



Agenda Item # 4
BOA-002953-2024

View additional details on this proposal and all application materials using the following links:
[Applicant Materials for Consideration](#)

DETAILS

Location:

5575 Commerce Boulevard East

Applicant / Agent:

Vertical Bridge REIT, LLC / Mary Palmer, Agent

Property Owner:

Midam Properties LLC

Current Zoning:

B-5, Office Distribution District

Future Land Use:

Light Industry

Case Number(s):

6596 / 6543

Unified Development Code Requirement:

- All lots must be a compliant minimum size in a B-5, Office Distribution District
- Structure heights are limited to a maximum of 45-feet in a B-5, Office Distribution District
- Telecommunications towers must be setback from the property line a distance equal to the tower height in a B-5, Office Distribution District

Board Consideration:

- To allow a sub-standard lot size in a B-5, Office Distribution District
- Height Variance to allow a 180-foot high structure in a B-5, Office Distribution District
- To allow a reduced setback for a 180-foot high telecommunications tower in a B-5, Office Distribution District

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by commercial units. A residence lies south of the site.

APPLICATION NUMBER <u> 6596 </u> DATE <u> July 8, 2024 </u>
APPLICANT <u> Vertical Bridge REIT, LLC / Mary Palmer, Agent </u>
REQUEST <u> Lot Size, Height, and Setback Variances </u>



SITE HISTORY

The subject site was included in the Mobile Commerce Park Subdivision, Phase 1, Resubdivision of Lot 4, Resubdivision of Lot 3, and Lot 4-B, heard before the Commission on January 3, 2008. Additionally, the site was rezoned from R-1, Single-Family Residential to B-5 in 2009 as part of the 2008 annexation process.

At its meeting on September 7, 2023 the Planning Commission approved a subdivision request for the subject site which positioned Lot 2-B near the southeast corner of the site. Concurrent with this decision, the Board of Zoning Adjustment approved requests at its September 11, 2023 meeting for Special Exception and Lot Size, Height, and Setback Variances to allow a 180-foot high telecommunications facility requiring a Class 4 permit, on a sub-standard lot, with a reduced setback in a B-5 District.

The 2023 Board of Adjustment decision was appealed and is pending before the Circuit Court of Mobile County Alabama. In response to the appeal, and in discussion with the appellant, the Applicant changed the location of the proposed Lot 2-B and filed a new subdivision request, which the Planning Commission approved at its June 20, 2024 meeting. The June subdivision moved the location of the proposed tower and Lot 2-B to the North side of the site.

However, as the previously approved Special Exception and Variances were based on the 2023 Subdivision, the applicant has submitted new requests for Special Exception and Lot Size, Height, and Setback Variances to allow a 180-foot high telecommunications facility requiring a Class 4 permit, on a sub-standard lot, with a reduced setback in a B-5 District, corresponding with the changes made to lot configuration approved by the Planning Commission in June.

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

STAFF COMMENTS

Engineering Comments:

If the proposed variance is approved the applicant will need to have the following conditions met:

- A. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit be submitted through Central Permitting.
- B. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
- C. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
- D. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

Traffic Engineering Comments:

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Article 3, Section 64-3-12 of the City's Unified Development Code.

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 Lot Size, Height, and Setback Variances to allow a 180-foot high telecommunications facility requiring a Class 4 permit, on a sub-standard lot, with a reduced setback in a B-5, Office Distribution District. The Unified Development Code (UDC) requires all lots to be a compliant minimum size, limits structure heights to 45-feet, and requires a property line setback equal to the tower height in a B-5, Office Distribution District.

The proposed lease parcel and the parent parcel are currently vacant, wooded properties. It should be noted that the majority of the surrounding properties are developed with offices and warehouses, with a dwelling in an R-1, Single-Family Residential District to the South. The subject site, and all immediately adjacent properties are zoned B-5, Office Distribution District, with the exception of the dwelling in an R-1, Single-Family Residential District to the South.

Article 2, Section 64-2-16.E.1. of the UDC require new building sites within a B-5 Office Distribution District be a minimum of 7,200 square feet. It is not uncommon for lease parcels accommodating telecommunications facilities to only be large enough to accommodate the tower and associated equipment. A State of Alabama Law adopted in 2012 requires that lease parcels must also be legal lots of record, otherwise the existing legal lot of record would be sufficient to allow the development, notwithstanding the Special Exception and other Variance requests.

Article 2, Section 64-2-16.E.4. of the UDC limits structures to a maximum of 45-feet tall in a B-5 Office Distribution 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, if a variance is granted by the Board.

Article 4, Section 64-4-9.G.7.(f)(2) of the Unified Development Code (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 180-foot tall tower, with an approximate 35-foot setback from the proposed property lines of the lease parcel. 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 180-feet on the site plan, which is the setback the UDC

requires for the proposed tower. As proposed, the 180-foot buffer does not include any other structures. It should be noted that the proposed tower could meet setback requirements, only if it were placed in the middle of the parent parcel, with no separate lease lot. This would severely impact any further development on the overall 6.7± acre site.

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:

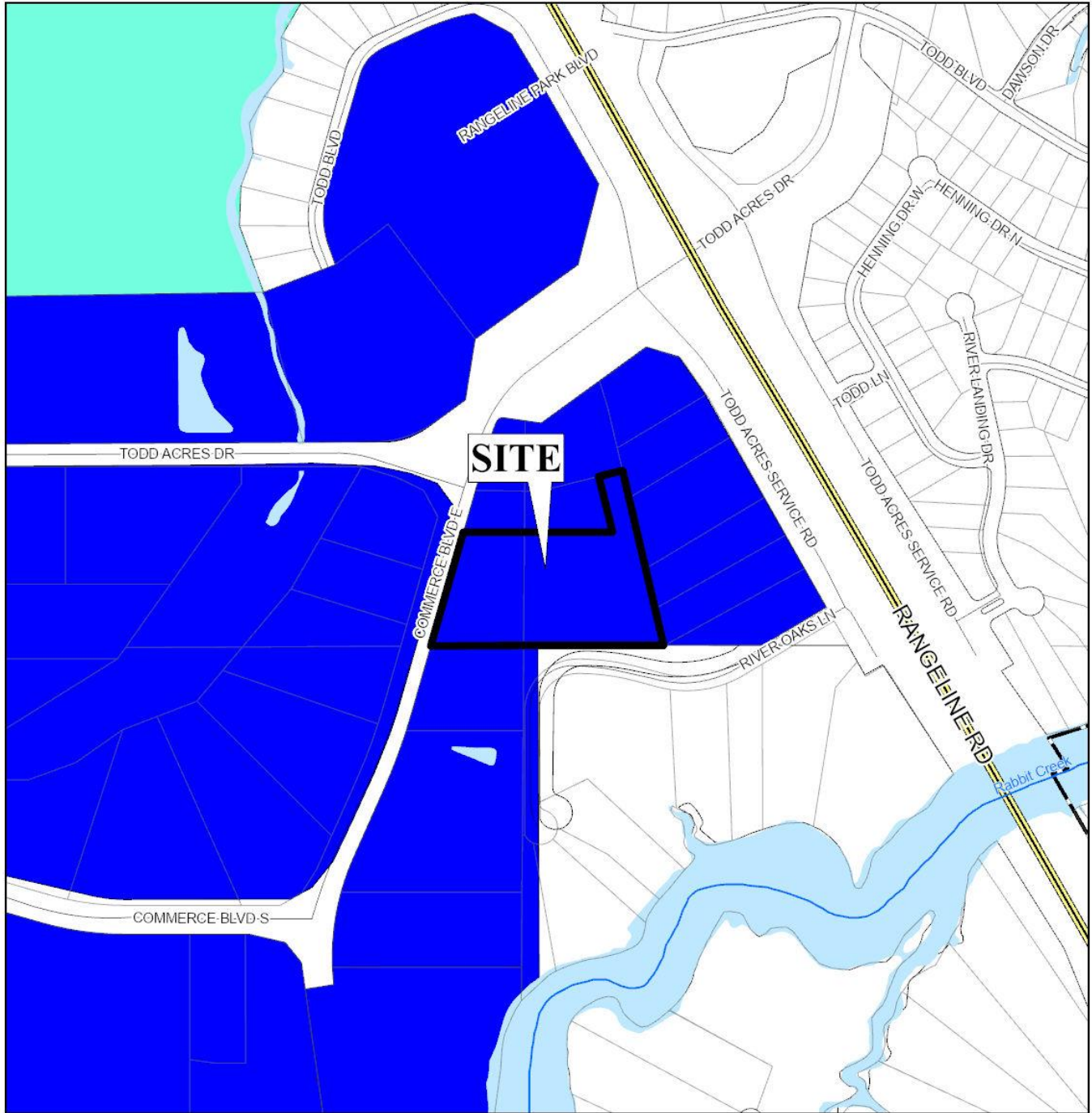
- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

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.

LOCATOR ZONING MAP



APPLICATION NUMBER 6596 DATE July 8, 2024

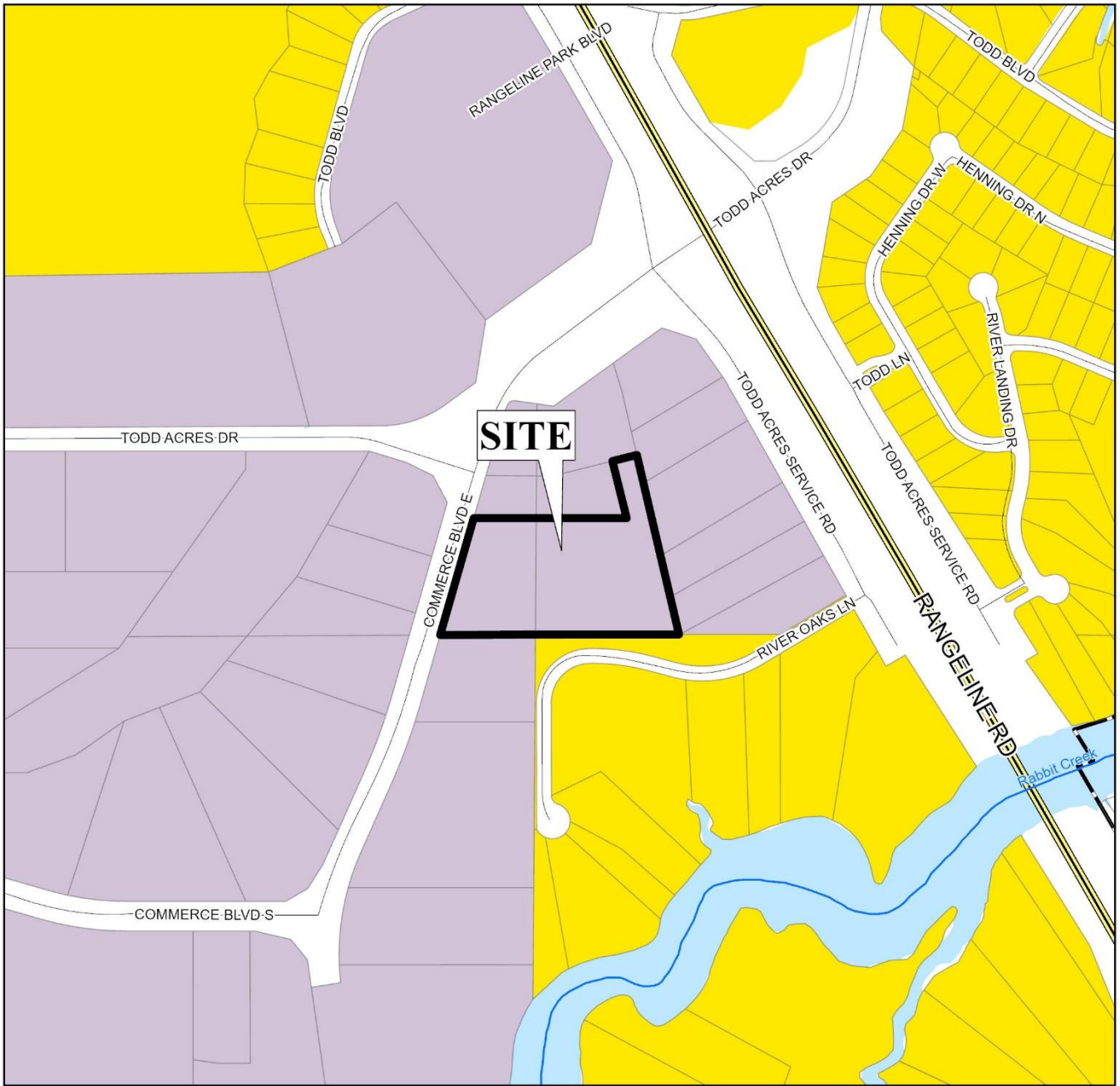
APPLICANT Vertical Bridge REIT, LLC / Mary Palmer, Agent

REQUEST Lot Size, Height, and Setback Variances



NTS

FLUM LOCATOR MAP

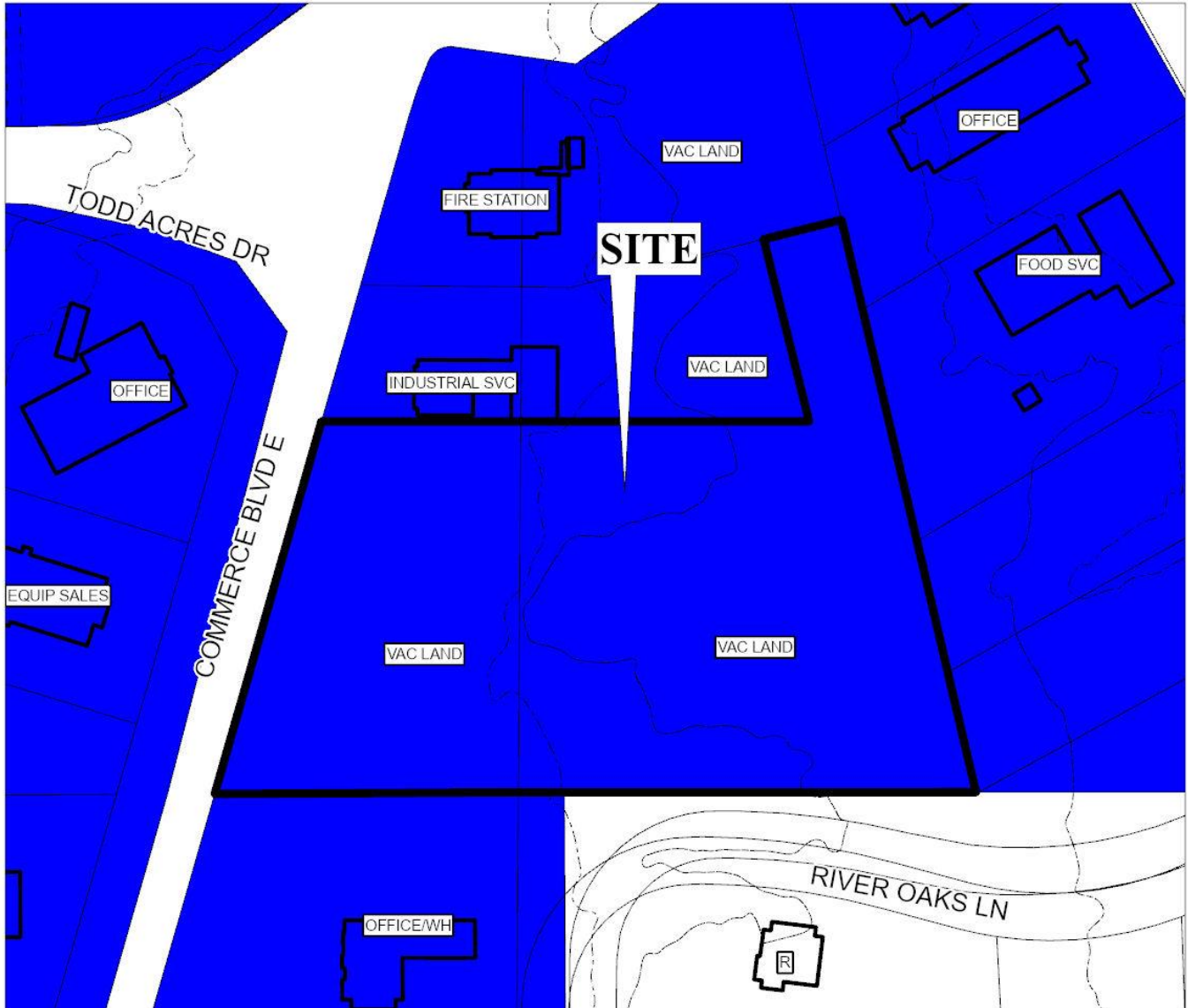


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- | | | | |
|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood Center - Suburban | Light Industry | Water Dependent |
| Downtown | Traditional Corridor | Heavy Industry | |
| District Center | Mixed Commercial Corridor | Institutional | |



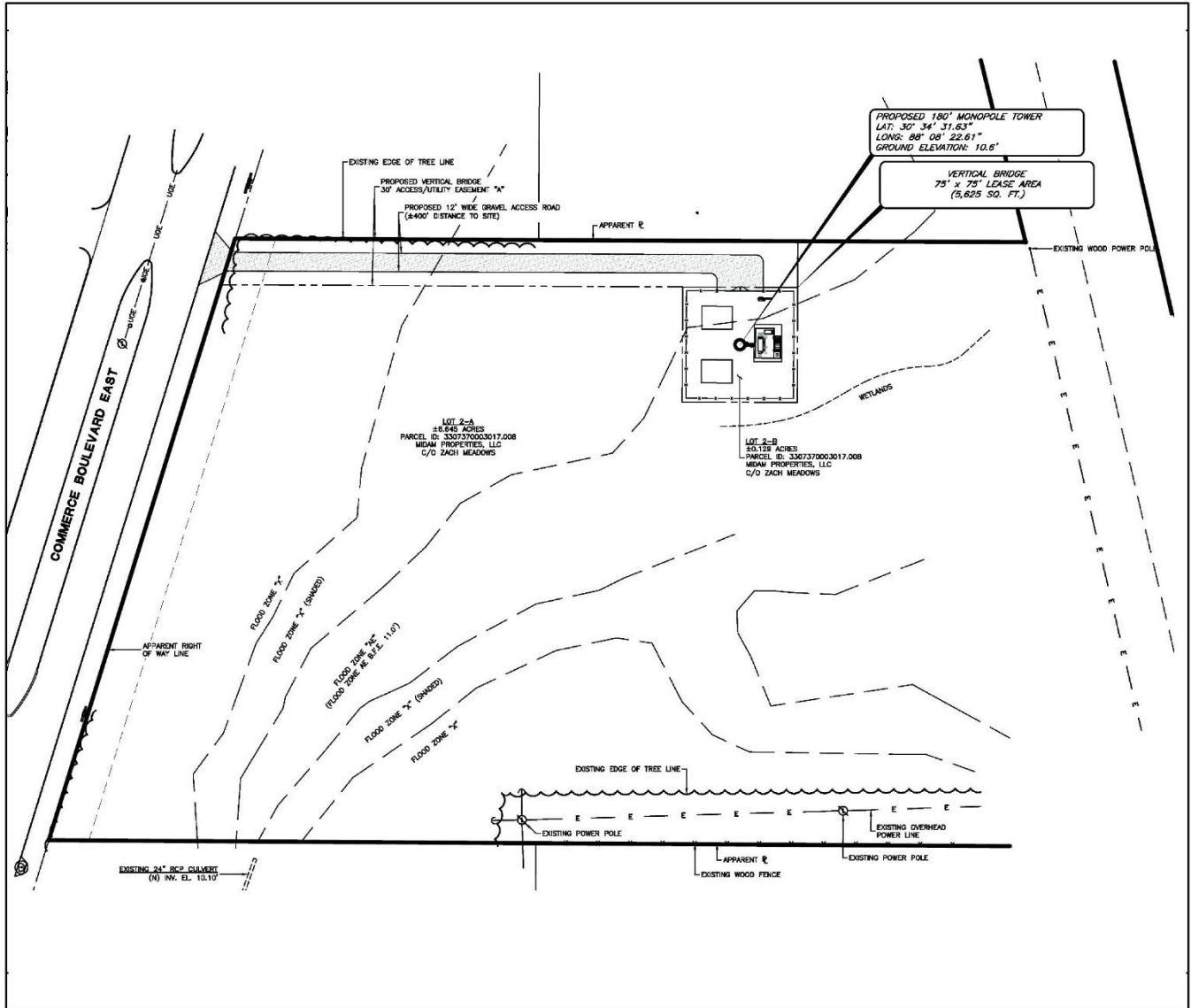
BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING




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<table style="width: 100%; font-size: small;"> <tr> <td> R-A</td> <td> R-3</td> <td> B-1</td> <td> B-2</td> <td> B-5</td> <td> ML</td> <td> I-2</td> <td> OPEN</td> <td> T-3</td> <td> T-5.2</td> </tr> <tr> <td> R-1</td> <td> R-B</td> <td> T-B</td> <td> B-3</td> <td> CW</td> <td> MH</td> <td> PD</td> <td> SD</td> <td> T-4</td> <td> T-6</td> </tr> <tr> <td> R-2</td> <td> H-B</td> <td> LB-2</td> <td> B-4</td> <td> MM</td> <td> I-1</td> <td> MUN</td> <td> SD-WH</td> <td> T-5.1</td> <td></td> </tr> </table>			 R-A	 R-3	 B-1	 B-2	 B-5	 ML	 I-2	 OPEN	 T-3	 T-5.2	 R-1	 R-B	 T-B	 B-3	 CW	 MH	 PD	 SD	 T-4	 T-6	 R-2	 H-B	 LB-2	 B-4	 MM	 I-1	 MUN	 SD-WH	 T-5.1	
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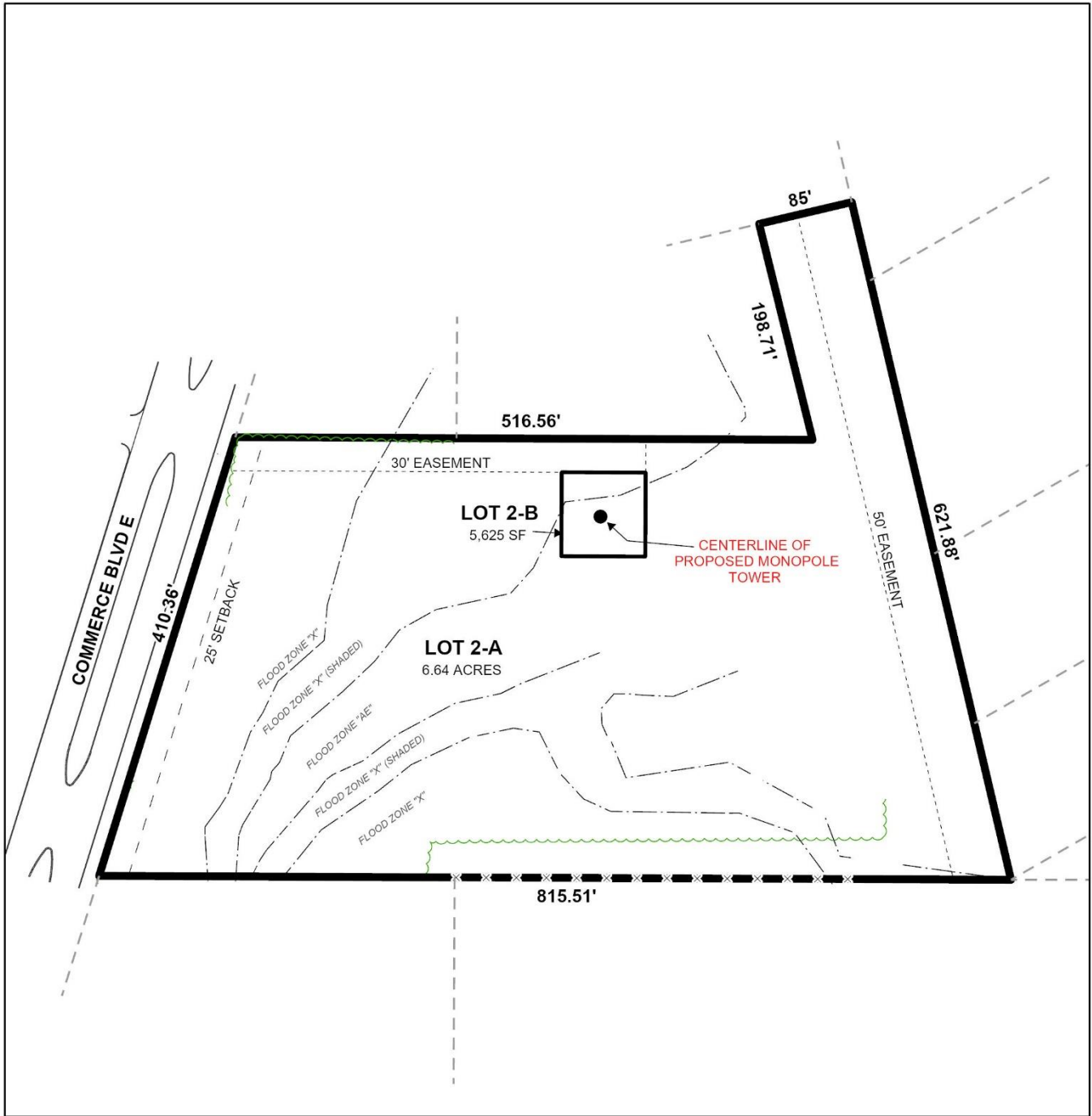
SITE PLAN



The site plan illustrates the flood zones, easements, and proposed monopole tower.

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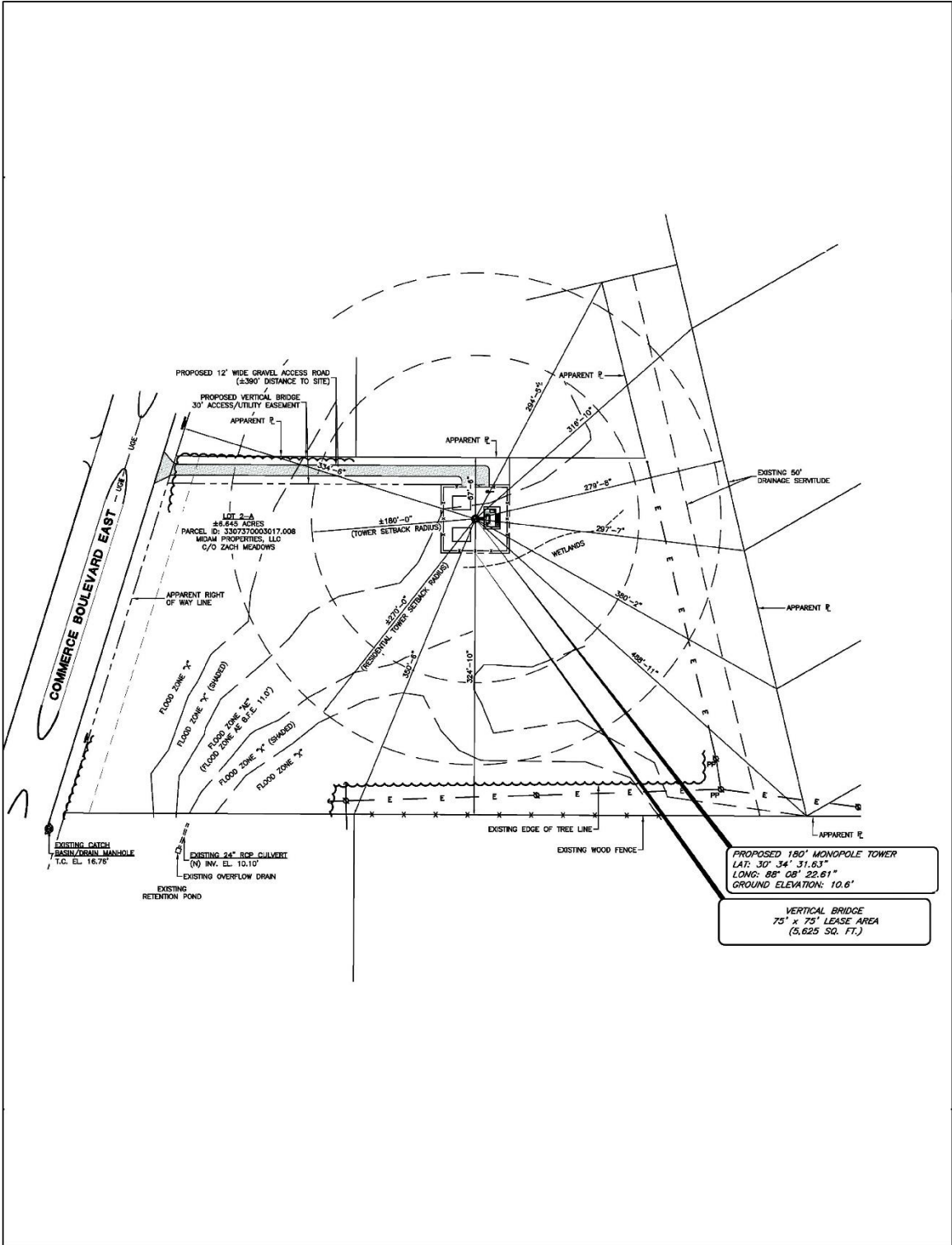
DETAIL SITE PLAN



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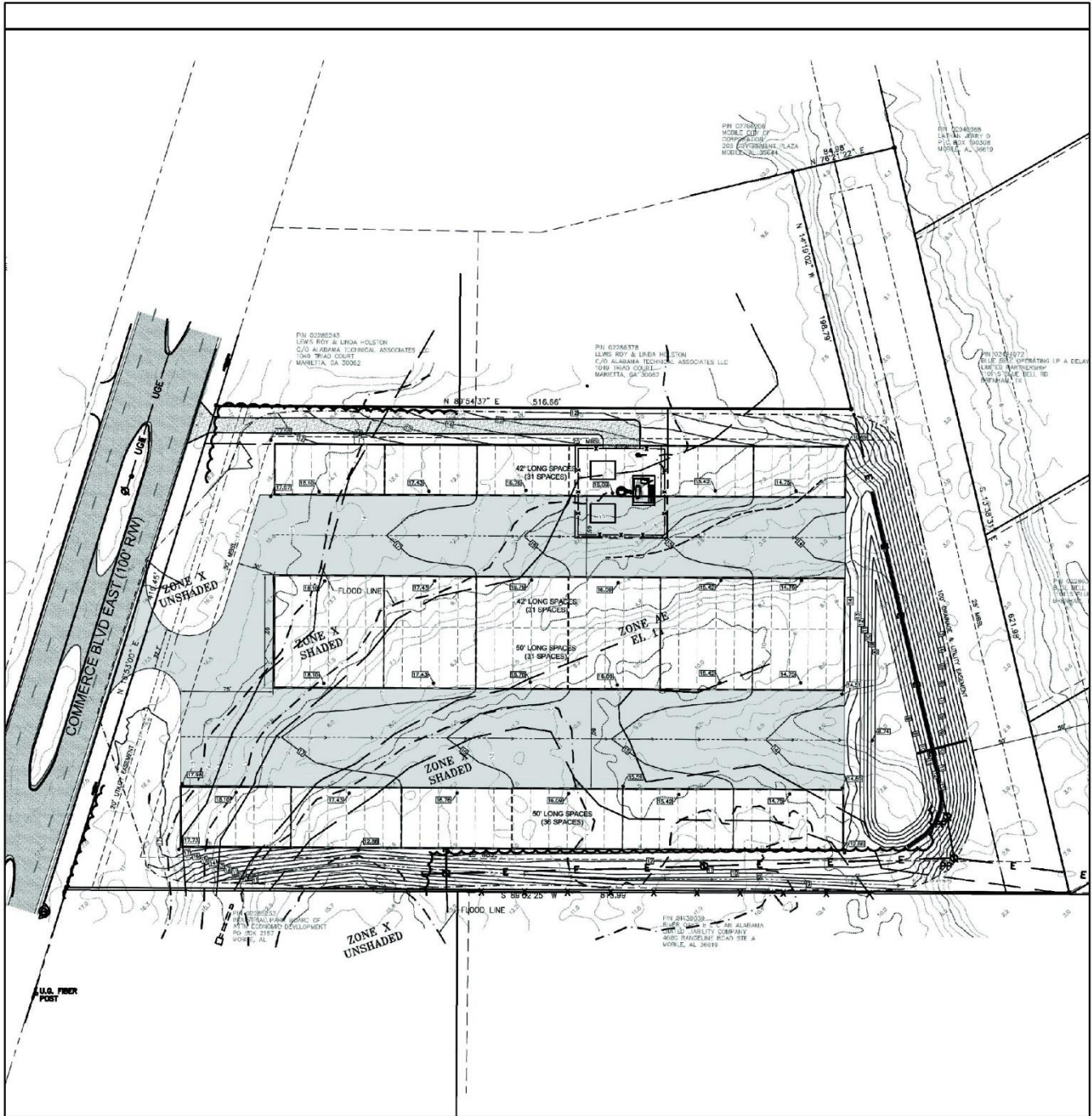


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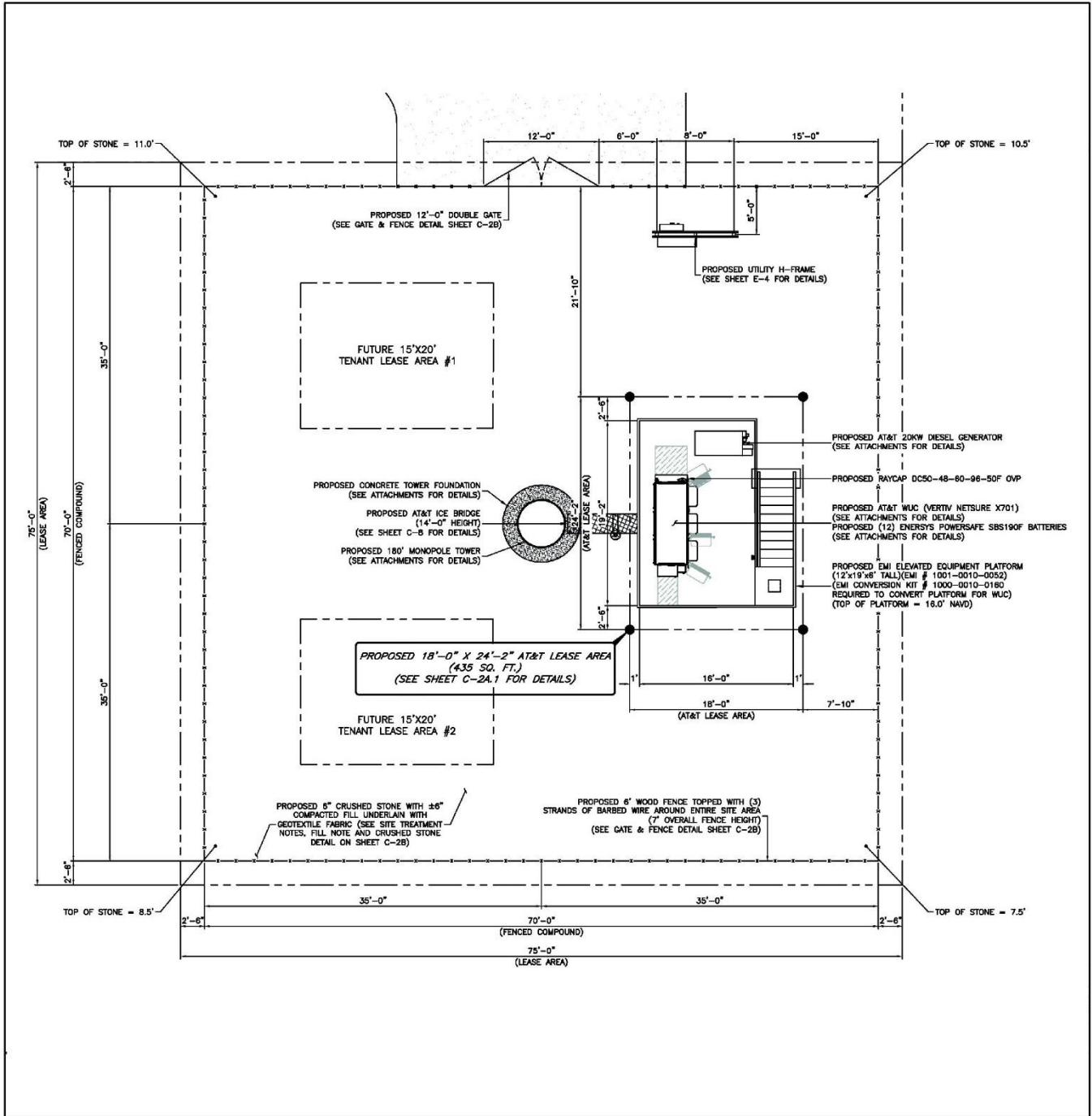
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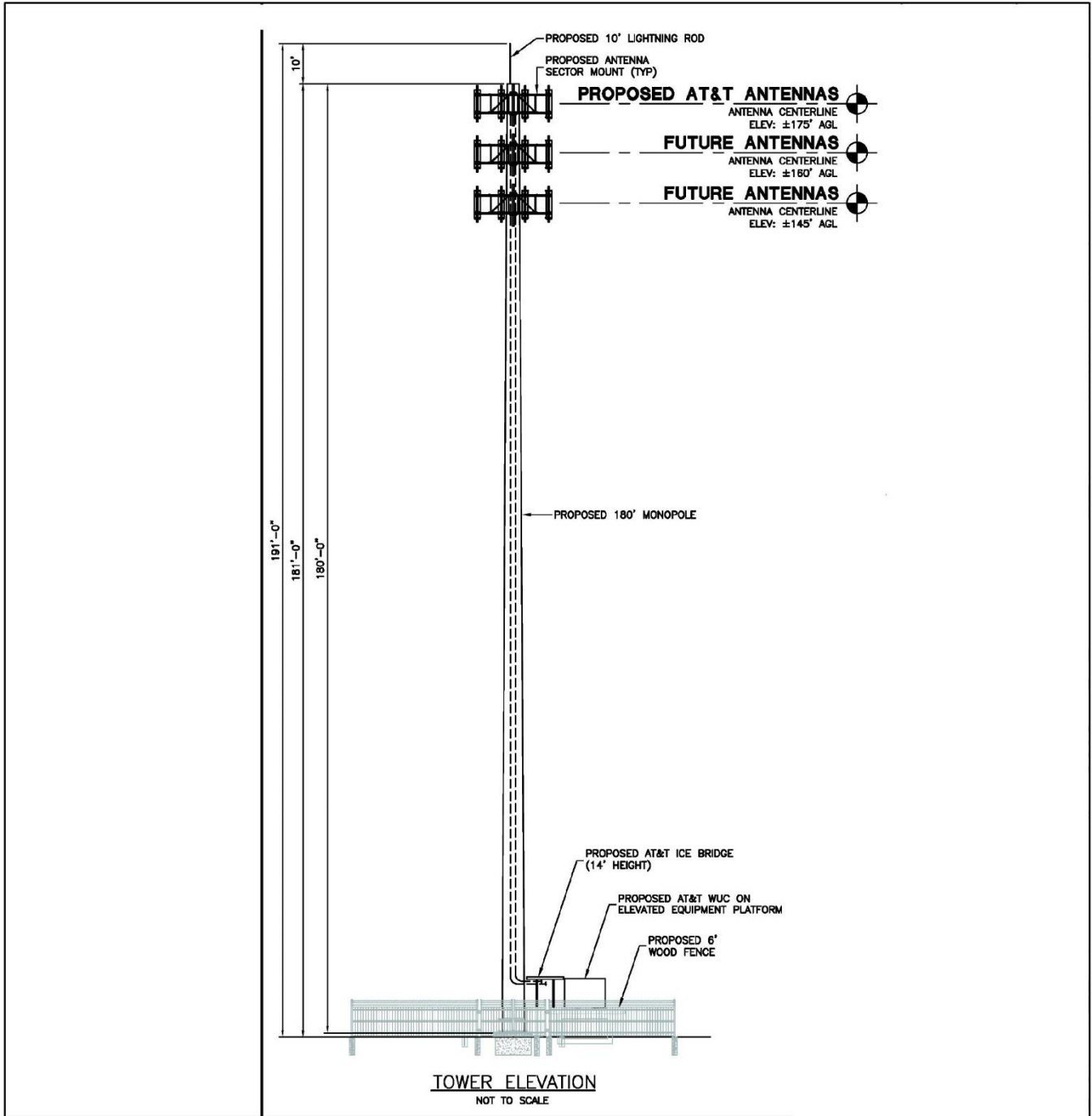


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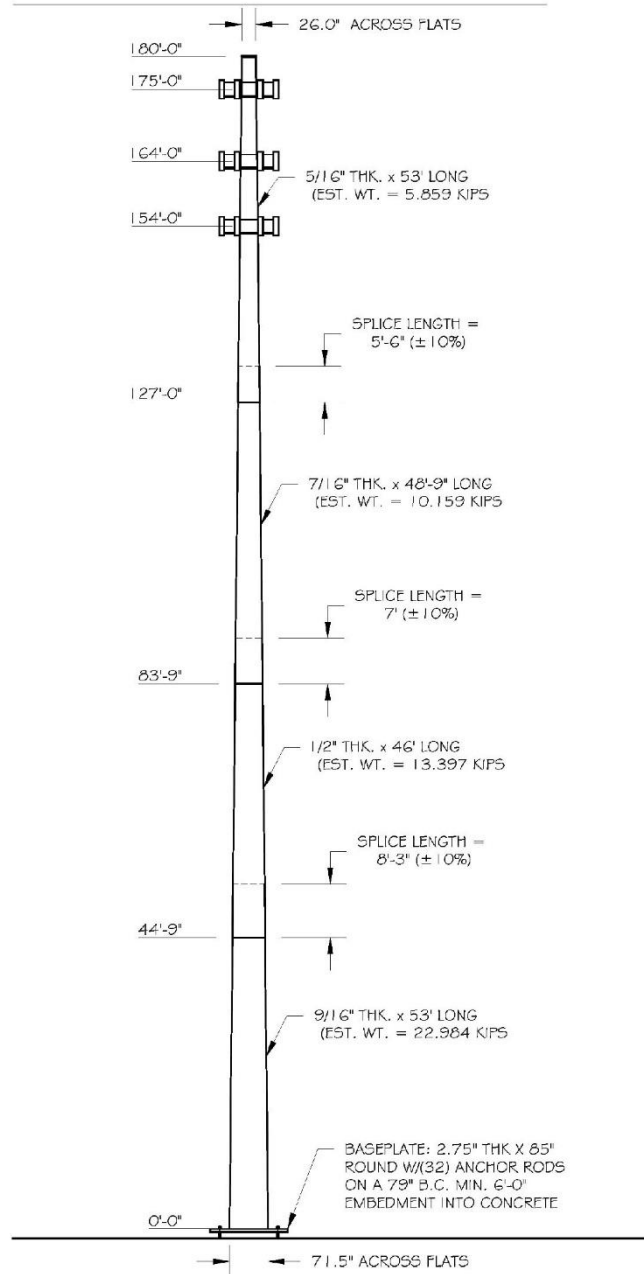
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ZONING DISTRICT CORRESPONDENCE MATRIX		LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED 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)

LIGHT INDUSTRY (LI)

This land use designation applies to an array of modern, low-impact industrial uses that include assembly and processing, warehousing, distribution and wholesaling facilities. The bulk of the light industrial use must be contained within a building or facility. If a light industrial use requires outside storage, the storage must be limited in area and appropriately screened from view in accordance to specific zoning requirements. This designation may also include uses such as complementary offices and retail.

LI also includes areas that may be regarded as "industrial business", where the land uses include business administration and logistics operations for industrial concerns, building trade contractors facilities and advanced research facilities, as well as stand-alone educational, scientific and industrial research facilities, or any combination of

those facilities located in light industrial and technology parks. Many parcels used for industrial business are smaller and scattered throughout Mobile. For this reason, these parcels are not singled out in the FLUM, but rather are addressed through zoning.

Light industrial uses are characterized by attractive, accessible and connected development, compatible with the character of surrounding neighborhoods. Development may take the form of planned campuses in park-like settings or unified design corridors, with consideration to factors such as site and building orientation, building design, landscaping and buffering, lighting, continuity of pedestrian networks, access and connectivity to transit and to freight transportation.

Heavy commercial and, in some cases, high-density residential land uses may serve as transitions between LI and other, lower-intensity land use designations. Protection buffers may also be required by zoning.