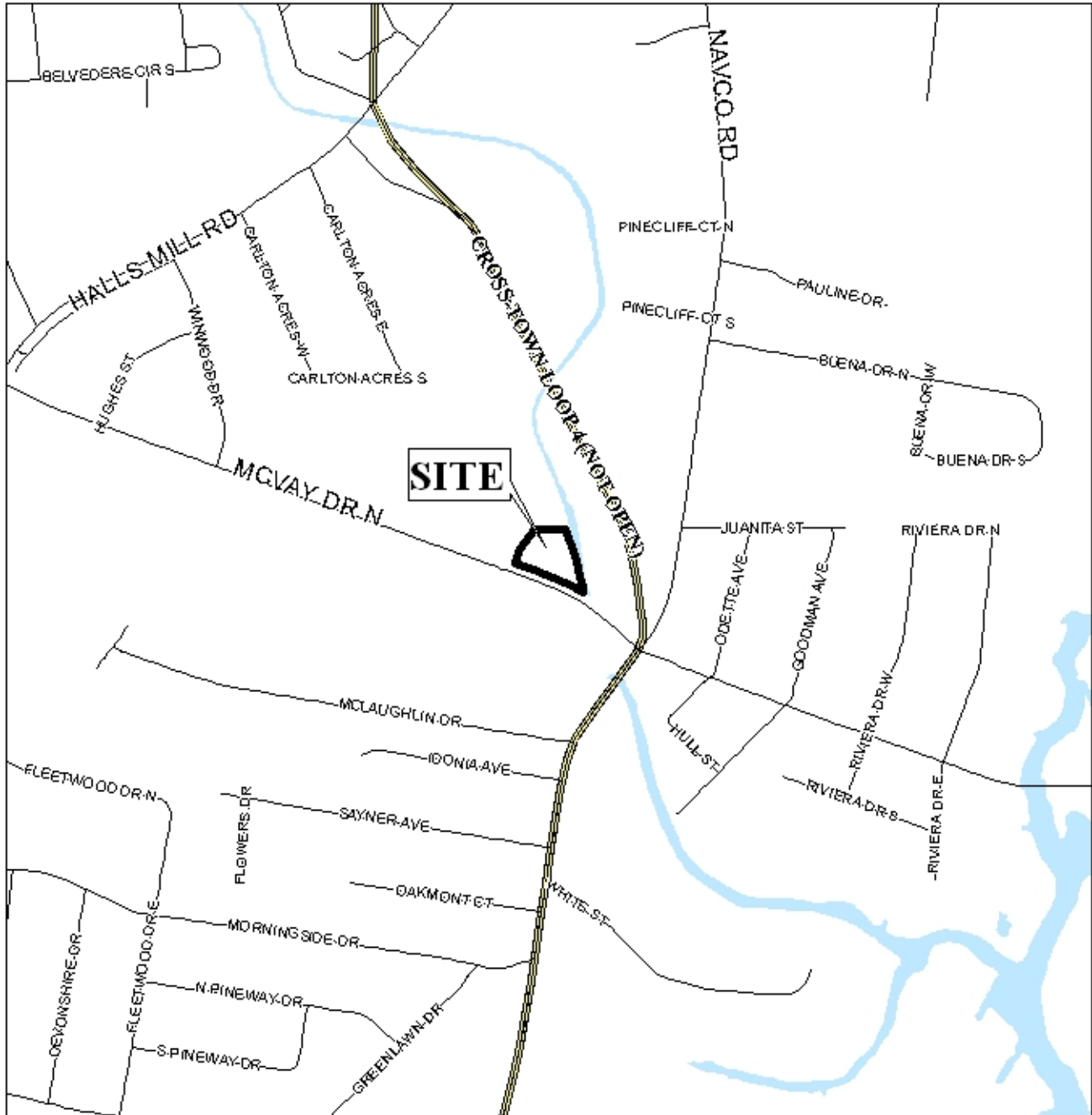
- 1) completion of the Subdivision process;*
- 2) subject to the Urban Forestry comments: (property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [State Act 61-929 and City Code Chapters 57 and 64]);*
- 3) subject to Traffic Engineering comments: (Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards);*
- 4) subject to the Engineering comments: (Show Minimum Finished Floor Elevation on each lot on Plat. There is to be no fill placed within the limits of the flood plain without providing compensation. There is to be no work performed within the limits of the wetlands without prior approval from the US Army Corps of Engineers and the City of Mobile. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit in addition to any required land disturbance permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.);*
- 5) the provision of a 6' high wooden privacy fence where the site abuts residentially-zoned property;*
- 6) the provision of a 6' high chain link fence around the equipment compound;*
- 7) subject to the approval of all applicable federal, state and local environmental agencies prior to the issuance of any permits or land disturbance activities;*
- 8) subject to the approval of all required variances associated with the proposed 140' over-all high tower;*
- 9) placement of a note on the site plan stating that clearing of the site is limited to the area necessary for construction of the compound and access road and the remainder of the site is to remain in its natural vegetative state; and*
- 10) submittal to Planning of a more detailed site plan showing all conditions of approval of the Planning Approval and any required variances prior to the application for land disturbance and construction permits.*

**Subdivision:** *The Subdivision request is recommended for approval, subject to the following conditions:*

- 1) placement of a note on the Final Plat stating that the driveway number, size, location and design are to be approved by Traffic Engineering and conform to AASHTO standards;*
- 2) revision of the plat to illustrate the 25' minimum building setback line along McVay Drive North;*

- 3) *revision of the plat to label the lot with its size in square feet and acres, or the furnishing of a table on the Final Plat providing the same information;*
- 4) *labeling of the Future Development area as such on the Final Plat;*
- 5) *placement of a note on the Final Plat stating that the approval of all applicable federal, state and local environmental agencies would be required prior to the issuance of any permits or land disturbance activities; and*
- 6) *subject to the Engineering comments: (Show Minimum Finished Floor Elevation on each lot on Plat. There is to be no fill placed within the limits of the flood plain without providing compensation. There is to be no work performed within the limits of the wetlands without prior approval from the US Army Corps of Engineers and the City of Mobile. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit in addition to any required land disturbance permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.)*

## LOCATOR MAP



APPLICATION NUMBER 4, 5 & 6 DATE June 2, 2011

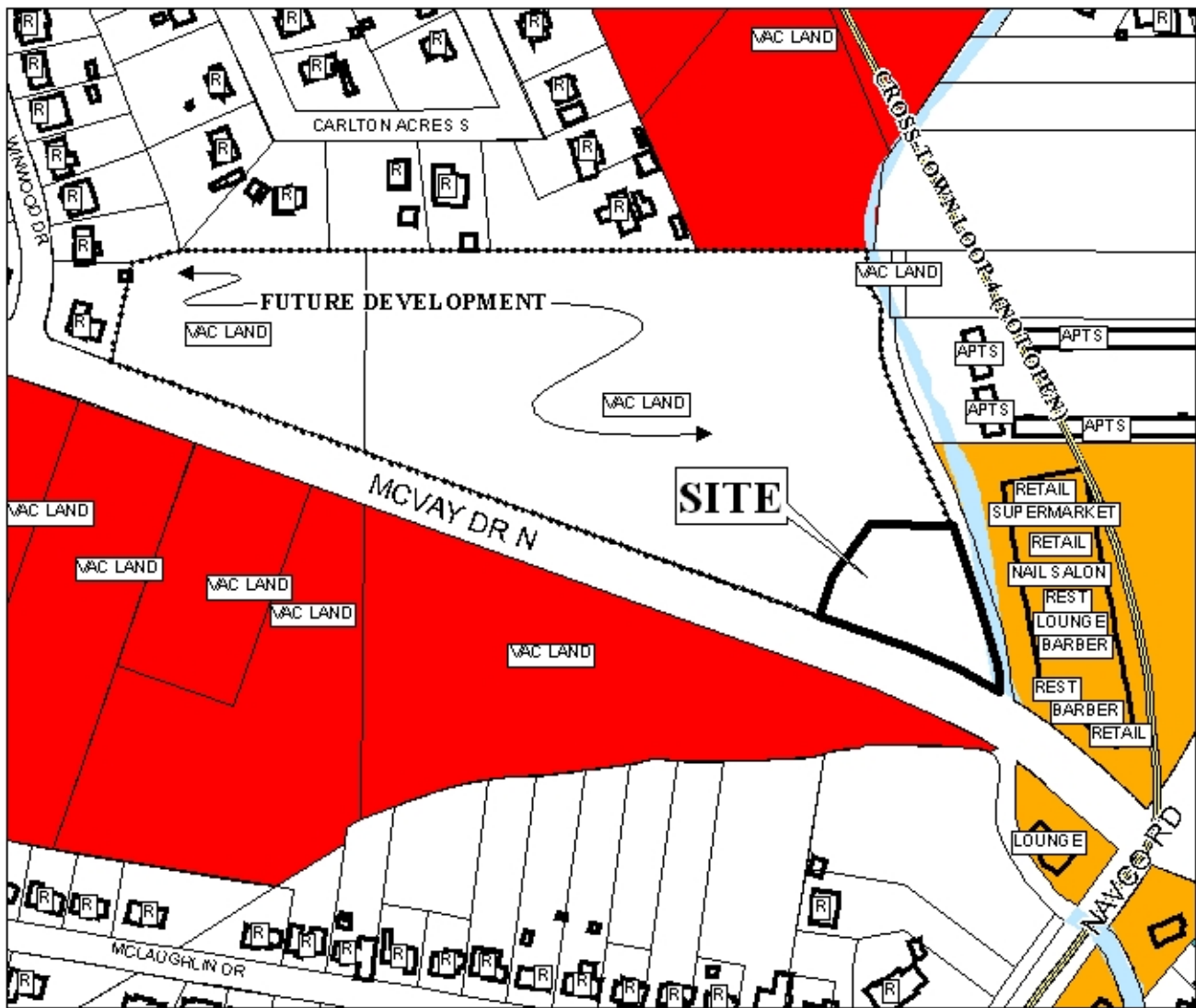
APPLICANT Alabama Realty Company, Inc.

REQUEST Subdivision, Planning Approval, Rezoning from R-1 to B-3





# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



Single-family residential units are located to the north of the site. Commercial sites are located to the east of the site.

APPLICATION NUMBER 4, 5 & 6 DATE June 2, 2011

APPLICANT Alabama Realty Company, Inc.

REQUEST Subdivision, Planning Approval, Rezoning from R-1 to B-3

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	NTS
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## PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



Single-family residential units are located to the north of the site. Commercial sites are located to the east of the site.

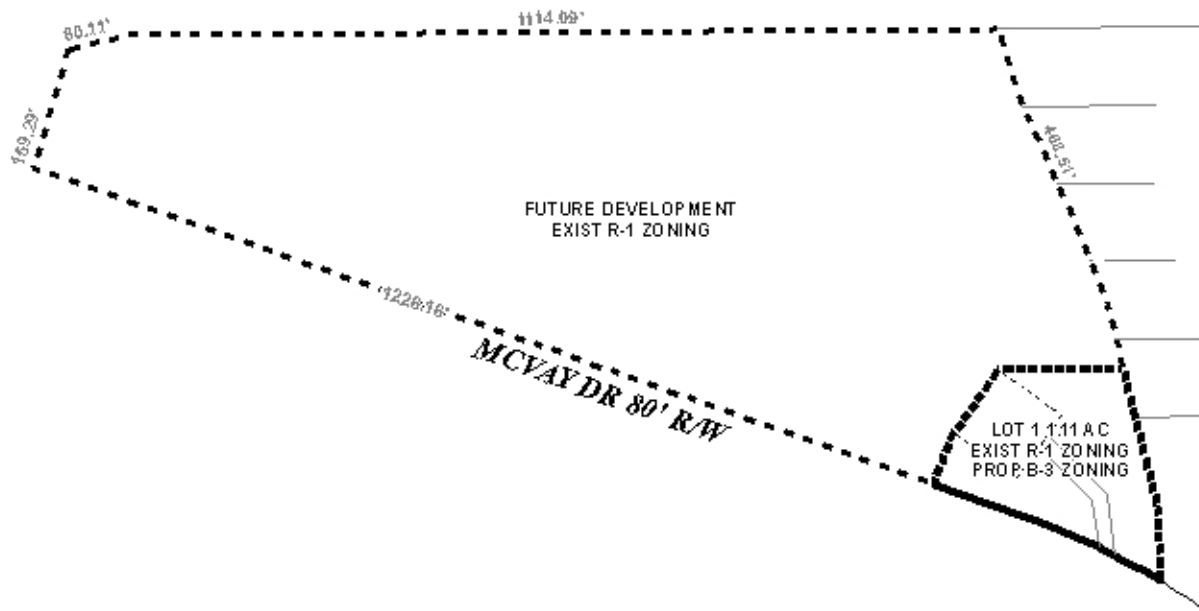
APPLICATION NUMBER 4, 5 & 6 DATE June 2, 2011

APPLICANT Alabama Realty Company, Inc.

REQUEST Subdivision, Planning Approval, Rezoning from R-1 to B-3



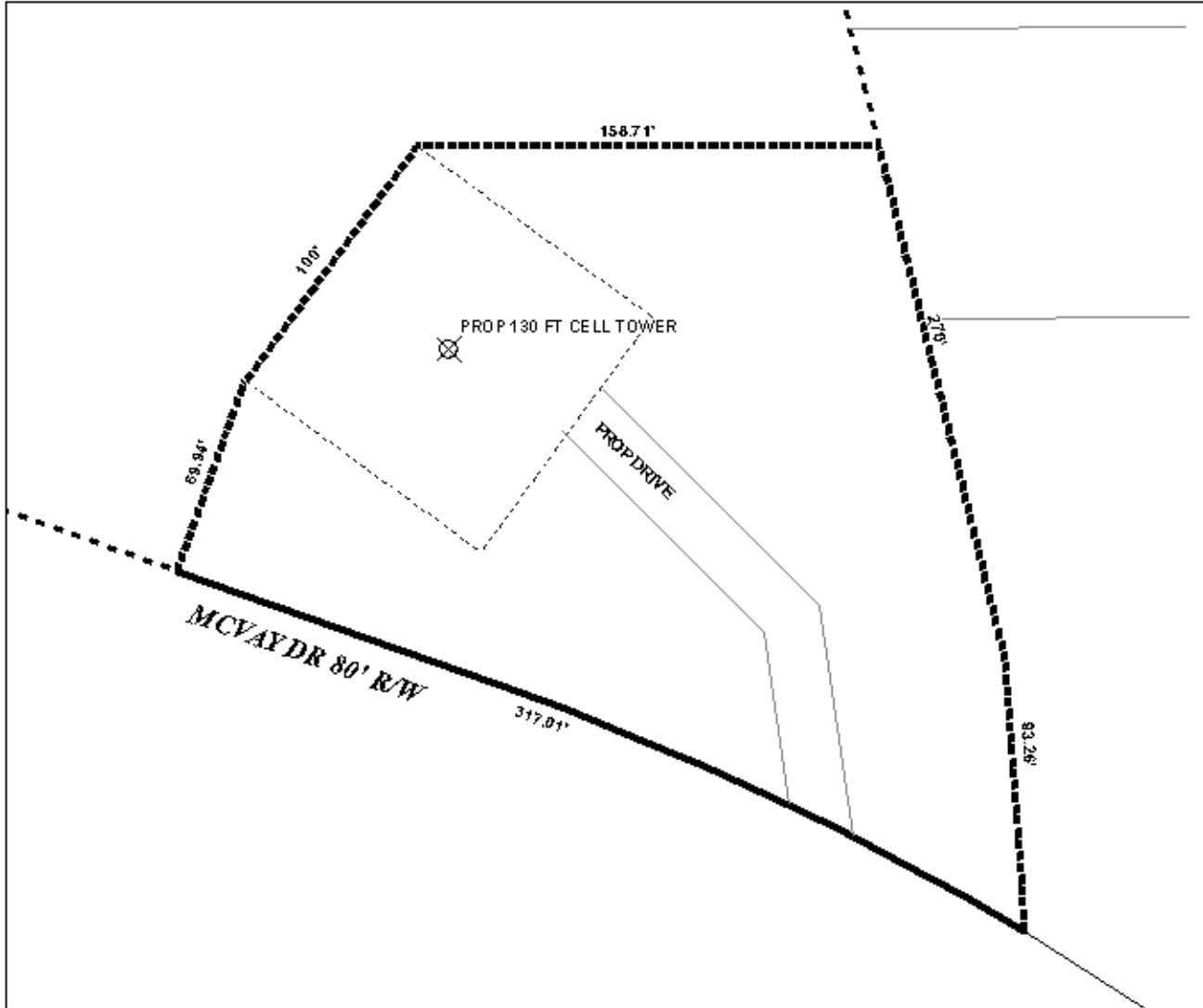
## SUBDIVISION AND ZONING DETAIL



APPLICATION NUMBER 4, 5 & 6 DATE June 2, 2011  
APPLICANT Alabama Realty Company, Inc.  
REQUEST Subdivision, Planning Approval, Rezoning from R-1 to B-3



# SITE PLAN



The site plan illustrates the proposed cell tower location.

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 REQUEST Subdivision, Planning Approval, Rezoning from R-1 to B-3

