

APPLICATION NUMBER

5582/5478

A REQUEST FOR

**HEIGHT AND SETBACK VARIANCES TO ALLOW A 150'
MONOPOLE TELECOMMUNICATIONS TOWER,
SETBACK 27.5' FROM A LEASE PARCEL LINE; THE
MAXIMUM ALLOWABLE HEIGHT IS 45', AND A 150'
TOWER MUST BE SETBACK AT LEAST 150' FROM A
LEASE PARCEL LINE IN A B-3, COMMUNITY BUSINESS
DISTRICT.**

LOCATED AT

2501 GOVERNMENT BOULEVARD

(South side of Government Boulevard, 555' + East of Eslava Creek Parkway)

APPLICANT

TOWER VENTURES V, LLC

BOARD OF ZONING ADJUSTMENT

DECEMBER 2009

The applicant is requesting Height and Setback Variances to allow a 150' monopole telecommunications tower, setback 27.5' from a lease parcel line; the maximum allowable height is 45', and a 150' tower must be setback at least 150' from a lease parcel line in a B-3, Community Business District.

In July, 2008, the applicant received approval for a similar application and Planning Approval to allow the tower in a B-3 District. Construction permits were not requested within the 6-month period following the granting of the variance and it expired. Construction permits are now being sought, hence this application.

The applicant states that the nearest existing tower to the proposed site is the Crown Castle Site on Commercial Boulevard to the South. Engineers for Cellular South claim that, since this tower is only 93' in height, it is inadequate for solving the network issues in the Mobile area, nor is it capable of holding the proper equipment needed and lacks sufficient ground space for equipment. Locating on that tower would leave large gaps in the coverage area, which would require additional towers to be constructed. The applicant has concluded that the proposed site is the best possible location for a tower that would not only satisfy the coverage issues, but would also minimize the number of towers constructed in the Mobile area.

Furthermore, the applicant states that the proposed communications tower will not change the aesthetics or character of the neighborhood, as it will be "neatly tucked away" in the rear corner of a shopping center and away from any residential areas. This location, combined with the proposed monopole design, minimizes the tower's visibility and impact on residential properties. It is also stated that the tower will have the potential for collocation of up to four additional carriers.

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."

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. Propagation maps illustrating the need for the tower in the area have also been submitted. Also addressed is the fact that, in the event of a collapse, the tower is designed in such a way that the fall will be completely contained within the 55' x 75' lease area.

Regarding the site plan, several issues need to be addressed. First, it does not illustrate any proposed landscaping, which should be in accordance with the requirements of the associated B-3 zoning district. Second, the site plan depicts access to the tower from Government Boulevard via a 20' ingress/egress and utility easement; however, no information is given as to the surfacing of this easement, nor is any parking shown for the service vehicle(s). Section 64-4.J.14. of the Zoning Ordinance requires that all parcels upon which towers are located must provide paved access to at least one paved vehicular parking space on site. There are also dumpsters depicted within this easement, which should be removed upon approval of this application. Finally, the Zoning Ordinance requires all communications towers to be enclosed within an 8' high fence, which is not shown on the site plan.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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.

Variations 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 documentation submitted with this request indicates there are no towers in the area that are capable of solving the coverage issues that exist in the network. The need for the tower has been illustrated, as has the provision for at least three additional collocations. Furthermore, the tower's design ensures that any fall will be completely contained on site. As this is essentially the same variance request as previously approved, the Board should consider it for approval.

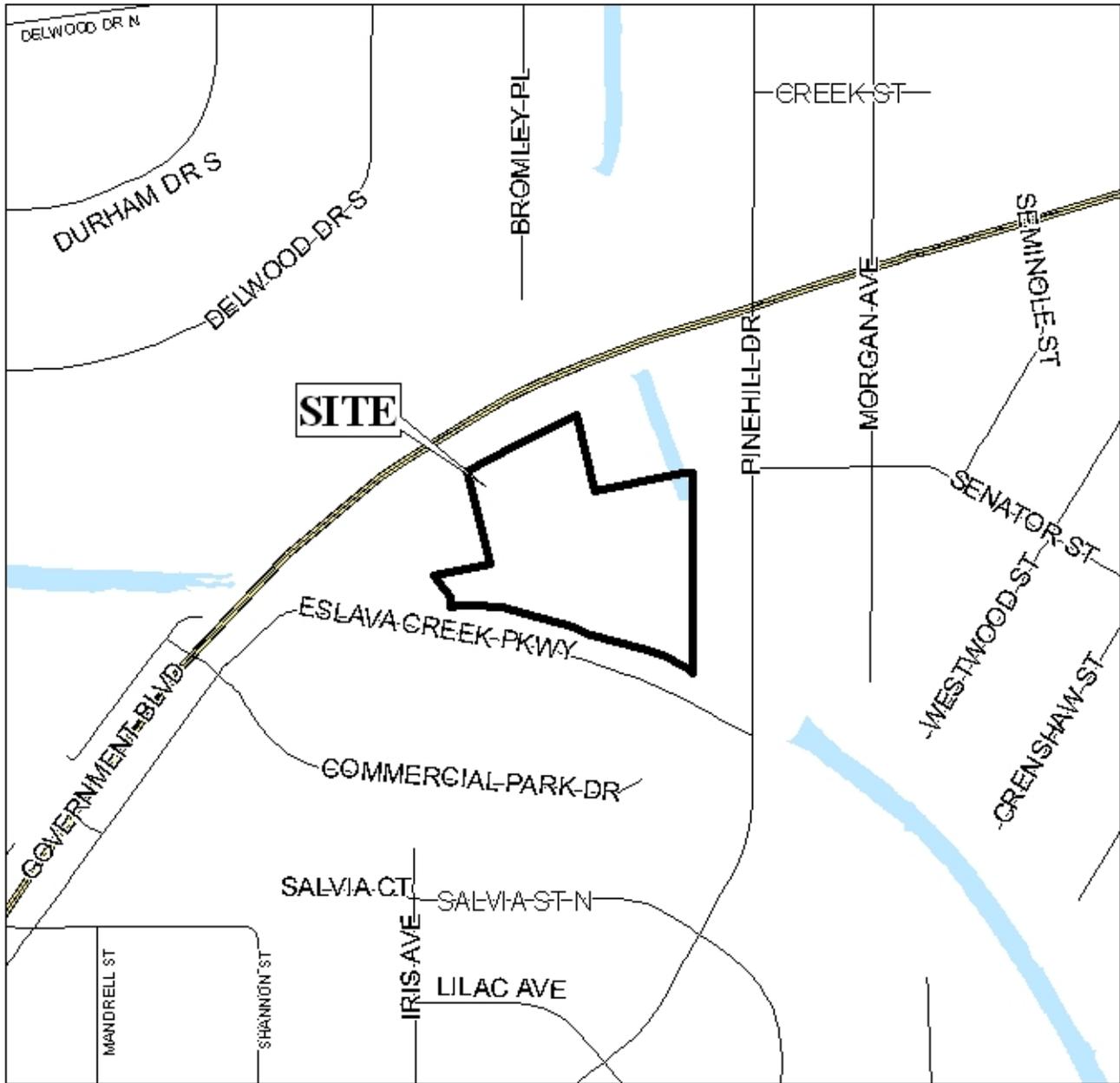
RECOMMENDATION 5582/5478

Date: December 7, 2009

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

- 1) provision of landscaping and trees, as required by Section 64-4.E. of the Zoning Ordinance;
- 2) provision of paved access and parking, as required by Section 64-4.J.14. of the Zoning Ordinance;
- 3) removal of all dumpsters from the access easement;
- 4) provision of an 8' high fence enclosing the tower and equipment compound; and
- 5) full compliance with all other municipal codes and ordinances.

LOCATOR MAP



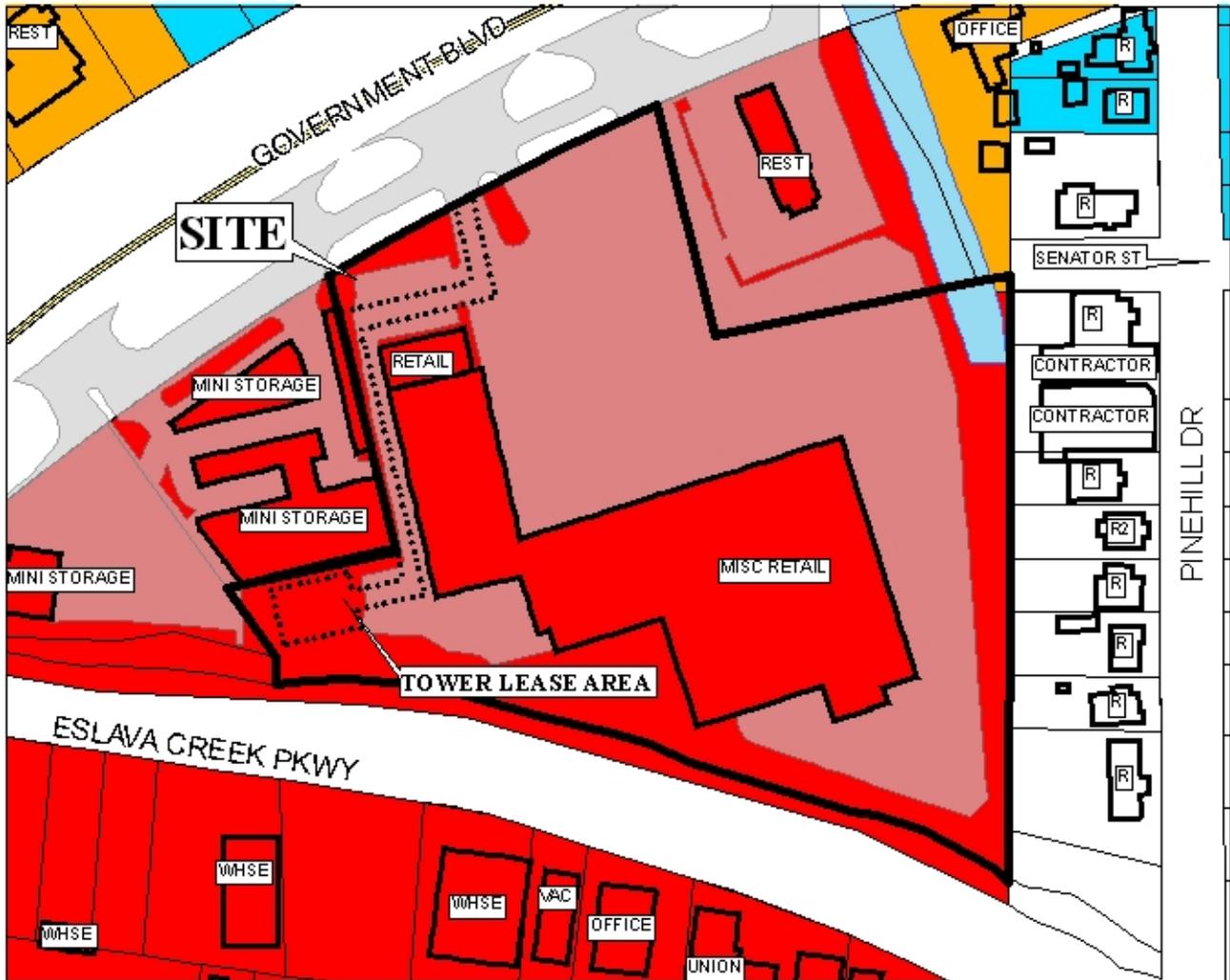
APPLICATION NUMBER 5582/5478 DATE December 7, 2009

APPLICANT Tower Ventures V, LLC

REQUEST Height, Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial land use. Single family residential units are located to the east of the site.

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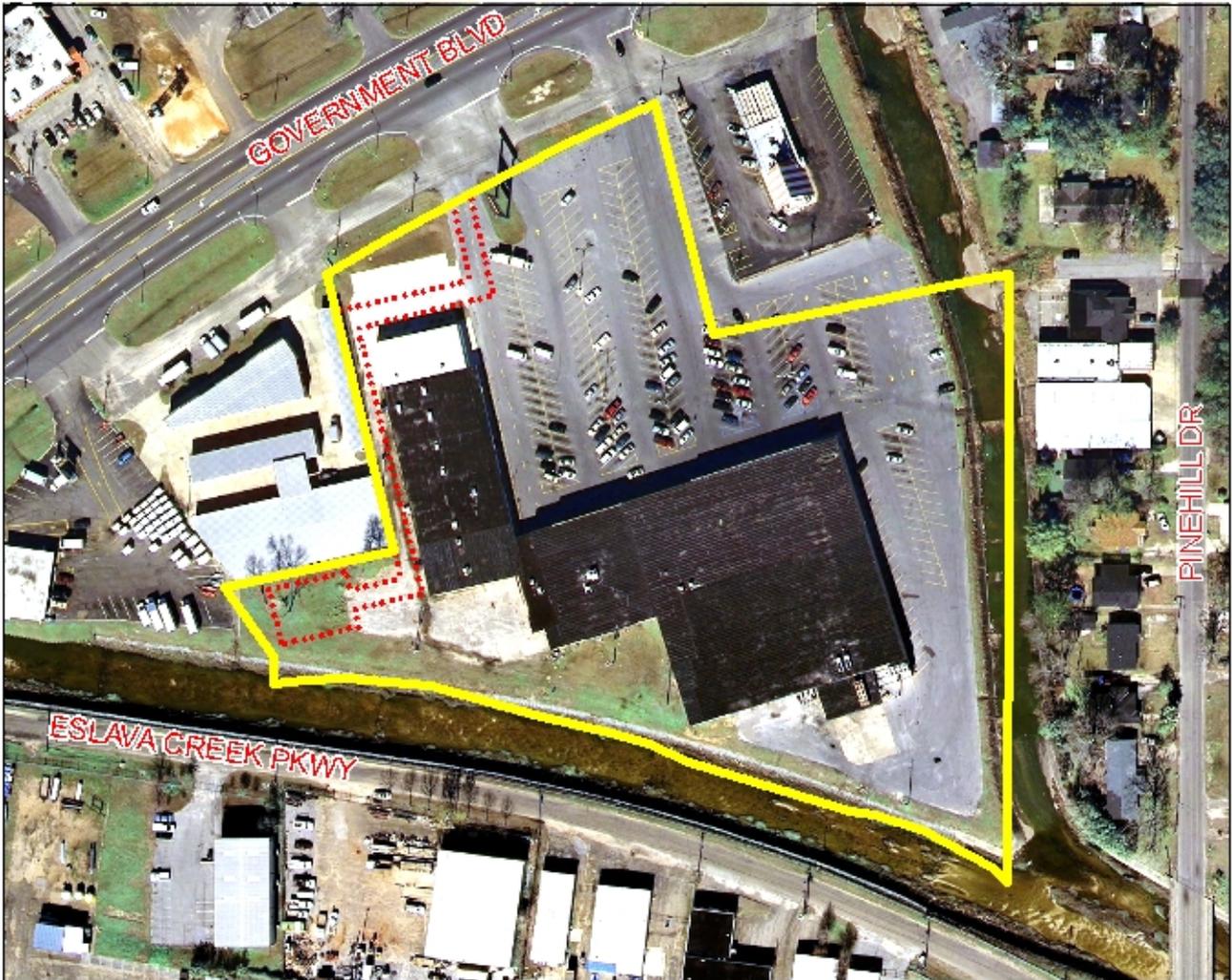
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LEGEND R-1 R-2 R-3 R-A R-B H-B T-B B-1 LB-2 B-2 B-3 B-4 B-5 I-1 I-2



**BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING**

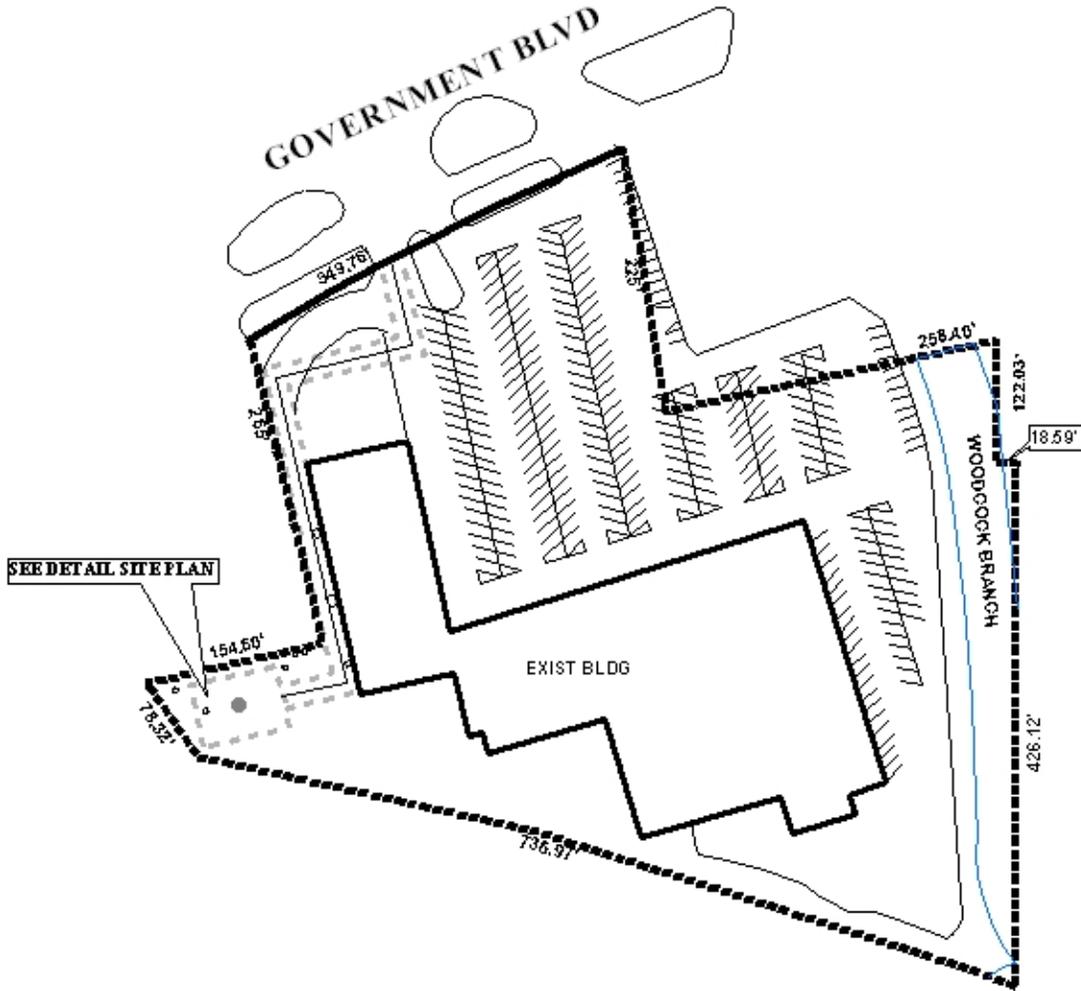


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SITE PLAN



The site plan illustrates the existing development and proposed tower lease area

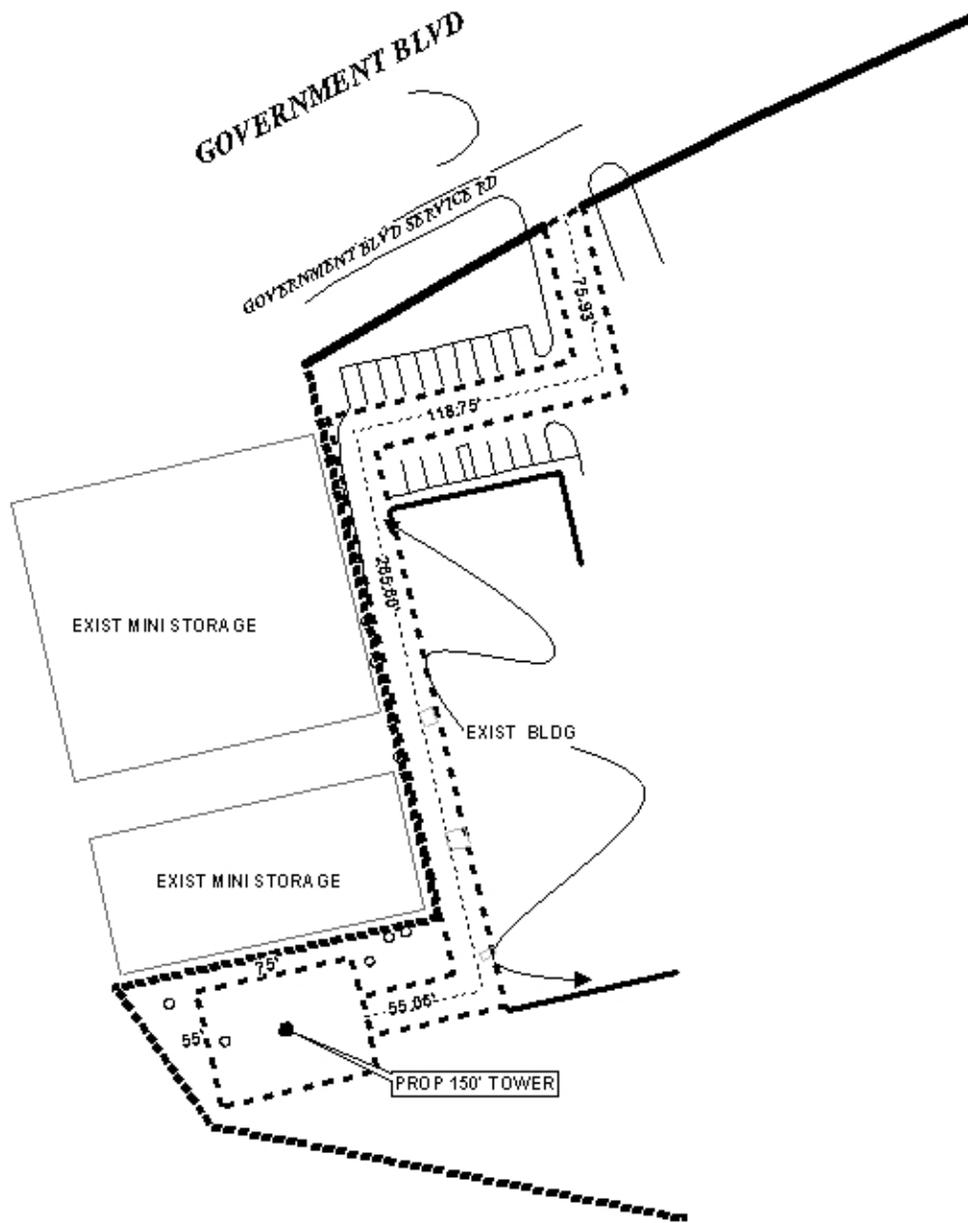
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DETAIL SITE PLAN



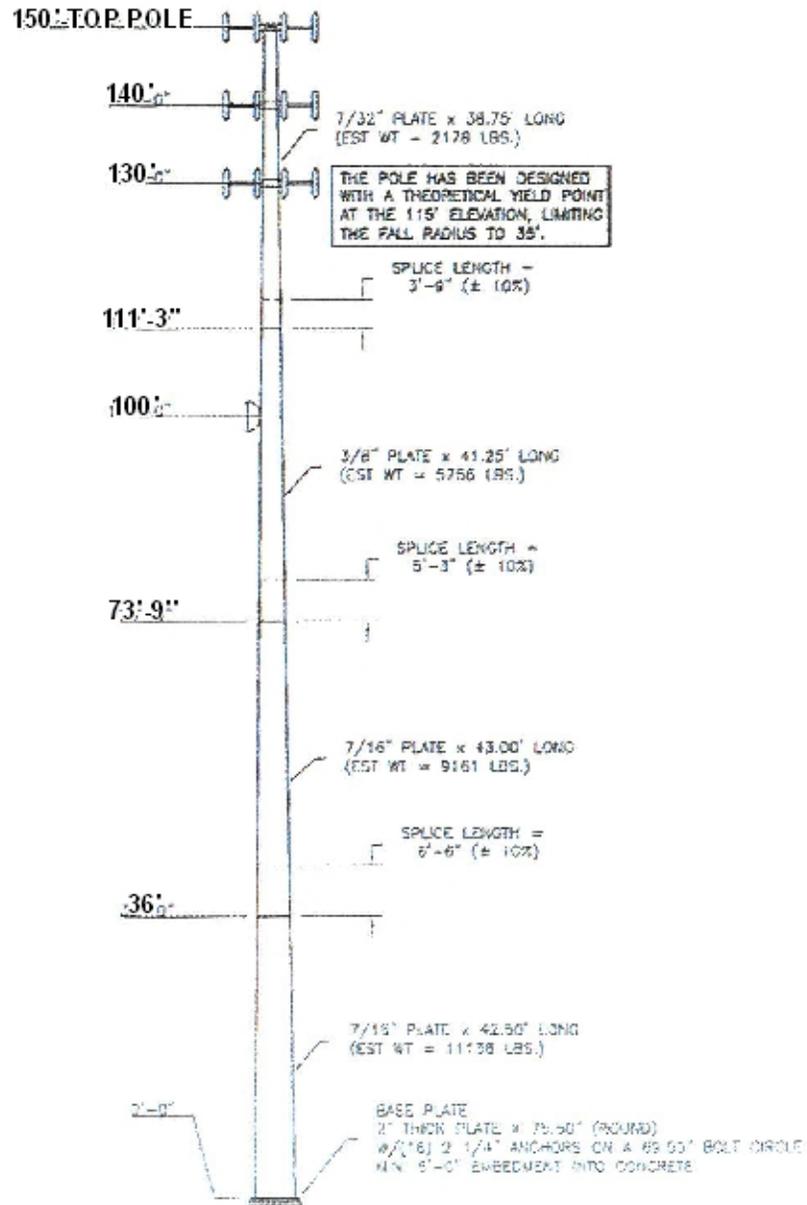
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TOWER DETAIL



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