

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 1, 2011****CASE NUMBER**

5695

APPLICANT NAME

Alabama Realty Company, Inc.

LOCATION2600 McVay Drive North
(North side of McVay Drive North, 290'± West of Navco Road)**VARIANCE REQUEST****HEIGHT:** Height Variance to allow the construction of a 130' telecommunications tower in a B-1, Buffer Business District (rezoning pending).**SEPARATION BUFFER:** Separation Buffer Variance to allow the tower within 50' of residentially zoned property with no landscape buffer or buffer fence.**SETBACK:** Setback Variance to allow the tower within 69.8' of the North lease parcel line, 50' of the West lease parcel line, and 103.5' of the South lease parcel line.**SURFACING:** Surfacing Variance to allow aggregate access and parking.**PARKING:** Parking Variance to allow no designated parking.**LANDSCAPING AND TREE PLANTING:**

Landscaping and Tree Planting Variance to allow no landscaping or tree plantings.

**ZONING ORDINANCE
REQUIREMENT****HEIGHT:** The Zoning Ordinance restricts structures to a maximum height of 45' in a B-1, Buffer Business District.**SEPARATION BUFFER:** The Zoning Ordinance requires a 200' residential buffer separation with either a 10' wide, 6' high vegetative buffer or a 6' high wooden privacy fence.**SETBACK:** The Zoning Ordinance requires the tower setback to be equal to the height of the tower (130') from all lease parcel lines.

SURFACING: The Zoning Ordinance requires all accessways to be surfaced with asphalt, concrete, or an approved alternative surface.

PARKING: The Zoning Ordinance requires at least one designated parking space.

LANDSCAPING AND TREE PLANTING: The Zoning Ordinance requires landscaping and tree planting areas in a B-1, Buffer Business District.

ZONING

R-1, Single-Family Residential (B-1, Buffer Business rezoning pending)

AREA OF PROPERTY

1.1 Acres±

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**CITY COUNCIL
DISTRICT**

District 4

ANALYSIS

The applicant is requesting Height, Residential Buffer, Setback, Surfacing, Parking, Landscaping and Tree Planting Variances to allow the construction of a 130’ tall communications tower within 50’ of a residentially zoned property with no landscape buffer or buffer fence, and within 69.8’ of the North lease parcel line, 50’ of the West lease parcel line, and 103.5’ of the South lease parcel line, with a gravel access drive, no designated parking, and no landscaping or tree plantings in a B-1, Buffer Business District (rezoning pending); the Zoning Ordinance restricts height to 45’ and requires a residential buffer of 200’ with a either a 10’ wide, 6’ high vegetative buffer or a 6’ high wooden privacy fence, setbacks of 130’ from each lease parcel line, all driveways to be surfaced with asphalt, concrete, or an approved alternative surface, at least one designated parking space, and tree plantings and landscaped area in a B-1, Buffer Business District.

The subject site was granted Planning Approval to allow the proposed tower in a B-3, Community Business District (rezoning requested), at the June 2, 2011, Planning Commission meeting. In conjunction with the Planning Approval, a one-lot subdivision to create the lease parcel was approved, and a rezoning to B-1 was recommended to the City Council. It should be noted that the over-all height of the tower, including the lightning rod, is proposed to be 140’.

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.” With the Planning Approval the location of the tower was approved subject to the approval of all variances associated with the tower.

Concerning the Height Variance request, 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. The applicant has submitted propagation maps indicating the in-fill coverage of the proposed tower within the area, and information indicating that the tower will be capable of accommodating three cellular carriers. Also submitted was evidence that the tower meets the structural requirements of Section 64-4.J.6 of the Zoning Ordinance.

Concerning the Separation Buffer request, although the closest residentially-zoned property is 50’ from the tower, that property is vacant and heavily wooded and the actual closest residentially used property is approximately 240’ from the proposed tower. Due to the heavily wooded nature of the adjacent residential property, the provision of a vegetative buffer or wooden privacy fence would be pointless at this time; however, if the adjacent property should ever be developed residentially, a vegetative buffer or wooden privacy fence should be required at the time of residential development.

With regard to the Setback Variance request, the tower is proposed to be of monopole design, and as such, is engineered to fall within a 50’ radius of the base in the event of collapse which would warrant the reduced setbacks off the lease parcel lines.

The applicant requests the Surface Variance since the drive would be of low use and utilized only by company personnel. The reasoning behind requiring compliant paving for access and parking is to reduce the possibility of gravel surfacing being carried by tires onto the right-of-way and creating a hazard due to slinging from the tires. No hardship basis is presented by the applicant on this request.

The applicant states that there would typically only be one vehicle per week on the site while checking the tower equipment and the area within the compound could be utilized for parking. Normally, the parking area is located outside the compound to allow maneuvering area for the vehicle to turn around on a paved surface. No basis for a hardship associated with the parking space requirement has been illustrated by the applicant.

The site is bordered by heavy woods and some relief from the landscaping and tree planting requirements may be warranted. However, the site has approximately 315’ of street frontage and, depending on the amount of trees removed from the site, this may present a harsh visual contrast. Therefore, a landscaping and tree planting plan should be required, to be coordinated with Urban Forestry for any relief it may feel is justified.

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.

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.

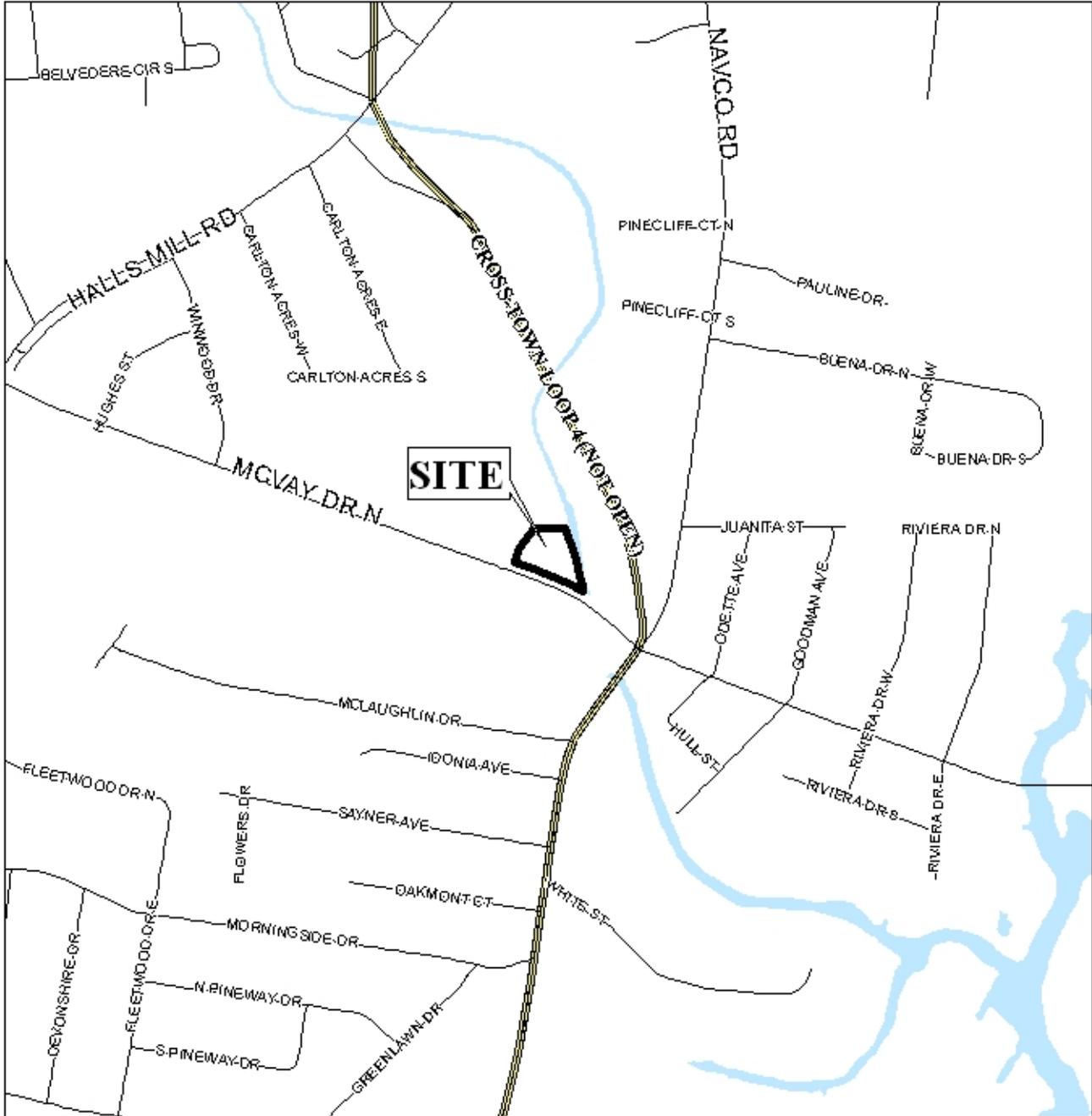
The applicant has demonstrated that hardships would be imposed by a literal interpretation of the Zoning Ordinance with respect to the height limitations, separation buffer, and setback requirements for telecommunications towers. Hardships with respect to the surface, parking, and landscaping and tree planting requirements have not been demonstrated by the applicant.

RECOMMENDATION: Based on the preceding, the Height, Separation Buffer and Setback Variance requests are recommended for approval subject to the following conditions:

- 1) the tower is limited to a monopole design with a maximum height of 140', including the lightning rod;
- 2) provision of a separation buffer or wooden privacy fence if the adjoining residentially-zoned property to the North and East are ever developed residentially;
- 3) provision of landscaping and tree planting, to be coordinated with Urban Forestry; and
- 4) full compliance with all other municipal codes and ordinances.

The requests for Surfacing, Parking, and Landscaping and Tree Planting Variations are recommended for denial.

LOCATOR MAP



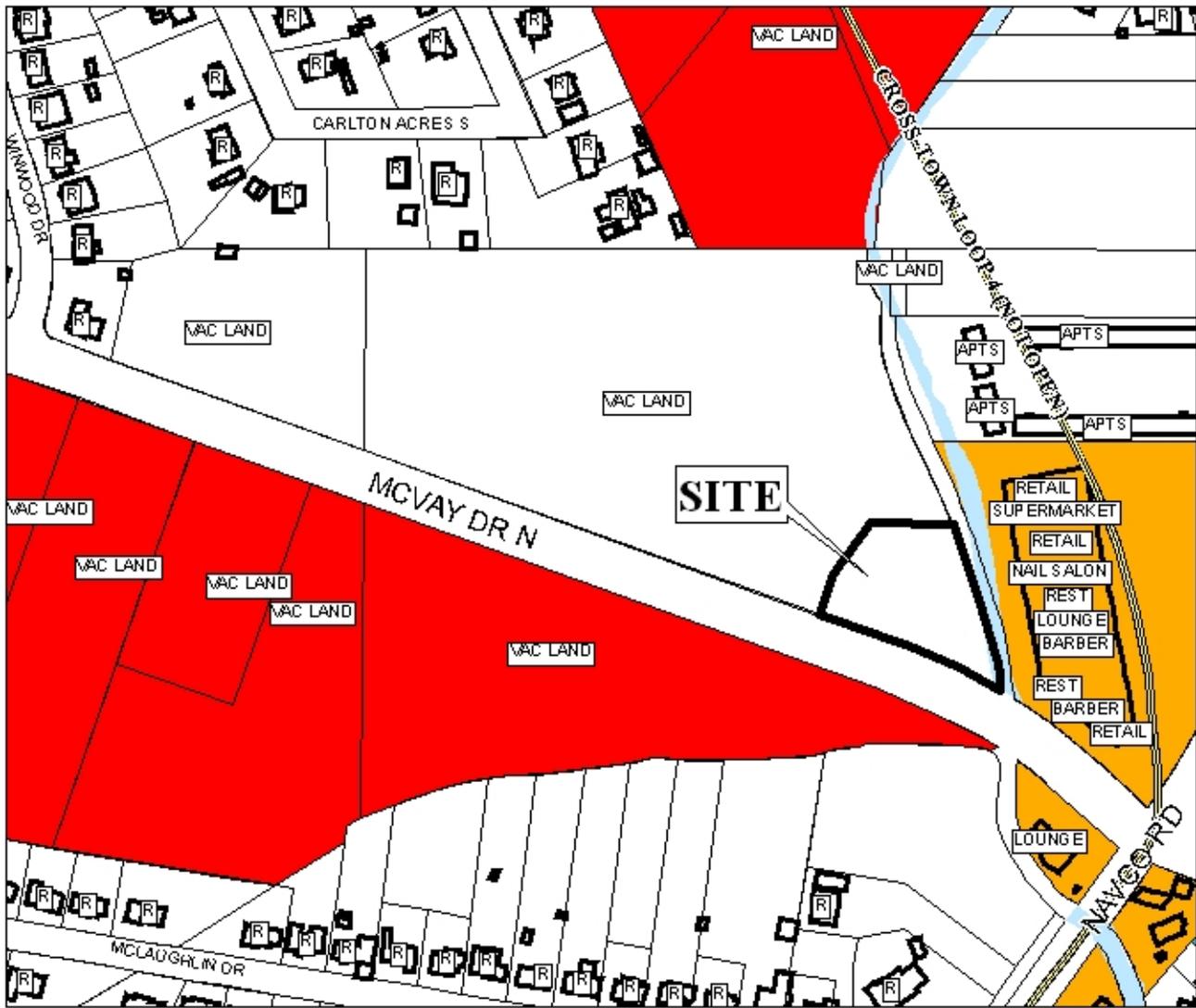
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REQUEST Height, Residential Buffer, Setback, Surfacing, and Parking Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

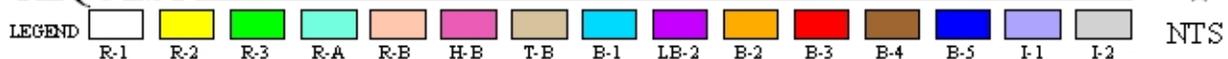


Single-family residential units are located to the north of the site. Commercial sites are located to the east of the site.

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

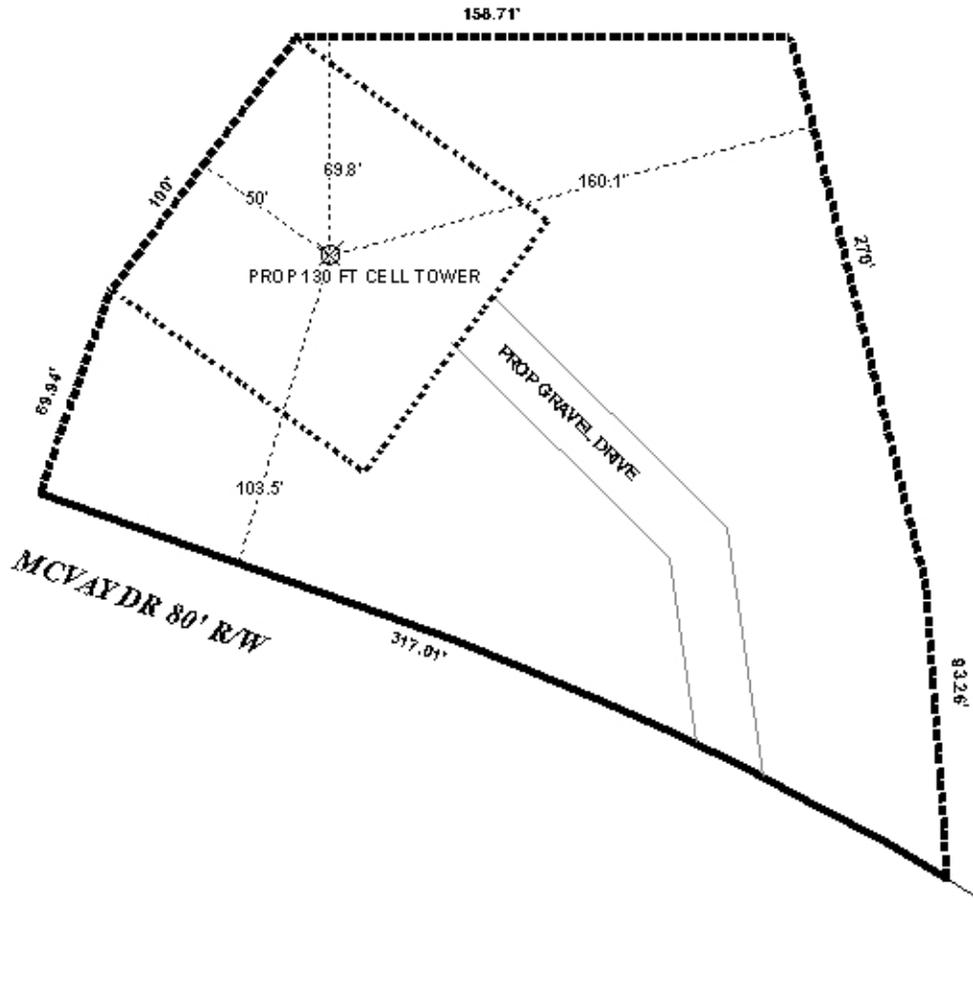


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SITE PLAN



The site plan illustrates the proposed cell tower location.

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