



Agenda Item # 2 - HOLDOVER

BOA-003136-2024

View additional details on this proposal and all application materials using the following links:

[Applicant Materials for Consideration](#)

DETAILS

Location:

2400 Dubose Street

Applicant / Agent:

Vertical Bridge REIT, LLC / Mary Palmer, Agent

Property Owner:

K & T Brothers, LLC

Current Zoning:

B-3, Community Business Urban District

Future Land Use:

Traditional Mixed-Use Corridor

Case Number(s):

6635

Unified Development Code Requirements:

- Structure heights are limited to a maximum of 45-feet in a B-3, Community Business Urban District.
- Telecommunications towers must be setback from the property line a distance equal to the tower height in a B-3, Community Business Urban District.
- Telecommunications towers must be camouflaged in a B-3, Community Business Urban District.
- Telecommunications towers must provide compliant landscaping in a B-3, Community Business Urban District.

- Telecommunications towers must provide compliant buffer separation in a B-3, Community Business Urban District.

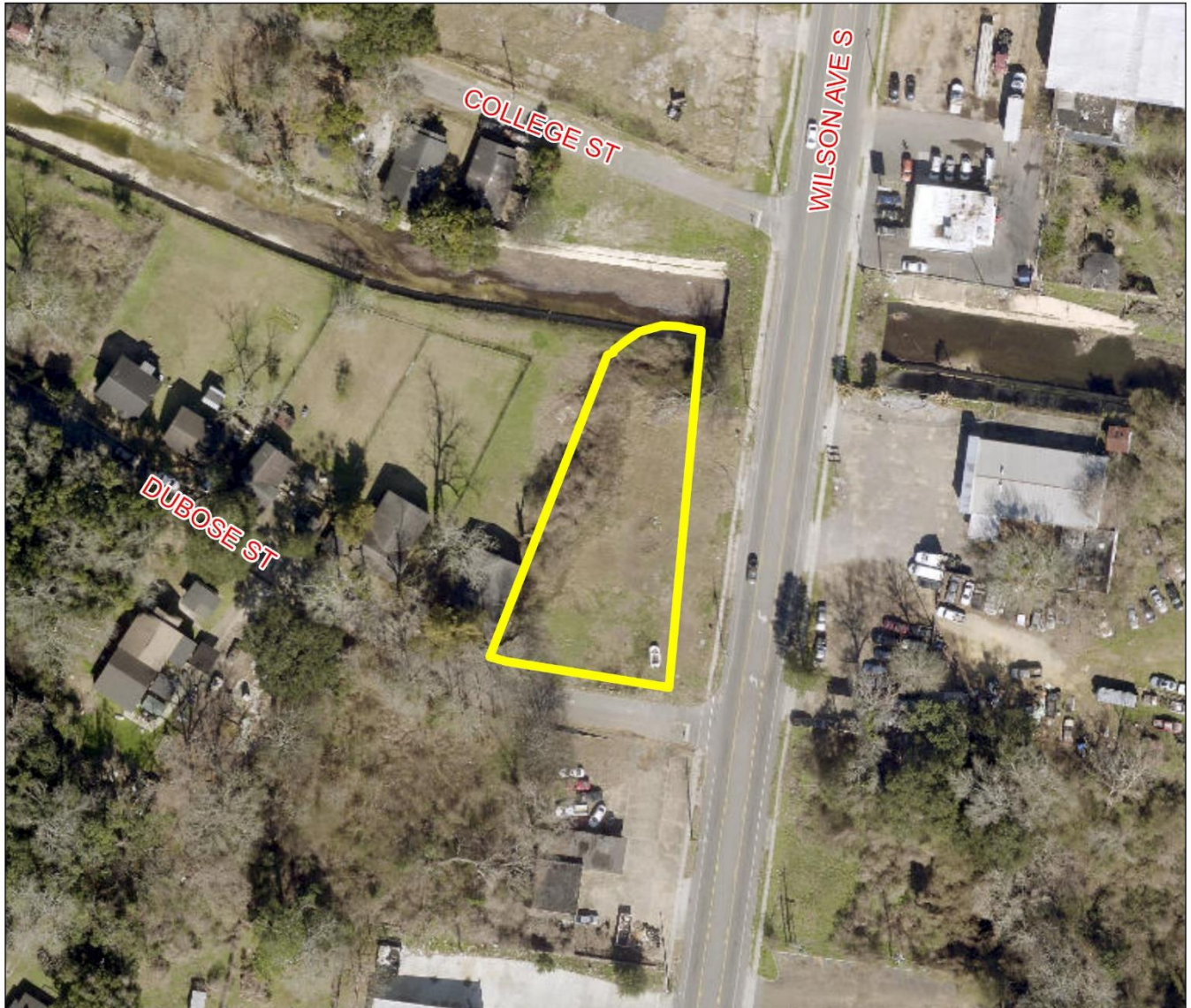
Board Consideration:

- Height Variance to allow a 160-foot high structure in a B-3, Community Business Urban District.
- To allow a reduced setback for a 160-foot high telecommunications tower in a B-3, Community Business Urban District.
- To allow a telecommunications tower with no camouflage in a B-3, Community Business Urban District.
- To allow a telecommunications tower with no landscaping in a B-3, Community Business Urban District.
- To allow a telecommunications tower with reduced buffer separation in a B-3, Community Business Urban District.


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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units to the west, and commercial units to the east.

APPLICATION NUMBER <u>6635</u> DATE <u>January 6, 2025</u>	 NTS
APPLICANT <u>Vertical Bridge REIT, LLC / Mary Palmer, Agent</u>	
REQUEST <u>Height, Setback, Landscaping, Design and Separation Buffer Variances</u>	

HOLDOVER COMMENTS

The application was heldover by the Board of Adjustment at its December 2, 2024 meeting to allow the applicant additional time to provide staff necessary information required by Unified Development Code Article 4, Section 64-4-9.G.6.(d) about potential co-location sites.

The applicant has submitted a letter from a Radio Frequency Engineer which provides justification for the new tower, as well as reasons that existing towers are not suitable for co-location.

HOLDOVER CONSIDERATIONS

Standards of Review:

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.

Article 4 Section 64-4-9.G.21.(a) states that the Board may grant approval of a site plan development Variance if the Applicant demonstrates with written evidence that:

- The location, shape, appearance or nature of use of the proposed Tower will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the Tower is proposed to be located; and
- The site plan development modification will not create any threat to the public health, safety or welfare.

Article 5 Section 64-5-10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest,
- Where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- The spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 64-5-10-E.2. states no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

Considerations:

Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be present:

- A) The variance **will not** be contrary to the public interest;

- B) Special conditions **exist** such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- C) The spirit of the chapter **shall be** observed and substantial justice **done** to the applicant and the surrounding neighborhood by granting the variance.

SITE HISTORY

There have been no Planning Commission or Board of Zoning Adjustment applications associated with the site.

STAFF COMMENTS

Engineering Comments:

No comments.

Traffic 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 [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

Fire Department Comments:

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2021 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

Planning Comments:

The applicant has requested Height, Setback, Landscaping, Design and Separation Buffer Variances to allow a 160-foot high telecommunications facility with reduced setbacks, no camouflage, no landscaping and reduced buffer separation in a B-3, Community Business Urban District; the Unified Development Code (UDC) limits structures to 45 feet tall, requires a property line setback equal to the tower height, requires telecommunications facilities to be camouflaged, provide compliant landscaping, and compliant buffer separations in a B-3, Community Business Urban District.

The proposed lease parcel and the parent parcel are currently vacant properties. It should be noted that there are dwellings in an R-1, Single-Family Residential District to the West, and commercial businesses to the East and South along South Wilson Avenue zoned B-3, Community Business Urban District. The North property line of the subject site is the City of Mobile City Limit border, and properties to the North of the site are located within the City of Prichard.

Article 2, Section 64-2-14.E.4. of the UDC limits structures to a maximum of 45-feet tall in a B-3, Community Business Urban District. For typical structures, this is generally adequate; however, telecommunications facilities require a greater height so that they are able to overcome intervening objects, such as trees, other buildings, and topography. Section 64-4-9.G.7.(c) allows Class 4 towers up to a maximum of 180-feet by-right in I-1 and I-2 districts, but allows for towers in other districts to exceed the maximum allowable height of other zoning districts, only if a variance is granted by the Board.

Article 4, Section 64-4-9.G.7.(f)(2) of the UDC requires Class 4 towers to have a setback on all sides, a distance equal to the height of the tower; the applicant is proposing a 160-foot tall tower, with an approximate 54-foot setback from the property lines of the subject site. Furthermore, Section 64-4-9.G.21.(b)(1) states that setback variances should only be granted for towers where the proposed location makes compliance impossible, and the only alternative is for the tower to be located 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 applicant does illustrate a radius from the tower showing 160-feet on the site plan, which is the setback the UDC requires for the proposed tower. As proposed, the 160-foot buffer includes two (2) existing residences. It should be noted that the proposed tower cannot meet setback requirements at the proposed site.

Article 4, Section 64-4-9.G.18 of the UDC requires Class 4 telecommunications towers to be camouflaged, unless it is technically infeasible. The applicant states that providing the required camouflage will result in a reduced colocation capacity.

Article 4, Section 64-4-9.G.13. of the UDC requires all landscaping on parcels containing telecommunications towers to be in compliance with the landscaping requirements of the zoning district where the tower is located. The applicant is requesting to waive all tree planting requirements. Based on the site plan provided, it appears a compliant amount of landscape area will be provided.

Article 4, Section 64-4-9.G.9.(a) of the UDC requires Class 4 telecommunications towers to be separated from all buildings and dwelling structures on residentially zoned properties a minimum of 200-feet or 150% of the height of the tower (240-feet), whichever is greater. As proposed, the tower will have approximately four (4) dwellings within the required 240-foot buffer.

The applicant also included in their application a request to waive the requirement to provide an on-site parking space. However, this request was not included in the public hearing notices and legal ads for the application. As such, if the applicant wishes the Board to consider this request, it will need to be heldover to the January 6th meeting so that the request can be properly advertised.

It should be noted that the subject site is not a legal lot of record. As such, a one-lot Subdivision will need to be completed prior to the issuance of building permits.

VARIANCE CONSIDERATIONS

Standards of Review:

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.

Article 4 Section 64-4-9.G.21.(a) states that the Board may grant approval of a site plan development Variance if the Applicant demonstrates with written evidence that:

- The location, shape, appearance or nature of use of the proposed Tower will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the Tower is proposed to be located; and
- The site plan development modification will not create any threat to the public health, safety or welfare.

Article 5 Section 64-5-10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest,
- Where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- The spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 64-5-10-E.2. states no variance shall be granted:

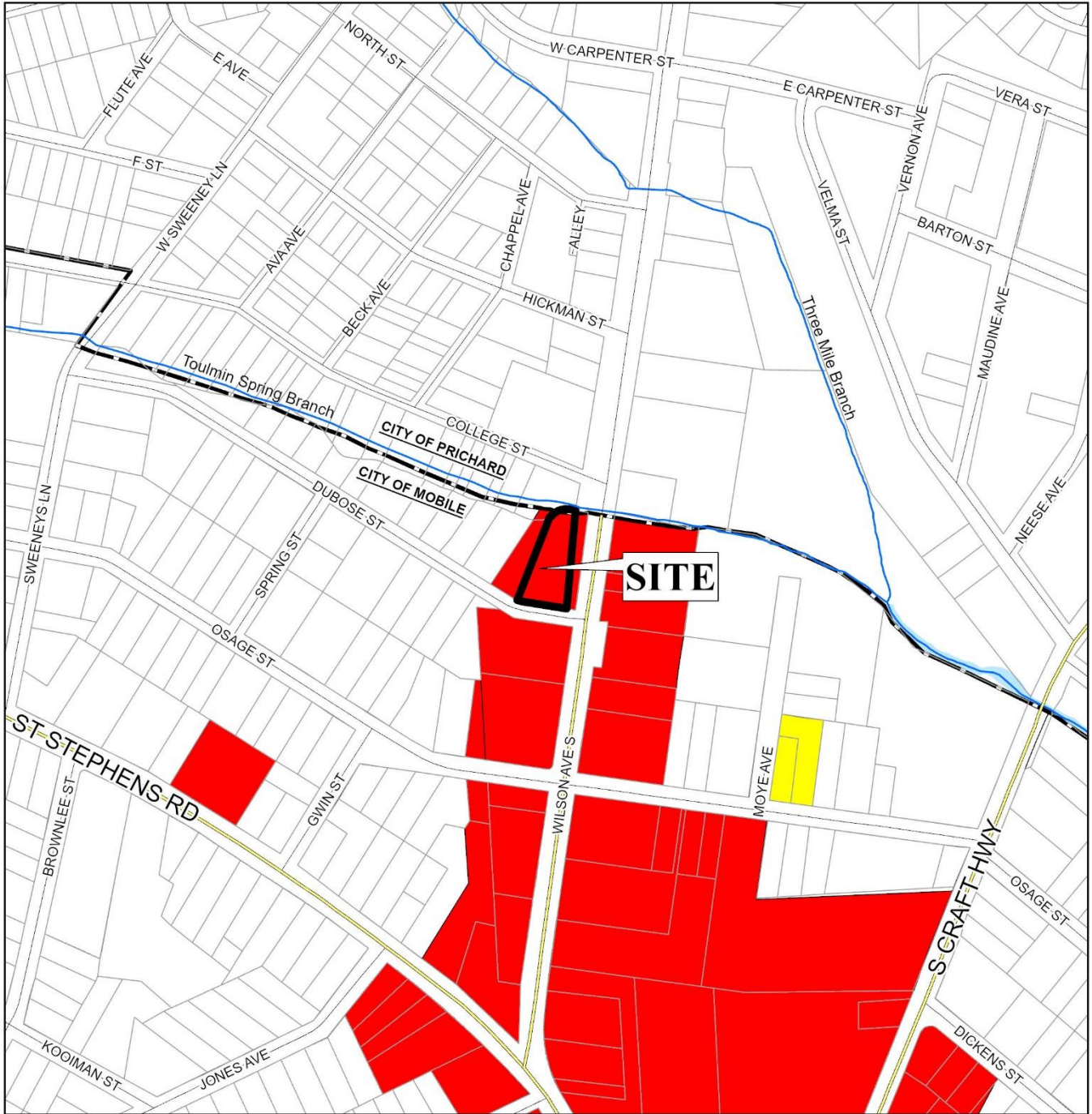
- (d) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (e) Where economic loss is the sole basis for the required variance; or
- (f) Where the variance is otherwise unlawful.

Considerations:

Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be present:

- A) The variance **will not** be contrary to the public interest;
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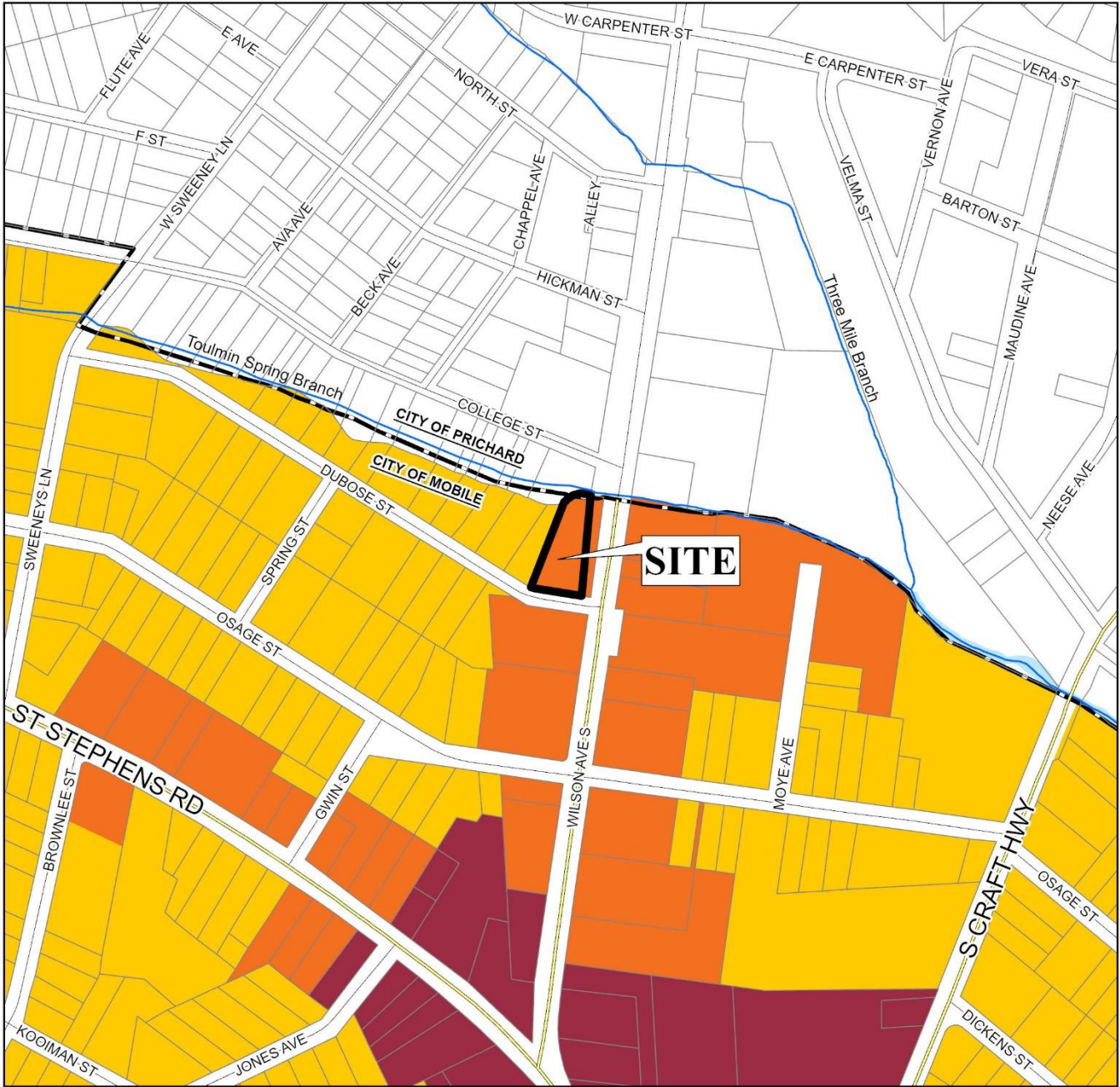
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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- | | | | |
|---------------------------|-----------------------------------|---------------------|--------------------|
| 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 | |



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

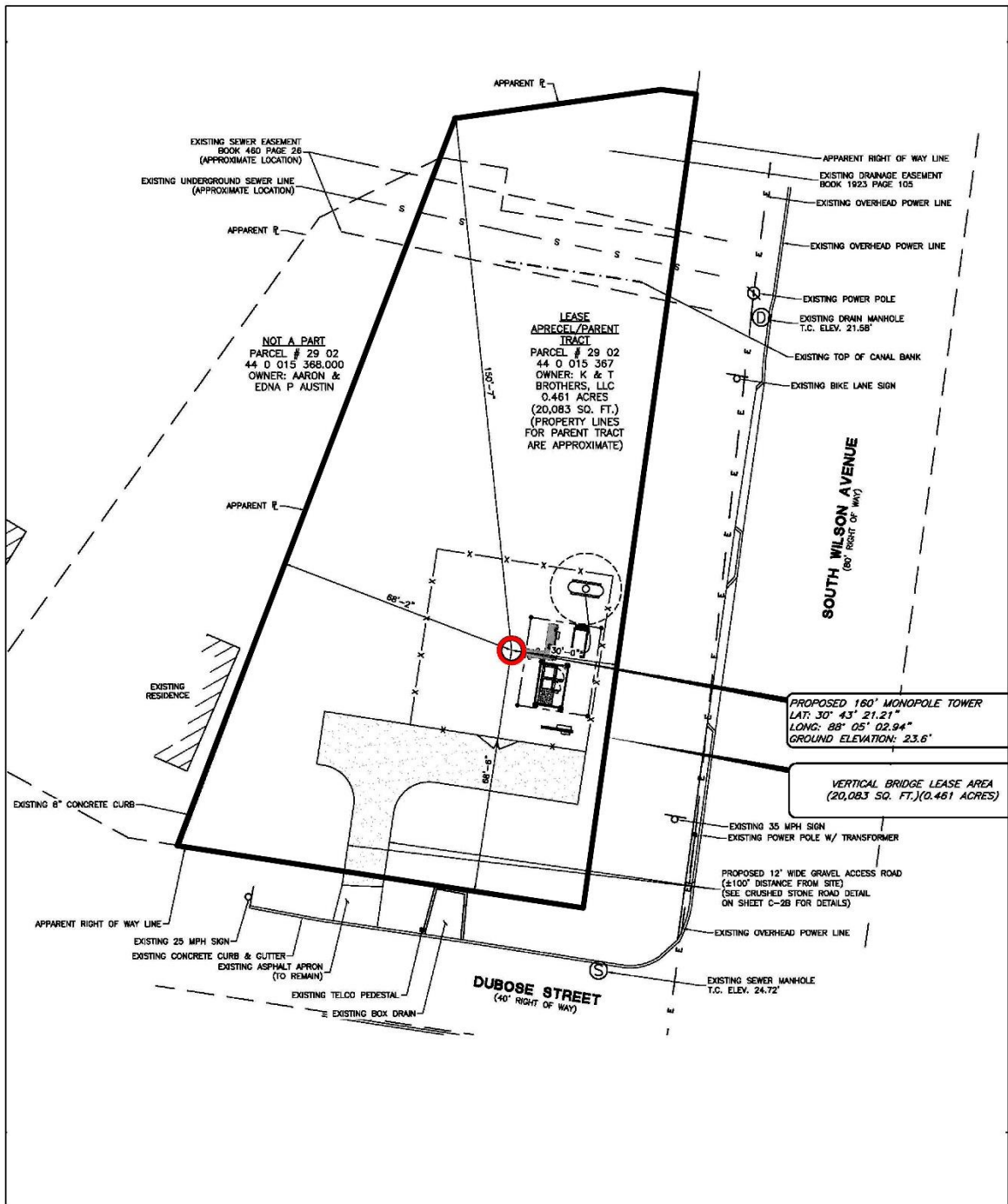


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SITE PLAN



The site plan illustrates the proposed monopole tower and existing easements.

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DETAIL SITE PLAN



NOT A PART
PARCEL # 29 02 44 0 015 388.000
OWNER: AARON & EDNA P AUSTIN

LEASE PREMISES/PARENT TRACT
PARCEL # 29 02 44 0 015 367
OWNER: K & T BROTHERS, LLC
0.461 ACRES (20,083 SQ. FT.)
(PROPERTY LINES FOR PARENT TRACT ARE APPROXIMATE)

PROPOSED 160' MONOPOLE TOWER
LAT: 30° 43' 21.21"
LONG: 88° 05' 02.94"
GROUND ELEVATION: 23.6'

VERTICAL BRIDGE LEASE AREA
(20,083 SQ. FT.)(0.461 ACRES)

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ZONING DISTRICT CORRESPONDENCE MATRIX		LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED COMMERCIAL CORRIDOR (MCC)	LIGHT INDUSTRIAL (LI)	HEAVY INDUSTRY (HI)	INSTITUTIONAL LAND USE (INS)	PARKS & OPEN SPACE (POS)	DOWNTOWN WATERFRONT (DW)	WATER DEPENDENT USES (WDWRLU)
RESIDENTIAL - AG	R-A														
ONE-FAMILY RESIDENCE	R-1	■				■		■					□		
TWO-FAMILY RESIDENCE	R-2	■				■		■					□	○	
MULTIPLE-FAMILY	R-3	○	■			■	■						□	○	
RESIDENTIAL-BUSINESS	R-B		○			■		■					□	○	
TRANSITIONAL-BUSINESS	T-B		○		■	■	■	■					□		
HISTORIC BUSINESS	H-B			■		■		■					□		
VILLAGE CENTER	TCD					■	■						□		
NEIGH. CENTER	TCD					■	■						□		
NEIGH. GENERAL	TCD					■							□		
DOWNTOWN DEV. DDD	T-6			■									□		
DOWNTOWN DEV. DDD	T-5.1			■		■		□					□		
DOWNTOWN DEV. DDD	T-5.2			■		■							□		
DOWNTOWN DEV. DDD	T-4			■		■		□					□		
DOWNTOWN DEV. DDD	T-3			■		■							□		
DOWNTOWN DEV. DDD	SD-WH									○	○		□		
DOWNTOWN DEV. DD	SD	○	○	○	○	○	○	○		○	○		□		
BUFFER BUSINESS	B-1		□			□	■	■	■				□	○	
NEIGH. BUSINESS	B-2		○			□	■	■	■				□	○	
LIMITED BUSINESS	LB-2		○			□	■	■	■				□	○	
COMMUNITY BUSINESS	B-3				■				■			○	□	○	
GEN. BUSINESS	B-4			■					■			○	□	○	
OFFICE-DISTRIBUTION	B-5								■	■			□	□	
LIGHT INDUSTRY	I-1									■			□	□	□
HEAVY INDUSTRY	I-2										■		□	□	□

Zoning District Correspondence Matrix

- Directly Related
- Elements of the zoning category are related to the future LU category, but with qualifications (such as a development plan with conditions)
- Land use category is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)



TRADITIONAL CORRIDOR (TC)

This land use designation generally applies to transportation corridors east of I-65, which serve as the primary commercial and mixed-use gateway to Downtown and the City's traditional neighborhoods (equivalent to Map for Mobile's Traditional Neighborhoods).

Depending on their location (and as allowed by specific zoning), TC designations incorporate a range of moderately scaled single-use commercial buildings holding retail or services; buildings that combine housing units with retail and/or office; a mix of housing types including low- or mid-rise multifamily structures ranging in density from 4 to 10 du/ac; and attractive streetscapes and roadway designs that safely accommodate all types of transportation – transit, bicycling, walking, and driving. In these areas, special emphasis is placed on the retention of existing historic structures, compatible infill development, and appropriate access management.