

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: May 4, 2015**

**CASE NUMBER**

5937

**APPLICANT NAME**

Cellular South Real Estate

**LOCATION**

1621 Virginia Street  
(Southeast corner of Lott Street and Virginia Street)

**VARIANCE REQUEST**

**HEIGHT:** Height Variance to allow a 152’ monopole telecommunications tower in a B-3, Community Business District.

**SETBACK:** Setback Variance to allow the tower within 5’-10” of the lease parcel line.

**RESIDENTIAL BUFFER SEPARATION:** Residential Buffer Separation Variance to allow the tower within 159’ of residentially zoned property.

**PARKING SURFACE:** Parking Surface Variance to allow a gravel access drive and parking.

**TREE PLANTING:** Tree Planting Variance to allow no tree plantings.

**ZONING ORDINANCE  
REQUIREMENT**

**HEIGHT:** The Zoning Ordinance limits structures to a 45’ height in a B-3, Community Business District.

**SETBACK:** The Zoning Ordinance requires telecommunications towers to be setback the height of the tower (152’) from the lease parcel line.

**RESIDENTIAL BUFFER SEPARATION:** The Zoning Ordinance requires a residential buffer separation of 200’ or 150% of the height of the tower, whichever is greater (228’).

**PARKING SURFACE:** The Zoning Ordinance requires paved access and parking surfaces.

**TREE PLANTING:** The Zoning Ordinance requires one tree per every 30’ of lease parcel perimeter.

**ZONING**

B-3, Community Business

**AREA OF PROPERTY**

1672 Square Feet / 0.04± Acre

**TRAFFIC ENGINEERING  
COMMENTS**

No traffic impacts anticipated by this variance request.

**ENGINEERING  
COMMENTS**

If the Parking Surface Variance is approved the approval will need to include the following conditions:

- a. Submit and receive a Tier 2 Land Disturbance Permit for the proposed site development.
- b. Submit a ROW Permit for the work within the Public ROW.

**URBAN FORESTRY  
COMMENTS**

No comments.

**CITY COUNCIL  
DISTRICT**

District 2

**ANALYSIS**

The applicant is requesting Height, Setback, Residential Buffer, parking Surface and Tree Planting Variances to allow a 152’ monopole telecommunications tower setback 5’-10” from a lease parcel line and 159’ from residential property, with a gravel access and parking drive, and with no tree planting provided, in a B-3, Community Business District; the Zoning Ordinance limits structures to a 45’ height, with telecommunications towers to be setback the height of the tower (152’) from a lease parcel line, and with a residential buffer separation of 200’ or 150% of the height of the tower, whichever is greater (228’), with paved access and parking surfaces, and with one tree per every 30’ of lease parcel perimeter, in a B-3, Community Business District.

The applicant has also submitted a Planning Approval application to allow the proposed tower in a B-3 district, a two-lot Subdivision application to separate the lease parcel for the tower from the parent stadium parcel, and a Planned Unit Development application to allow shared access for the two proposed lots, scheduled for the November 20<sup>th</sup> Planning Commission meeting. At the meeting, the Commission heldover the requests until the January 15, 2015, meeting so that the applicant can meet with the Mayor and the Ladd-Peebles Stadium Board to explore other locations further from adjacent residences.

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.”

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.

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.

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. The applicant has also submitted information indicating that the tower will be capable of accommodating two additional cellular carriers. Also submitted was evidence that the tower meets the structural requirements of Section 64-4.J.6 of the Zoning Ordinance.

Specific to the Height Variance request, there are two other cellular communications towers within a one-half mile radius of the subject site. One is owned by Alabama Power Company and within its service compound approximately 900' to the Southeast, but it is only 105' high which is insufficient to provide adequate service. A 140' high tower located approximately 775' to the Southwest is on Mobile County Public School property, but it is restricted to the sole use of the Mobile County Public School System by variance approval conditions. In light of the technical data submitted and the illustration of a hardship imposed by inadequate collocation capabilities on other towers within the area, the Height Variance request would seem reasonable.

With regard to the Setback and Residential Buffer requests, the applicant has illustrated through the site plan submitted that other areas of the stadium site would be inadequate for the construction of the tower compound due to the reduction of available parking spaces for stadium events. The area designated for the tower compound is adjacent to a corner indentation of the existing detention facility within the Southeast corner of the stadium parking lot in an area not used for event parking. Due to the area allotted for the tower compound, a hardship is illustrated in meeting the required lease parcel setbacks and the Setback Variance request would be justified. And due to the proximity of residential property adjacent to the stadium site, a hardship in meeting the Residential Buffer Separation requirement is imposed by the site's location. Therefore, the Residential Buffer Separation Variance request would be justified.

Pertaining to the Surface Variance request, the gates to the tower compound would be located approximately 30' West of the paved parking lot drive along the East side of the stadium site. The associated access and parking space for the compound would be between the gates and the paved stadium drive. The applicant has simply requested the Parking Surface Variance request

but has not indicated a hardship associated with such. However, as much of the stadium parking within this area is a gravel-grass mixture, and the access drive would be of short length and low-usage, the granting of the Surface Variance request would not be out of order.

The applicant also requests a Tree Planting Variance to not require tree plantings around the tower compound. Ordinarily, one tree would be required per 30' of lease parcel perimeter. However, in discussions with Urban Forestry, it has been revealed that when the adjacent detention compound was being planned, the stadium staff specifically requested that no trees be planted in any area other than along the South side of the detention compound in order to maximize usable parking area. In keeping with that request, and due to the short length of the fence along the tower compound's South side (25'), it is recommended that the Tree Planting Variance request be approved.

The applicant has demonstrated that hardships would be imposed by a literal interpretation of the Zoning Ordinance with respect to the height limitations, setback, and residential buffer separation requirements for telecommunications towers. Although no direct hardship has been demonstrated with respect to the Surface Variance request, the proposed surface would be in keeping with that within that area of the stadium parking lot. And the fact that the stadium staff previously requested no tree plantings be required due to conserving parking area would lend justification to the granting of the Tree Planting Variance request.

**RECOMMENDATION:** As the Planning Commission has held their associated cases over until January 15, 2015, and as the location of the tower may change due to the Commission's request to consider other locations, it is recommended that the variance requests be heldover until the February 2, 2015, Board meeting, with any revisions to be submitted as soon after the January 15, 2015 Planning Commission meeting as possible.

***Revised for the February 2015 meeting:***

*This application was heldover from the December, 2014 meeting due to the fact that the Planning Commission heldover the associated cases until their January 15<sup>th</sup> meeting to allow other locations on the site for the proposed cell tower to be considered. However, as other locations are still being considered for the tower location, the applicant and the Ladd-Peebles Board decided to holdover the associated Planning Commission applications until the Commission's April 16<sup>th</sup> meeting. Therefore, this application is recommended for holdover to the Board's May 4<sup>th</sup> meeting to allow the applicant and the Ladd-Peebles Board to finalize the new location of the proposed tower, and if necessary, prepare a new application for submittal.*

**RECOMMENDATION:** *Based on the preceding, this application is recommended for holdover to the Board's May 4<sup>th</sup> meeting to allow the applicant and the Ladd-Peebles Board to finalize the new location of the proposed tower, and if necessary, prepare a new application for submittal.*

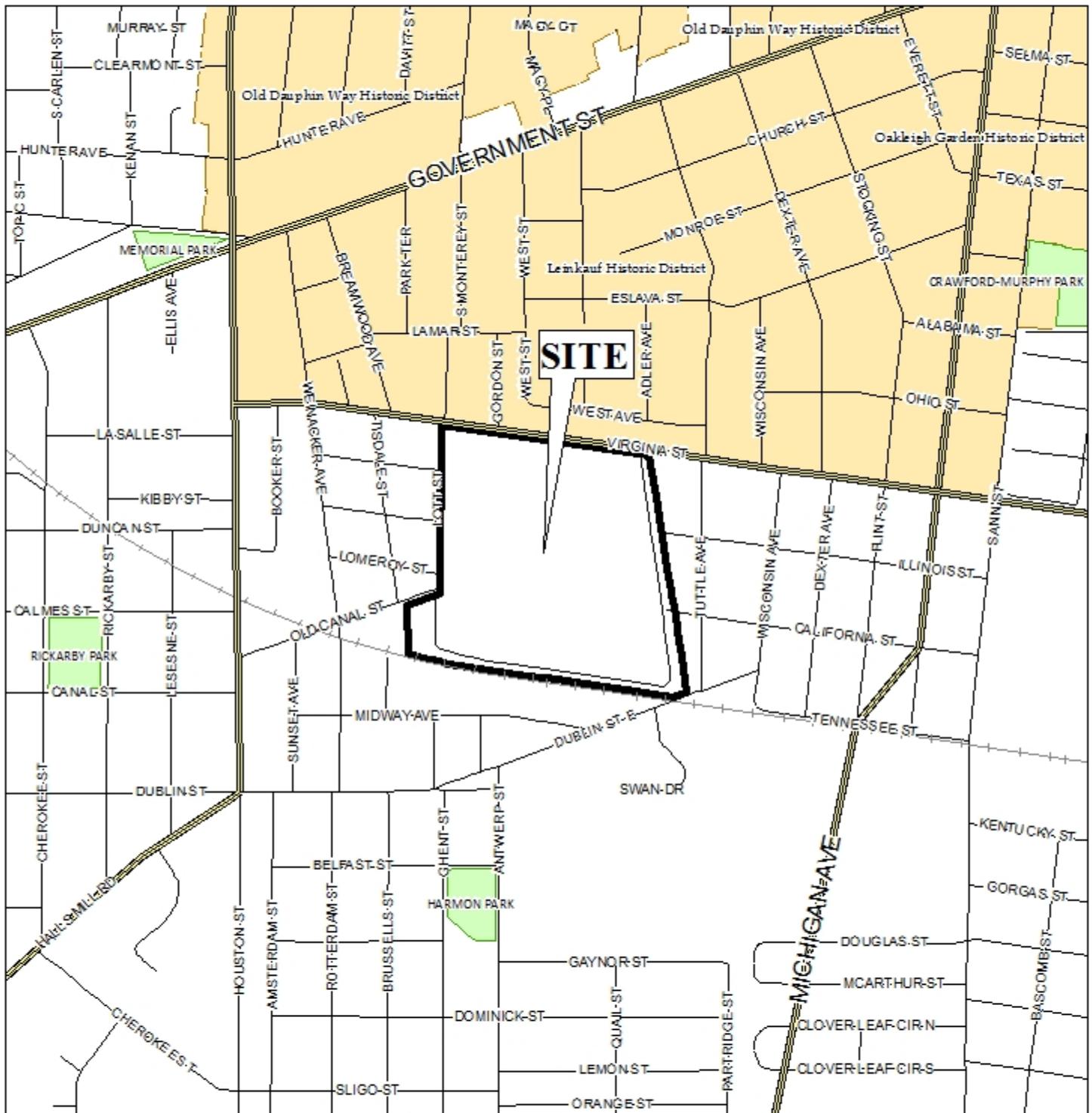
**Revised for the May 2015 meeting:**

*This application was heldover from the Board's February meeting to allow the applicant and the Ladd-Peebles Board to finalize the new location of the proposed tower, and if necessary, prepare a new application for submittal.*

*No new information has yet been submitted by the applicant. However, the applicant conducted a public meeting concerning the proposed new tower location prior to the Planning Commission's April 16<sup>th</sup> meeting. Because of public concerns at that meeting, the applicant requested that the Commission holdover the associated Planning Commission applications until their June 18<sup>th</sup> meeting. Therefore, this application should be heldover in order to be considered after the June 18<sup>th</sup> Planning Commission meeting.*

**RECOMMENDATION:** *Based on the preceding, this application is recommended for holdover to the Board's July 6<sup>th</sup> meeting in order to allow the Planning Commission to consider the requests before it and to allow the applicant to finalize the new location of the proposed tower, and if necessary, prepare a new application for submittal.*

# LOCATOR MAP

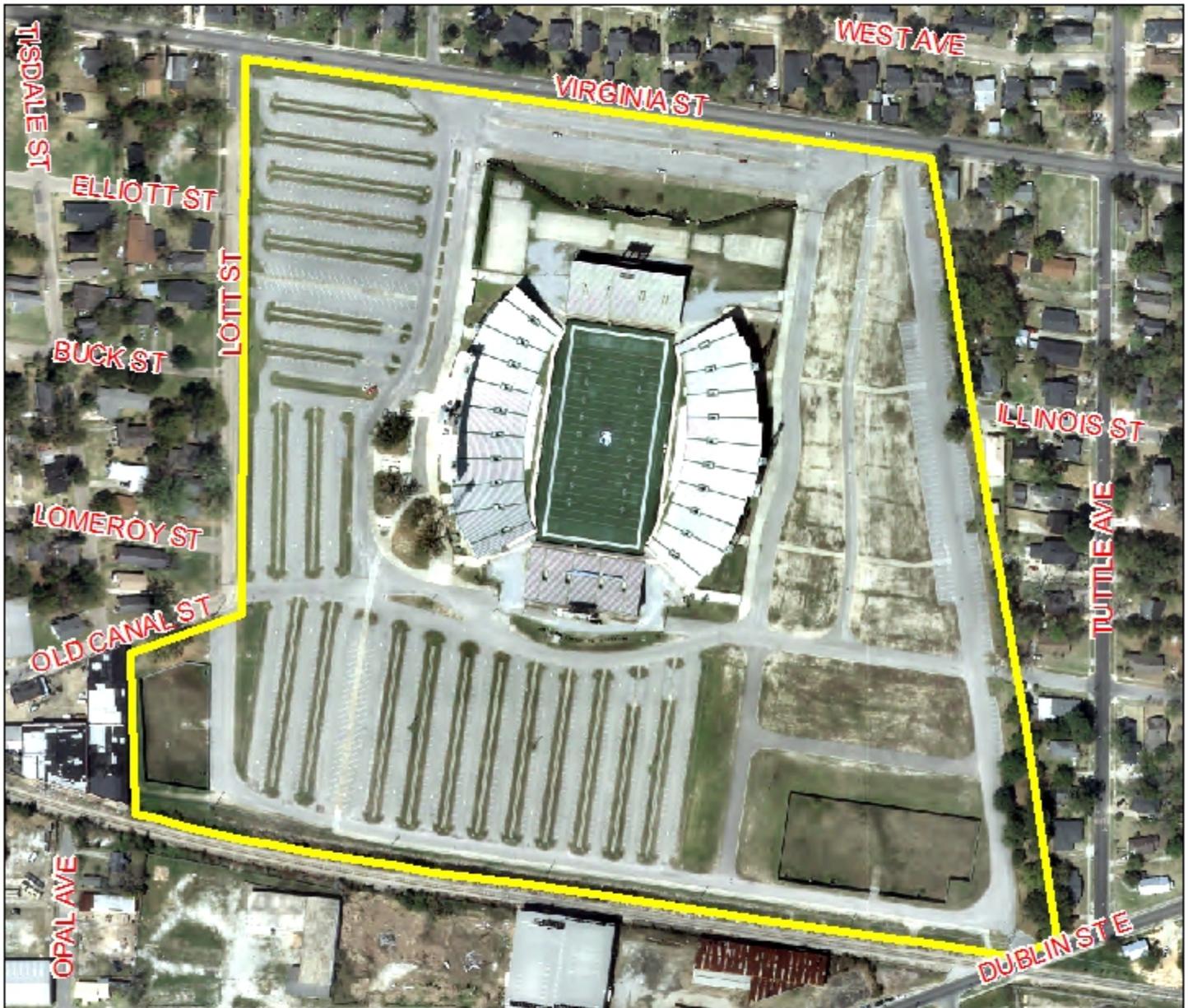


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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

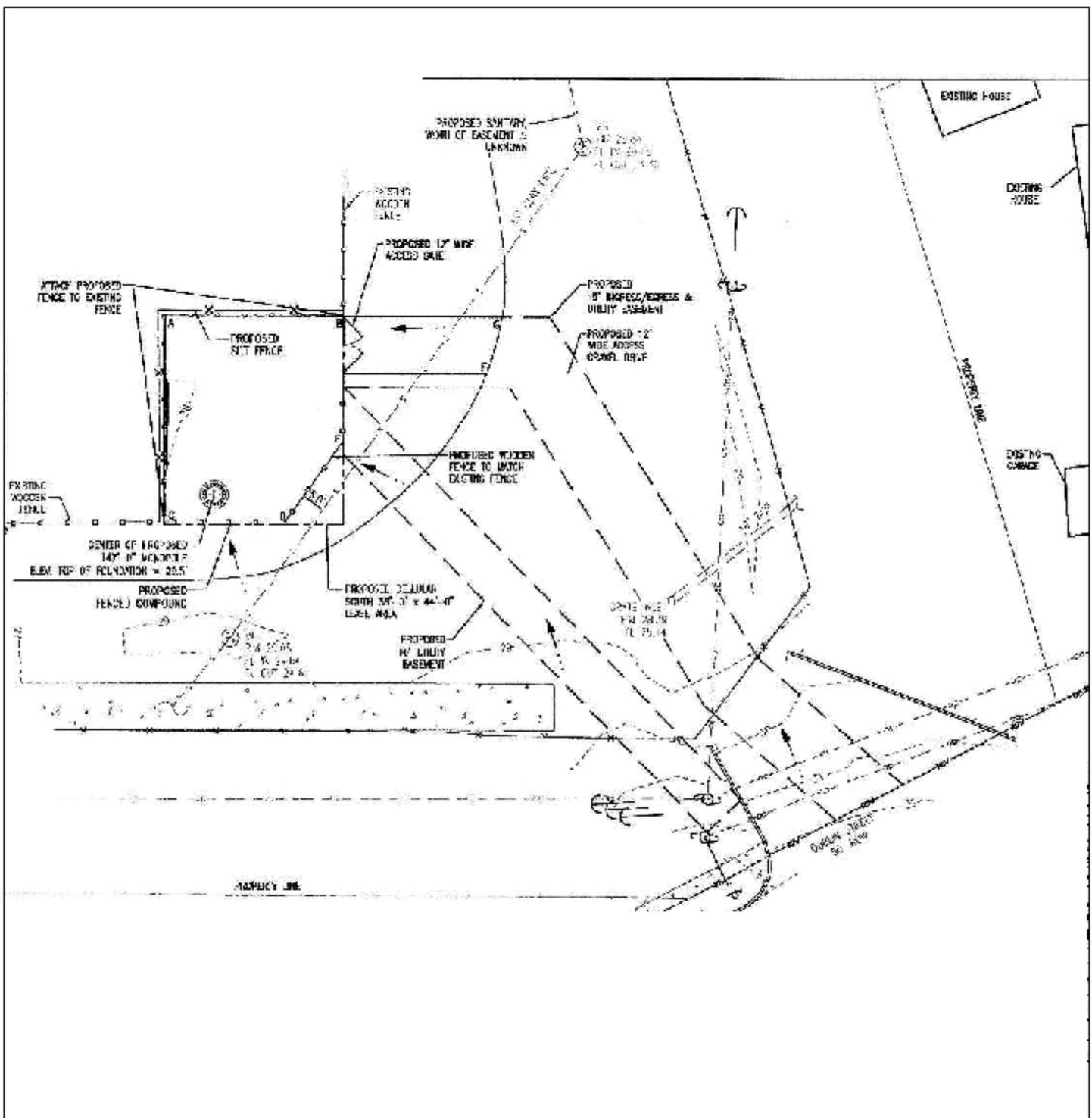
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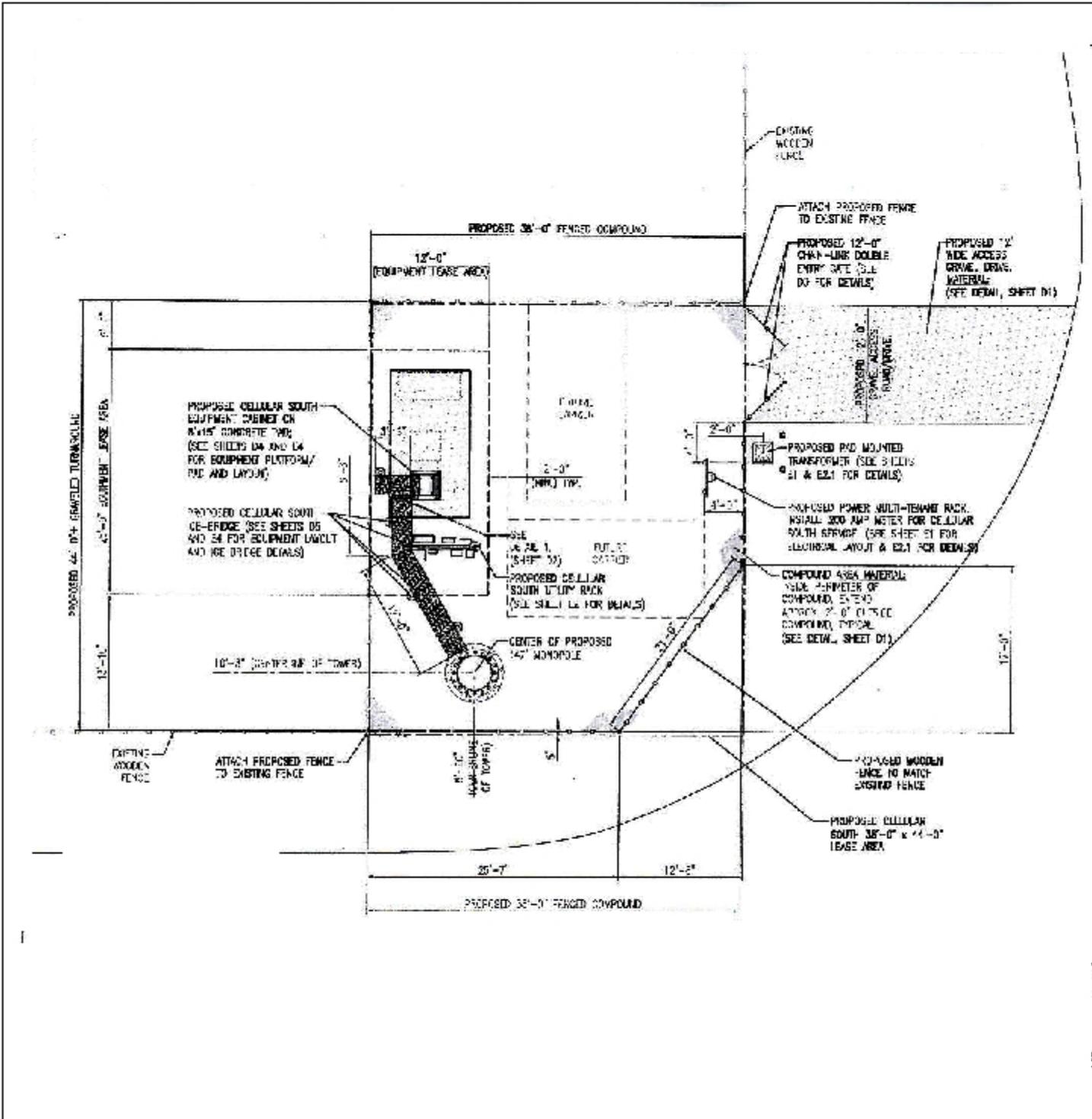
# DETAIL SITE PLAN



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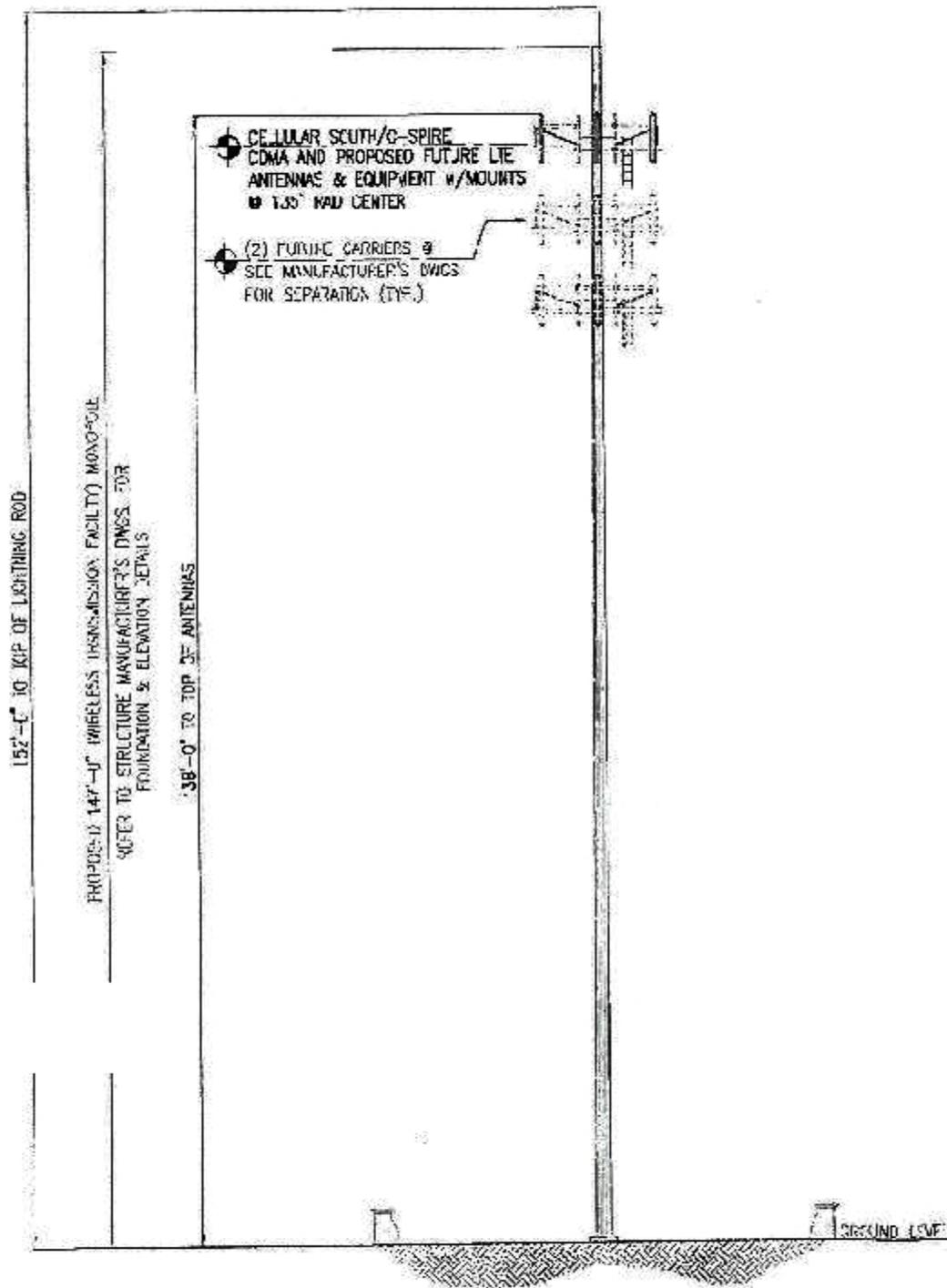
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