

**Meeting Agenda**  
**City of Springboro Board of Zoning Appeals**  
**Wednesday, November 5, 2025, 6:00 p.m.**

- I. Call to Order & Roll Call
- II. Approval of Meeting Minutes—November 1, 2023
- III. Appointment of Officers—Chair, Vice Chair
- IV. Action Agenda Items
  - A. Public Hearing, variance for personal wireless service (PWS) facility, 440 South Pioneer Drive, variance from PWS fall zone requirement.
- V. Comments
- VI. Adjournment

**Action Agenda Item Background Information**  
**City of Springboro Board of Zoning Appeals Meeting & Public Hearing**  
**Wednesday, November 5, 2025, 6:00 p.m.**

**III. Action Agenda**

**A. Public Hearing**

**Variance for Personal Wireless Service (PWS) Facility, 440 South Pioneer Drive, variance from PWS fall zone requirement.**

**Background Information**

This agenda item is based on application filed by Tonya Rogers, Esq., of Baker Dublikar, Attorneys at Law of Canton, Ohio, representing TowerCo 2013, LLC, hereafter TowerCo, seeking a 16.25-foot variance from the minimum fall zone requirements in Section 1264.40, personal wireless service (PWS) facilities, of the Planning & Zoning Code. TowerCo proposes to construct a 125-foot tall PWS facility on a vacant site located at 440 South Pioneer Drive, located at the northwest corner of South Pioneer Drive and West Lower Springboro Road. Section 1264.40(e)(5), setbacks, fall zones, and lot size, requires a fall zone 125% of the height of the PWS facility, in this case 125% of 125 feet or 156.25 feet. The proposed PWS facility will be as close as 140 feet to the road surface of West Lower Springboro Road.

TowerCo is a Verizon Wireless contractor, and is acting under a lease agreement from Soundfold, Inc., property owner, to develop the PWS facility. The proposed PWS facility would include an access drive over an easement on the north side of the property to a 70-foot by 70-foot fenced enclosure that would include a 120-foot monopole tower with a 5-foot lightning arrestor. Other items proposed for the enclosure include an equipment pad, and an adjacent paved parking pad, and landscaping. The site is presently wooded. A letter to the City dated September 10, 2025 from the applicant provides background information on the request and is included in the meeting materials.

A PWS facility, as defined in Section 1264.40(a), definitions, is:

(15) ...a facility for the provision of PWS including antennas, supporting masks, towers and other antenna support structures, and associated telecommunication equipment cabinets, and/or buildings.

Section 1264.40 was established to regulate PWS facilities, or cell tower installations, in the community, including regulations for multiple providers at single installations or co-locations, identifying where new towers are prohibited, creating an application and review process for co-locations and new towers, among other provisions. Section 1264.40 includes the aforementioned 125% fall zone requirement to reduce the risk of personal injury or property damage to buildings, streets, bikeways, or pedestrian walkways. In this case the proposed PWS facility will be as close as 140 feet from the pavement of West Lower Springboro Road.

Other equipment within the PWS facility must comply with the setback requirements of the underlying zoning district, in this case the ED, Employment Center District. For this proposal, all ED provisions are met.

Properties in the vicinity of the subject property are used as follows: To the east on the east side of South Pioneer Drive, a facility used by Sunstar Engineering (405 South Pioneer Drive) and Hardy Diagnostic (429 South Pioneer Drive), to the southeast the common area of the Beck Ridge subdivision, to the south, southwest, and west are City-owned lands that comprise E. Milo Beck Park, to the northwest is City-owned lands that comprise part of Clearcreek Park, and to the north is GSS/Graphic Systems Services (400 South Pioneer). Lands immediately adjacent to the subject property are zoned ED. The Beck Ridge subdivision is zoned PUD-R, Planned Unit Development-Residential.

## Variance Review Process

Section 1285.04, Variances, of the Planning and Zoning Code establishes a process for the review of variances by the Board of Zoning Appeals (BZA) from the strict interpretation of the Planning and Zoning Code:

The BZA is hereby authorized to grant, upon appeal in specific cases, a variance from this Zoning Code that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this Zoning Code would result in practical difficulty. The following criteria in *italics* need to be met for the BZA to grant a variance from the strict interpretation of the Planning & Zoning Code. The applicants have provided a response to each criterion below in *italics*.

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.

*As discussed [in the September 10 letter]...the Property was identified as the best tower location only after efforts were made to work with the City to determine whether potential government-owned property was available. Upon determination that government-owned property was not available, Kendall Communications worked with property owners within the search ring and coordinated with the Verizon RF Engineering Team to evaluate what would assist in remedying the gap in coverage. The subject parcel was determined to be suitable for a PWS Facility due to commercial development to the north and east, and lack of development to the west and south. Further, there is no residential development within 200 feet of the Property.*

*The specific location of the PWS Facility placement was determined by the Property owner, Soundfold, as it will not interfere with future commercial development within that district.*

*Due to the unique shape of the subject Property, there is not a location which would accommodate the height of the PWS Facility and not require a setback variance.*

*Additionally, the right-of-way recorded along the southern boundary of the Property is larger than many other rights-of-way. As depicted in the survey (TowerCo 025), the public right-of-way is 20 feet beyond the edge of pavement. Inspector Fitzpatrick stated that although the Ordinance requires a 125% setback from a "street," such term is intended to refer to the edge of the right-of-way rather than the edge of the pavement. Therefore, the enlarged right of way to the south of the Property exacerbates the problem of attempting to place a 125-foot tower in an unusually shaped parcel.*

2. A literal interpretation of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under this Zoning Code.

*Pursuant to the Springboro Ordinances, and purpose and intent of creating the ED Employment Center District are as follows:*

**(1)** *Purpose.* *The purpose of the ED District is to provide for business parks that combine and integrate light industrial and/or manufacturing uses with offices and similar land uses.*

**(2)** *Intent.* *The intent of the ED District is to enhance the city's economic base by providing suitable areas to support the employment needs of the community in developments that are compatible with adjacent uses. The employment center district provides for the location of light manufacturing and product processing, research and development facilities, professional services, medical facilities, and complementary educational and recreational uses which are not detrimental to the employment district. Limited retail, business, and support services that serve the needs of the employment district tenants*

and patrons are allowed. The employment district is intended to have limited nuisance factors and hazards.

(Springboro Ordinance 1261.08(f)).

*Within the ED Employment Center District, PWS Facilities are an expressly permitted use. The express purpose is to allow for development of infrastructure that would support employment needs and expand commercial development. However, although PWS Facilities are permitted, and consistent with the other permitted uses in the District, PWS Facilities are the only permitted use which requires such extreme setbacks. Industrial facilities do not require such severe setback requirements, nor other commercial structures. The only other permitted use which has such a significant setback is a Wind Energy Conversion System, and even that use has only a 100% setback requirement.*

*PWS Facilities are necessarily tall structures to meet minimum coverage requirements by wireless carriers to alleviate the existing gap in coverage. Therefore, the 125% setback requirement diminishes the ability of a property owner to pursue a use that is expressly permitted in the ED-Employment Center District.*

*The subject PWS Facility will be constructed consistent with engineering standards which project the tower to withstand winds up to 107mph and is otherwise consistent with all building code requirements. There is no greater risk of the PWS Facility falling and causing property damage or damage to the roadway than any other structure that is built consistent with the Ohio Building Code and industry engineering standards. As noted in the correspondence from the engineer, the tower is designed to collapse upon itself. This results in a 55-foot fall radius. Although Inspector Fitzpatrick indicated that the Engineer's fall radius letter will not be adequate to satisfy the setback requirements, the Engineer's statements are relevant to address any safety concerns that may be held by the Board, or the public, in the consideration of granting this variance. Further, the PWS Facility will not cause visibility issues with traffic or other similar issues frequently addressed by setbacks.*

*Finally, as noted above, the right-of-way along the southern boundary of the Property is larger than other rights-of-way in the area. As such, the setback requirement is compounded by the unique shape of the parcel, and larger right-of-way area, and the existing development.*

3. That special conditions and circumstances do not result from the actions of the applicant.

*The proposed PWS Facility is necessary due to a gap in coverage experienced by Verizon Wireless. Such gap in coverage is not the result of actions of TowerCo or Verizon. Rather, the reality is that the demand for wireless coverage in the region has accelerated. The Verizon RF Engineers determined where a tower needs to be placed in order to alleviate the gap in coverage. The prior site acquisition firm contacted the City to identify potential City-owned property near the search ring which could potentially alleviate the gap in coverage, but such locations were not feasible. As such, Verizon, by way of its previous site acquisition firm and TowerCo, worked to identify the least intrusive location within the search ring that would both have a willing landowner, as well as fill the gap in coverage to meet Verizon's needs.*

*Further, it should be noted that constructing a new monopole PWS Facility to alleviate a gap in coverage is always the last resort of a wireless provider. The placement and construction of a new tower is exceptionally expensive and time consuming. Therefore, Verizon's decision to proceed with the construction of a new monopole PWS Facility is due entirely to the necessity of additional cellular coverage and the lack of existing tall structures to remedy the coverage issues.*

4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other lands, structures, or buildings in the same district.

*The proposed PWS Facility is necessary to fill a gap in coverage identified by Verizon Wireless, and therefore both the purpose and construction are unique. However, the setback requirement is more onerous than all other uses, the shape of the property is unique, and the right-of-way is larger than other areas. The proposed use is expressly permitted in the zoning district, and the variance will therefore not result in an exception to permitted uses. Care and planning were put into identifying not only selection of the Property, but also into the proposed PWS Facility site to not interfere with any other existing development, use, or planned expansion use.*

*This minor setback deviation will not alter the overall scheme or intent of the district. To the contrary, this minor deviation will assist in promoting the express purpose of the ED Employment Center District, which is intended to allow for development to support employer needs. The PWS Facility is necessary to continue expanding business and development in that region, as cellular coverage for Verizon users is not adequate in the area intended for commercial development.*

*TowerCo maintains that the location selected was done with the intention of being as least intrusive as feasible while also satisfying the gap in coverage needs. As a final matter, TowerCo has enclosed a copy of its lease agreement with the Property owner, Soundfold, to address any questions relating to authority to seek the variance for this property.*

In granting any variance, the BZA may prescribe appropriate conditions and safeguards in conformity with the Planning & Zoning Code. A violation of any of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Planning & Zoning Code.

City staff has not proposed any conditions for this variance request.

The information contained in this report is based on material provided to the City of Springboro as of Wednesday, October 29, 2025 at 12:00 p.m.

# BAKER | DUBLIKAR

ATTORNEYS AT LAW

| RALPH F. DUBLIKAR | GREGORY A. BECK | JAMES F. MATHEWS  
| MEL L. LUTE, JR. | DANIEL J. FUNK | ANDREA K. ZIARKO  
| TONYA J. ROGERS

| BRITTANY A. BOWLAND | KENDRA L. BARABASCH  
| MEGAN L. HAYNAM | SUPRIYA H. BHATKAR

| JACK R. BAKER (1944-2019)  
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E-mail: [tonya@bakerfirm.com](mailto:tonya@bakerfirm.com)

September 10, 2025

Board of Zoning Appeals  
City of Springboro  
320 W Central Avenue  
Springboro, Ohio 45066  
*Via fedex delivery and email: [build@cityofspringboro.com](mailto:build@cityofspringboro.com)*

**Re: TowerCo 2013, LLC  
Application for Variance for Personal Wireless Service Facility  
Warren County Auditor Parcel ID: 419440004**

Dear Board of Zoning Appeals Members:

This letter accompanies the Application for Variance submitted on behalf of my client, TowerCo 2013, LLC (hereafter “TowerCo”). The subject application pertains to the planned construction of a 120-foot monopole personal wireless service facility (“PWS” or “tower”). The proposed tower is intended to be constructed on the real property owned by Soundfold, Inc., near the intersection of S Pioneer Boulevard and Lower Springboro Road, identified as Warren County Auditor Parcel ID: 419440004 (the “Property”). The Property is owned by Soundfold, Inc., with whom TowerCo has a ground lease agreement for the placement and operation of said tower. The proposed tower is necessary to fill a gap in coverage identified by Verizon Wireless within the City of Springboro region. As noted, the tower is a 120-foot monopole but will also have a 5-foot lightning arrestor.

The proposed location of the tower placement is 120 feet from the edge of the existing public right-of-way, and 140 feet from the edge of the existing paved roadway. City Ordinance 1264.40(e)(5) contains the setback requirements for the construction of new towers. This section states that the tower must be 125% of its height from any City street. As such, per Inspector Fitzpatrick, the tower must be 156.25 feet from the street. TowerCo applied for a zoning certificate for construction of this tower, and the application was denied due to some minor discrepancies in the site plan, but primarily due to the lack of compliance with the 1264.40(e)(5) setback requirement. As such, TowerCo now seeks a variance to deviate slightly from said setback requirement.

For your convenience, all supplementary documents have been numbered with the prefix “TowerCo.” Therefore, throughout this cover letter, which addresses the specific Variance application requirements, all documents will be referenced by the “TowerCo” page number.

The Variance application itself is marked TowerCo 001. As required by the application, attached is a list of property owners within 200 feet of the Property. (TowerCo 003). Additionally, an engineer-approved site plan is similarly enclosed. (TowerCo 003-0014).

### **TowerCo Background and Site Selection Process**

TowerCo 2013, LLC is engaged in the business of siting and building telecommunications towers and facilities to service cellular telephone clients and customers, among others. TowerCo partners with personal wireless service providers when a gap in personal wireless coverage is identified and collocation is not available or not feasible. TowerCo then constructs a cell tower after a feasible location has been identified, either by TowerCo itself or another site acquisition company, and then leases with the wireless provider to utilize the tower to fill the gap in coverage.

One of TowerCo’s longstanding partners is Verizon Wireless, a national personal wireless provider. In 2023, Verizon Wireless RF Engineers identified an area where capacity limits have been reached or exceeded. Such conditions result in a “gap in coverage,” which is a term used by the Sixth Circuit Court of Appeals in interpreting Section 332 of the Telecommunications Act (“TCA”). The TCA contains a provision which prohibits regulations that would have “the effect of prohibiting the provision of personal wireless services.” 47 U.S.C. 332(c)(7)(B)(i)(II). *See T-Mobile Cent., LLC v. Charter Twp. of W. Bloomfield*, 691 F.3d 794, 805. As such, the Sixth Circuit has determined that regulations violate 47 U.S.C. 332(c)(7)(B)(i)(II) when a personal wireless provider can: (1) demonstrate a “gap in coverage,” and (2) some inquiry was made into the feasibility of alternative facilities or site locations. *See Chapter Twp, supra*, at 805.

As Verizon Wireless’s coverage is inadequate in this specific region as necessary meet customer demands, a gap in coverage exists consistent with Sixth Circuit legal authority. In order to alleviate the gap in coverage, the RF Engineers identified an area where a new antenna would need to be placed in order to remedy the gap in coverage. This area is referred to as the “search ring.” This information is provided in more detail in Verizon’s Statement of Need. (TowerCo 015-021).

Verizon RF Engineers identified a search ring to begin assessing where a new antenna could be placed. (TowerCo 018). Within that search ring, there were no existing towers or other tall structures upon which an antenna could be placed. (See TowerCo 017-018). TowerCo evaluated nearby towers but determined that the locations were too far from the search ring to remedy the gap in coverage. (TowerCo 017-019). Verizon also determined that 120 feet was the minimum height that could satisfy the gap in coverage needs, together with a 5-foot lightning rod.

Verizon thereafter retained a site acquisition firm, Kendall Communications, to evaluate locations within the search ring that would be suitable for construction of a tower. Kendall Communications contacted the City in 2023 to determine whether any City-owned property within or near the search ring would be suitable. Kendall Communications suggested the Wastewater Treatment Plan but were informed by the City that such location was not suitable. Kendall Communications also

proposed Milo Park. However, Kendall Communications was informed the park would not work due to restrictions on development. Finally, Kendall Communications proposed Clearcreek Park but was again told such location was not workable. It was determined that there would be no suitable City-owned property or other government-owned property within the search ring vicinity that would be appropriate for a new monopole tower. (See TowerCo 022-023). Importantly, the proposed City properties were not within the search ring itself and therefore were pursued in an effort of good faith to comply with City Ordinance Requirements. Such efforts further demonstrate Verizon's efforts to remedy the gap in coverage through alternate means.

Following correspondence with the City, Kendall Communications began evaluating the property within the search ring and speaking with landowners. Soundfold was identified as an owner within the area that has commercial development, as well as property that is undeveloped and surrounded by wooded areas or commercial development. The Property is also far from residential developments. After the subject Property was identified and a lease agreement negotiated, Soundfold was involved in selecting the preferred location of the tower. Thereafter, TowerCo became involved for purposes of obtaining the necessary zoning certificates and complete construction of the tower.

TowerCo therefore proceeded with applying for a certificate of zoning application, consistent with discussions with Inspector Fitzpatrick. After review of the comprehensive application that was submitted, Mr. Fitzpatrick issued correspondence denying the application. Within the denial, Inspector Fitzpatrick stated as follows:

1. On the application and survey you have applied for a 120' tower and the site plan shows 120' to the property lines and row, but with the lightning rod which is 5' to be included for the height of the tower it is 125.25' (Will Need to correct the survey if approved.)
2. For the Setbacks, fall zones and lot size requirements 1264.40(e)5 you will need at least 156.25'.
3. Gravel driveways are not permitted it will need to be paved.
4. On the 22' section of curb and gutter for the entrance to the cell tower will need to be removed and installed with ODOT Type 2 depressed curb and gutter and be inspected by the engineering department before you pour any concrete.
5. Any lighting would need to be approved for the site.
6. We are not going to approve the collapsible tower letter.

(TowerCo 024).

TowerCo has every intention of complying with the modifications specified in Inspector Fitzpatrick's correspondence. However, as indicated in his correspondence, the updated specifications will need to be completed only after the variance application is considered. Therefore, following consideration of this variance application, TowerCo will update the survey to reflect the 5-foot lightning rod, will update the driveway to comply with zoning requirements, will modify the gutter to comply with the requirements outlined above, and will obtain approval should any lighting be contemplated.

**Variance Requirements set forth in Ordinance 1285.04(e)**

**(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district**

As discussed above, the Property was identified as the best tower location only after efforts were made to work with the City to determine whether potential government-owned property was available. Upon determination that government-owned property was not available, Kendall Communications worked with property owners within the search ring and coordinated with the Verizon RF Engineering Team to evaluate what would assist in remedying the gap in coverage. The subject parcel was determined to be suitable for a PWS Facility due to commercial development to the north and east, and lack of development to the west and south. Further, there is no residential development within 200 feet of the Property.

The specific location of the PWS Facility placement was determined by the Property owner, Soundfold, as it will not interfere with future commercial development within that district.

Due to the unique shape of the subject Property, there is not a location which would accommodate the height of the PWS Facility and not require a setback variance.

Additionally, the right-of-way recorded along the southern boundary of the Property is larger than many other rights-of-way. As depicted in the survey (TowerCo 025), the public right-of-way is 20 feet beyond the edge of pavement. Inspector Fitzpatrick stated that although the Ordinance requires a 125% setback from a “street,” such term is intended to refer to the edge of the right-of-way rather than the edge of the pavement. Therefore, the enlarged right of way to the south of the Property exacerbates the problem of attempting to place a 125-foot tower in an unusually shaped parcel.

**(2) A literal interpretation of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under this Zoning Code**

Pursuant to the Springboro Ordinances, and purpose and intent of creating the ED Employment Center District are as follows:

(1) Purpose. The purpose of the ED District is to provide for business parks that combine and integrate light industrial and/or manufacturing uses with offices and similar land uses.

(2) Intent. The intent of the ED District is to enhance the city's economic base by providing suitable areas to support the employment needs of the community in developments that are compatible with adjacent uses. The employment center district provides for the location of light manufacturing and product processing, research and development facilities, professional services, medical facilities and complementary educational and recreational uses which are not detrimental to the employment district. Limited retail, business and support services that serve the

needs of the employment district tenants and patrons are allowed. The employment district is intended to have limited nuisance factors and hazards.

(Springboro Ordinance 1261.08(f)).

Within the ED Employment Center District, PWS Facilities are an expressly permitted use. The express purpose is to allow for development of infrastructure that would support employment needs and expand commercial development. However, although PWS Facilities are permitted, and consistent with the other permitted uses in the District, PWS Facilities are the only permitted use which requires such extreme setbacks. Industrial facilities do not require such severe setback requirements, nor other commercial structures. The only other permitted use which has such a significant setback is a Winder Energy Conversion System, and even that use has only a 100% setback requirement.

PWS Facilities are necessarily tall structures in order to meet minimum coverage requirements by wireless carriers to alleviate the existing gap in coverage. Therefore, the 125% setback requirement substantially diminishes the ability of a property owner to pursue a use that is expressly permitted in the ED-Employment Center District.

The subject PWS Facility will be constructed consistent with engineering standards which project the tower to withstand winds up to 107mph and is otherwise consistent with all building code requirements. There is no greater risk of the PWS Facility falling and causing property damage or damage to the roadway than any other structure that is built consistent with the Ohio Building Code and industry engineering standards. As noted in the correspondence from the engineer, the tower is designed to collapse upon itself. This results in a 55-foot fall radius. Although Inspector Fitzpatrick indicated that the Engineer's fall radius letter will not be adequate to satisfy the setback requirements, the Engineer's statements are relevant to address any safety concerns that may be held by the Board, or the public, in the consideration of granting this variance. Further, the PWS Facility will not cause visibility issues with traffic or other similar issues frequently addressed by setbacks.

Finally, as noted above, the right-of-way along the southern boundary of the Property is larger than other rights-of-way in the area. As such, the setback requirement is compounded by the unique shape of the parcel, and larger right-of-way area, and the existing development.

**(3) The special conditions and circumstances do not result from the actions of the applicant**

The proposed PWS Facility is necessary due to a gap in coverage experienced by Verizon Wireless. Such gap in coverage is not the result of actions of TowerCo or Verizon. Rather, the reality is that the demand for wireless coverage in the region has accelerated. The Verizon RF Engineers determined where a tower needs to be placed in order to alleviate the gap in coverage. The prior site acquisition firm contacted the City to identify potential City-owned property near the search ring which could potentially alleviate the gap in coverage, but such locations were not feasible. As such, Verizon, by way of its previous site acquisition firm and TowerCo, worked to identify the

least intrusive location within the search ring that would both have a willing landowner, as well as fill the gap in coverage to meet Verizon's needs.

Further, it should be noted that constructing a new monopole PWS Facility to alleviate a gap in coverage is always the last resort of a wireless provider. The placement and construction of a new tower is exceptionally expensive and time consuming. Therefore, Verizon's decision to proceed with the construction of a new monopole PWS Facility is due entirely to the necessity of additional cellular coverage and the lack of existing tall structures to remedy the coverage issues.

**(4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other lands, structures or buildings in the same district.**

The proposed PWS Facility is necessary to fill a gap in coverage identified by Verizon Wireless, and therefore both the purpose and construction are unique. However, the setback requirement is more onerous than all other uses, the shape of the property is unique, and the right-of-way is larger than other areas. The proposed use is expressly permitted in the zoning district, and the variance will therefore not result in an exception to permitted uses. Care and planning were put into identifying not only selection of the Property, but also into the proposed PWS Facility site so as to not interfere with any other existing development, use, or planned expansion use.

This minor setback deviation will not alter the overall scheme or intent of the district. To the contrary, this minor deviation will assist in promoting the express purpose of the ED Employment Center District, which is intended to allow for development to support employer needs. The PWS Facility is necessary in order to continue expanding business and development in that region, as cellular coverage for Verizon users is not adequate in the area intended for commercial development.

TowerCo maintains that the location selected was done with the intention of being as least intrusive as feasible while also satisfying the gap in coverage needs. As a final matter, TowerCo has enclosed a copy of its lease agreement with the Property owner, Soundfold, to address any questions relating to authority to seek the variance for this property.

TowerCo looks forward to presenting this information to the Board of Zoning Appeals and addressing any questions or concerns. Should you need additional information in advance of the hearing, please do not hesitate to contact me. We look forward to hearing from you and working with the City on this project.

Very truly yours,

Tonya J. Rogers, Esq.

Cc. Dan Fitzpatrick, Building & Zoning Inspector, [danf@cityofspringboro.com](mailto:danf@cityofspringboro.com)  
Dan Boron, City Planner, [danb@cityofspringboro.com](mailto:danb@cityofspringboro.com)



FEE: 45.00

# SPRINGBORO

## APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE

320 W. Central Ave.  
Springboro, Ohio 45066  
(937) 748-9791 PH  
(937) 748-6860 FX  
build@cityofspringboro.com

BUSINESS NAME (DBA): TowerCo 2013, LLC

ADDRESS: 500 Valleystone Dr, Suite 200, Carey, NC 27519

440 South Pioneer Dr

**PROPOSED ACTIVITY OR USE:**

Construction of a Personal Wireless Service Facility on Parcel ID: 419440004

Additional information relating to compliance with Ordinance 1264.40(d)(2)(B), (d)(3)(b) and (e)  
is set forth in the cover letter which accompanies this application.

**NOTE: All new work, except minor maintenance and repair, requires a building permit(s).  
Please contact the Springboro Building Department for further information.**

PLEASE PRINT	Name	Address	Phone Number & Email <small>*BOTH REQUIRED TO PROCESS APPLICATION*</small>
<b>Property Owner</b>	Soundfold, Inc.	9200 N State R. 48 Centerville, Ohio 45458	(330)885-5100 / tsickels@soundfold.com
<b>Business Owner</b>	TowerCo 2013, LLC	500 Valleystone Dr, Suite 200 Carey, NC 27519	(440)223-7483 cfazzolari@towerco.com

I hereby certify that all information on this application is true and correct to the best of my knowledge.  
I further certify that I have contacted the Springboro Tax Department regarding the business' tax obligation.

Applicant's Name: Carrie Fazzolari Email: CFazzolari@towerco.com

Applicant's Signature:  Date: 07-28-25

OFFICE USE ONLY

ZONING APPROVAL: \_\_\_\_\_

DATE: \_\_\_\_\_

**From:** [Dan Fitzpatrick](#)  
**To:** [Tonya Rogers](#); [cfazzolari@towerco.com](mailto:cfazzolari@towerco.com)  
**Cc:** [Dan Boron](#); [Elmer Dudas](#); [Chad Dixon](#)  
**Subject:** 440 South Pioneer Blvd. Cell Tower Denial  
**Date:** Friday, August 8, 2025 3:52:12 PM  
**Attachments:** [18. Survey 2025 \(TowerCo 802-803\).pdf](#)  
[BZA-application.pdf](#)

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Ms. Rogers,

The Certificate of Zoning Compliance Permit Application for the Cell Tower has been Denied. (See the list below)

1. On the application and survey you have applied for a 120' tower and the site plan shows 120' to the property lines and row, but with the lightning rod which is 5' to be included for the height of the tower it is 125.25' (Will Need to correct the survey if approved.)
2. For the Setbacks, fall zones and lot size requirements 1264.40 (e) 5 you will need at least 156.25'.
3. Gravel driveways are not permitted it will need to be paved.
4. On the 22' section of curb and gutter for the entrance to the cell tower will need to be removed and installed with ODOT Type 2 depressed curb and gutter and be inspected by the engineering department before you pour any concrete.
5. Any lighting would need to be approved for the site.
6. We are not going to approve the collapsible tower letter.

You may apply for a variance to the Board of Zoning Appeals. (see attached application)

You will also need to provide a hardship and answer the 4 questions as listed on the application.

Any questions please ask.

Thanks

**Dan Fitzpatrick**  
**Building & Zoning Inspector**  
**Springboro Building Department**  
**320 W. Central Ave.**  
**Springboro, Ohio 45066**  
**Office (937) 748-6845**  
**Fax (937) 748-6860**



# SPRINGBORO

## APPLICATION FOR BOARD OF ZONING APPEALS

ALL six sections must be completed for application to be processed

320 W. Central Ave.  
Springboro, Ohio 45066  
(937) 748-9791 PH  
(937) 748-6860 FX  
[build@cityofspringboro.com](mailto:build@cityofspringboro.com)

**1** Address: 0 Pioneer Blvd, Springboro, Ohio 45066  
Lot No.:   Parcel ID: 419440004 Zoning District: ED - Employment Center District

**2** Request for:  
-APPEAL (see Section 1285.02 on page 2) -VARIANCE (see Section 1285.04 on page 2)

**3** Briefly explain request:  
TowerCo 2013, the Lessee of the subject property, seeks to construct a telecommunications tower. The tower is 120 feet with a 5 foot lighting rod. The proposed location is 120 feet from the right-of-way boundary, which is not consistent with the requirements in Ordinance 1264.40(e)(5). TowerCo therefore seeks a variance from the strict application of 1264.40(e)(5), as addressed in the attached cover letter.

<b>4</b>	<u>PLEASE PRINT</u>	<u>Name</u>	<u>Address</u>	<u>Email</u> <small>*Required for processing*</small>
	<b>Property Owner</b> Soundfold, Inc (Owner) TowerCO 2013, LLC (Lessee)	9200 SR 48 #4 DAYTON OH 45458  5000 Valleystone Dr. Suite 200, Cary, NC 27519		CFazzolari@towerco.com

### The applicant must provide the following:

**5**

- List of property owners within 200 feet of all property boundaries (attached)
- Copy of certified site plan, if required (attached)
- Variance requests shall include a statement addressing all items noted in Section 1285.04(e)
- Application Fee

Appeal: \$133.00

Variance: \$195.00

The above request shall be heard by the Board of Zoning Appeals (BZA) of the City of Springboro at the earliest date allowed by law.

**6** I hereby certify, as the owner or authorized agent of the owner, that I have read the above information and have provided the required documentation. I also agree to pay all actual costs incurred by the City of Springboro (approximately \$500), which will be billed to me by the City of Springboro to be paid prior to the BZA hearing.

Applicant's Name: Tonya J. Rogers Email: tonya@bakerfirm.com

Applicant's Signature: s/ Tonya J. Rogers Date: 09-09-25

# BZA Public Hearing Variance Request Vicinity Map—440 South Pioneer Drive







-  - LEGAL DESCRIPTIONS (LEASE AREA)
-  - LEGAL DESCRIPTIONS (ACCESS ESMT)
-  - LEGAL DESCRIPTIONS (PARENT TRACT)

## LEGAL DESCRIPTIONS:

This is a description for TowerCo, of a lease area to be located to be located on the property conveyed to Soundfold, Inc. in Official Records Book 1592, Page 208 of the Warren County Recorder's Office, and being a part of the Section 19, Town 2 East, Range 5 North, City of Springboro, Warren County, Ohio which is further described as follows:

PREPARED FOR:



PERRY CLOYD

FOR:



1012 S 4th Street, Suite 101

Louisville, Ky 40203

Phone: (502) 636-5111

Fax: (502) 636-5263

SITE NUMBER:

OH0506

SITE NAME:

PARVENU 2

SITE ADDRESS:

PIONEER BOULEVARD  
SPRINGBORO, OH 45066

LEASE AREA:

4,900.00 SQ.FT.

PROPERTY OWNER:

SOUNDFOLD, INC  
9200 SR 48 #4  
DAYTON OH 45458

PARCEL NUMBER:

419440004

SOURCE OF TITLE:

O.R. 1592, PG. 208

DWG BY: SNS	FIELD DATE:	DRAFT DATE:
CHKD BY: PC	04.30.24	05.06.24

FSTAN PROJECT NO.:

24-12041

SHEET 2 OF 2

REVISIONS:

70'X70' LEASE - 05.23.24

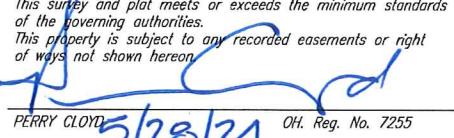
### LAND SURVEYOR'S CERTIFICATE

TYPE "A" SURVEY: UNADJUSTED TRAVERSE CLOSURE BETTER THAN 1 IN 10,000.

TO ALL PARTIES INTERESTED IN TITLE TO PREMISES SURVEYED  
I hereby certify that this plat and survey were made under my supervision, and that the angular and linear measurements, as witnessed by monuments shown hereon, are true and correct to the best of my knowledge and belief.

This survey and plat meets or exceeds the minimum standards of the governing authorities.

This property is subject to any recorded easements or right of ways not shown hereon.

  
 PERRY CLOYD 5/28/24 OH. Reg. No. 7255

RAWLAND

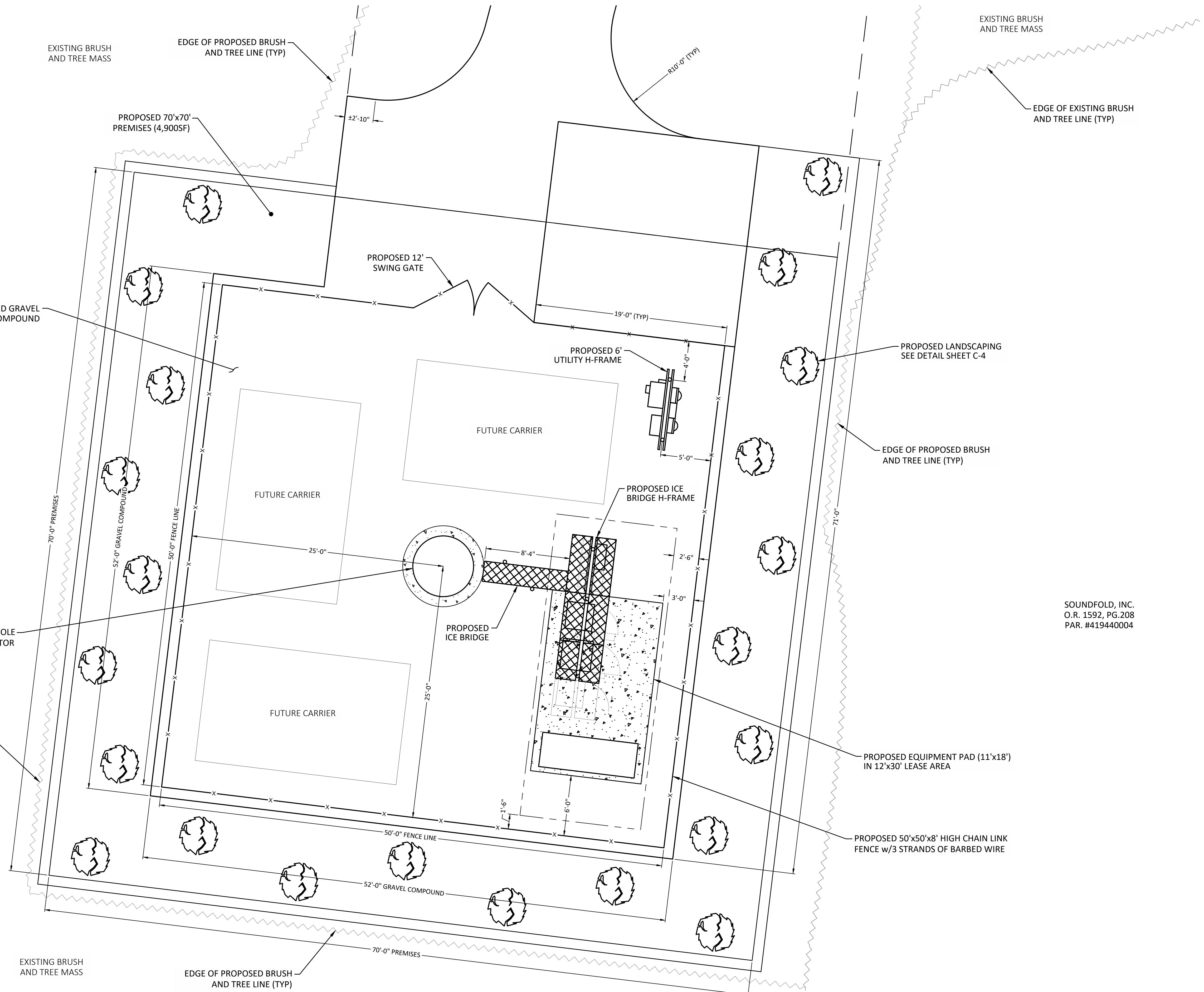
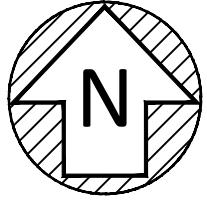
## SYMBOL LEGEND

-  CALCULATED POINT
-  #5 REBAR CAPPED TO BE SET AT TIME OF CONSTRUCTION
-  EXISTING IRON PIN (UNLESS OTHERWISE NOTED)









PREPARED BY:  
**BURGESS & NIIPLE**  
Engineers ■ Architects ■ Planners  
330 RUSH ALLEY,  
SUITE 700  
COLUMBUS, OH 43215  
614-459-2050

PREPARED FOR:

**TowerCo**  
simplicity. found.<sup>TM</sup>



FULL SCALE PRINT IS  
ON 24" x 36" MEDIA

**CONSTRUCTION DRAWINGS**

REV DATE DESCRIPTION

SOUNDFOLD, INC.  
O.R. 1592, PG.208  
PAR #419440004

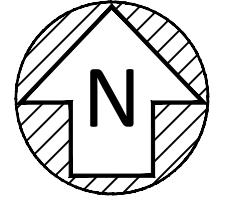
SITE INFORMATION:  
**PARVENU2**  
0 S PIONEER BLVD.  
SPRINGBORO, OH 45066  
WARREN COUNTY

SITE NUMBER:  
**OH0506**

A&E NUMBER: PRG2451  
DESIGNED BY: GSH  
DRAWN BY: GSH  
DATE: 05/14/2025

SHEET TITLE:  
**ENLARGED SITE LAYOUT**

SHEET NUMBER:  
**C-3.1**



EXISTING WATER LINE (TYP)  
PROPERTY LINE (TYP)  
CONCORDE GROUP, LTD.  
O.R. 4250, PG.124  
PAR. #41944006

PROPOSED 12' GRAVEL  
ACCESS DRIVE  
PROPOSED 30' WIDE ACCESS  
AND UTILITY EASEMENT  
PROPOSED CONCRETE APRON

S PIONEER BLVD.  
60' PUBLIC RIGHT OF WAY  
EXISTING STORM  
DRAIN INLET  
PROPOSED HAND HOLE (14)

EXISTING BRUSH  
AND TREE MASS

EXISTING WATER  
LINE (TYP)  
EDGE OF EXISTING BRUSH  
AND TREE LINE (TYP)

SOUNDFOLD, INC.  
O.R. 1592, PG.208  
PAR. #41944004



0 5' 10'  
1"=5'

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**BURGESS & NIIPLE**  
Engineers ■ Architects ■ Planners  
330 RUSH ALLEY,  
SUITE 700  
COLUMBUS, OH 43215  
614-459-2050

PREPARED FOR:

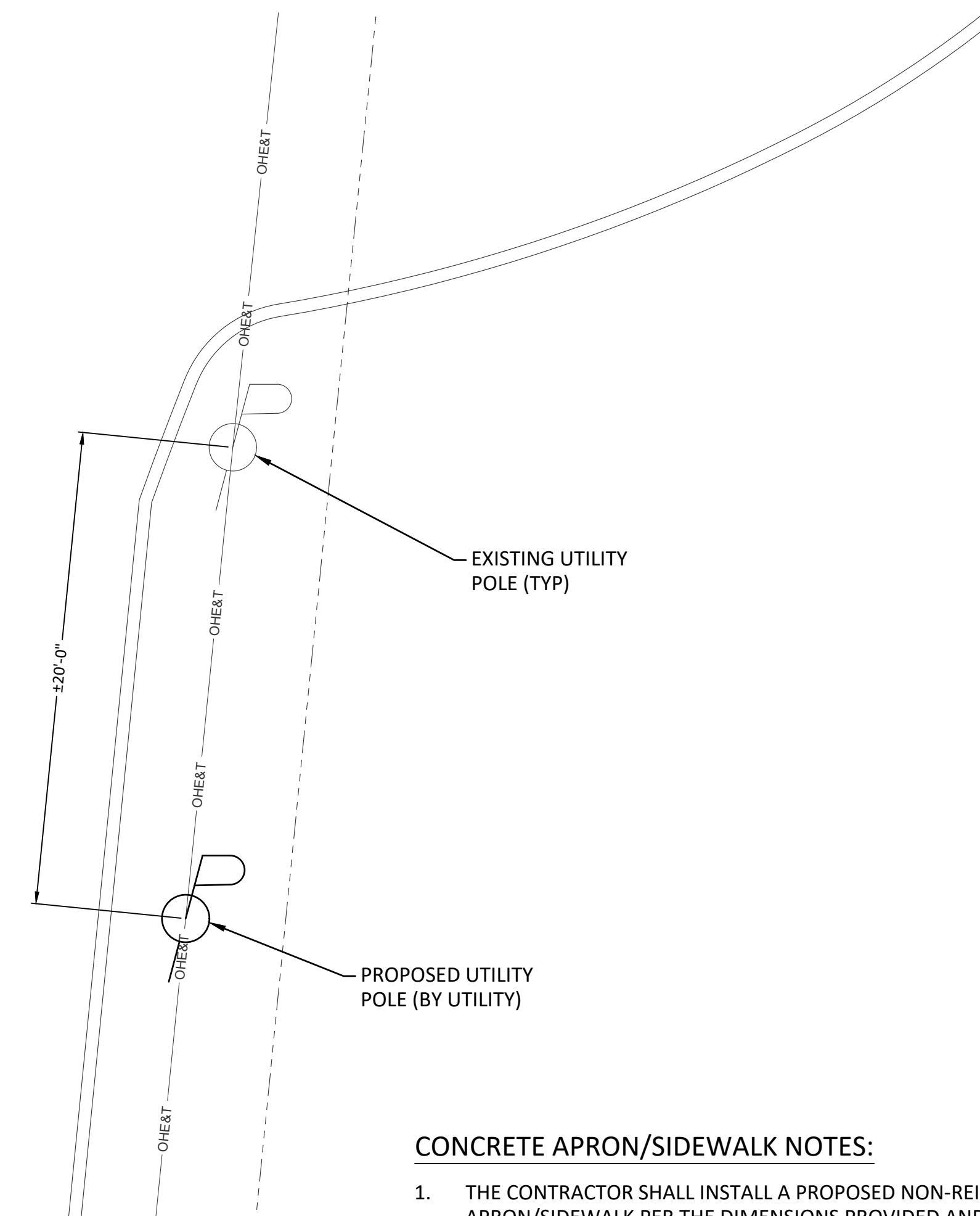
**TowerCo**  
simplicity. found.<sup>®</sup>



FULL SCALE PRINT IS  
ON 24" x 36" MEDIA

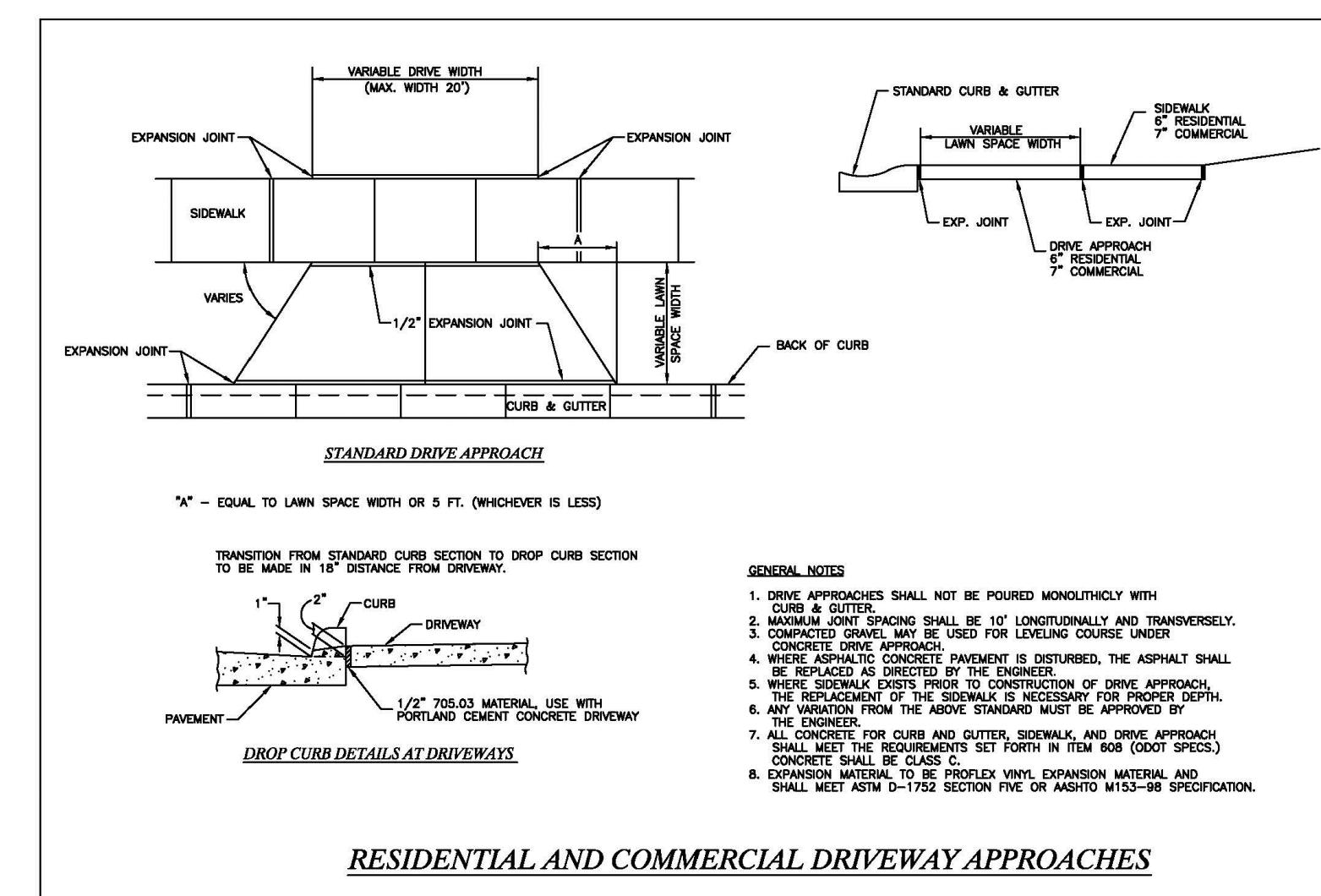
## CONSTRUCTION DRAWINGS

REV DATE DESCRIPTION



### CONCRETE APRON/SIDEWALK NOTES:

1. THE CONTRACTOR SHALL INSTALL A PROPOSED NON-REINFORCED CONCRETE APRON/SIDEWALK PER THE DIMENSIONS PROVIDED AND AS DETAIL BELOW.
2. THE AREA OF THE CONCRETE APRON/SIDEWALK IS  $\pm 132\text{SF}$



### RESIDENTIAL AND COMMERCIAL DRIVEWAY APPROACHES

### CONCRETE APRON DETAIL

NOT TO SCALE

### SITE INFORMATION:

**PARVENU2**

O S PIONEER BLVD.  
SPRINGBORO, OH 45066  
WARREN COUNTY

### SITE NUMBER:

**OH0506**

A&E NUMBER: PRG2451

DESIGNED BY: GSH  
DRAWN BY: GSH  
DATE: 05/14/2025

### SHEET TITLE:

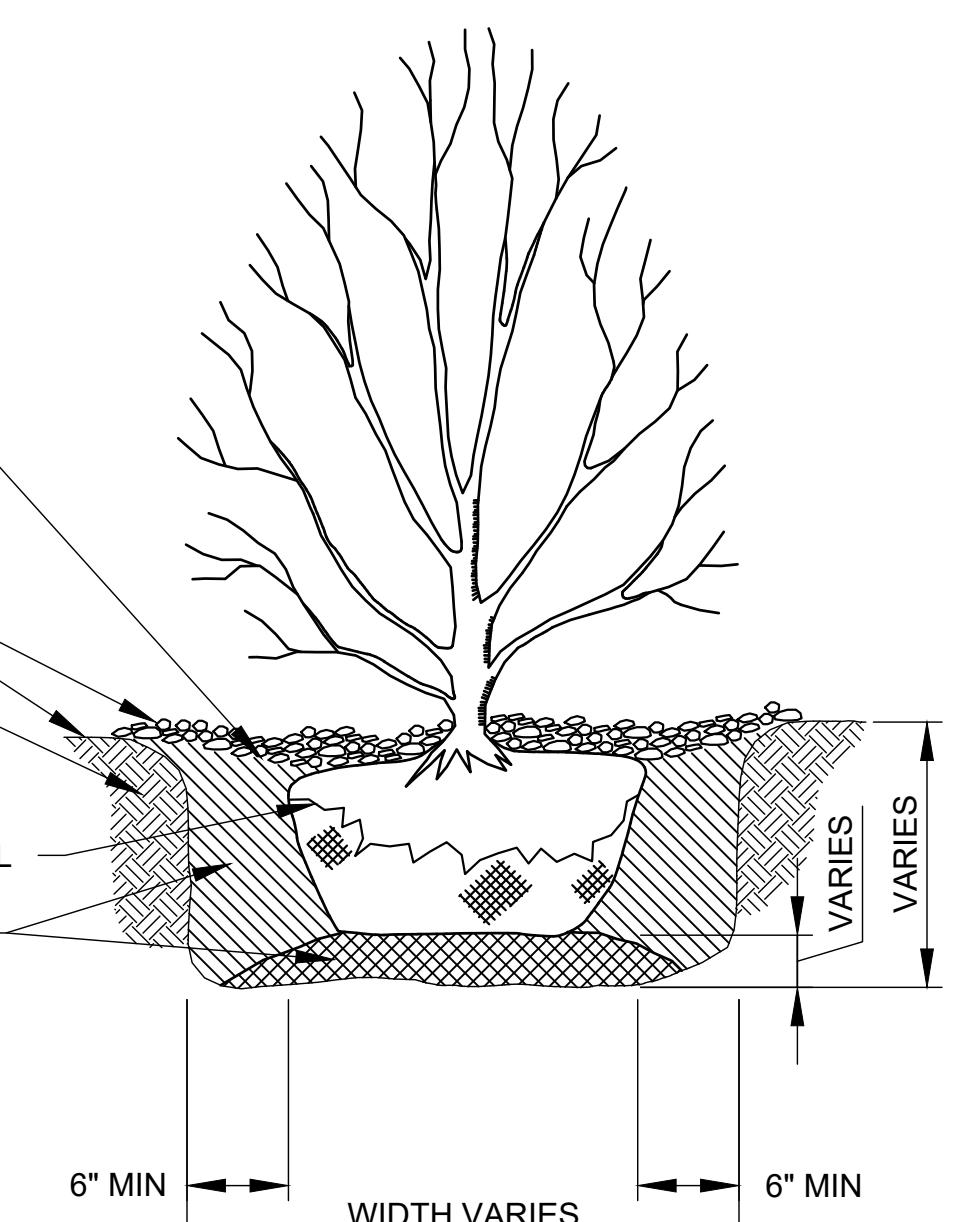
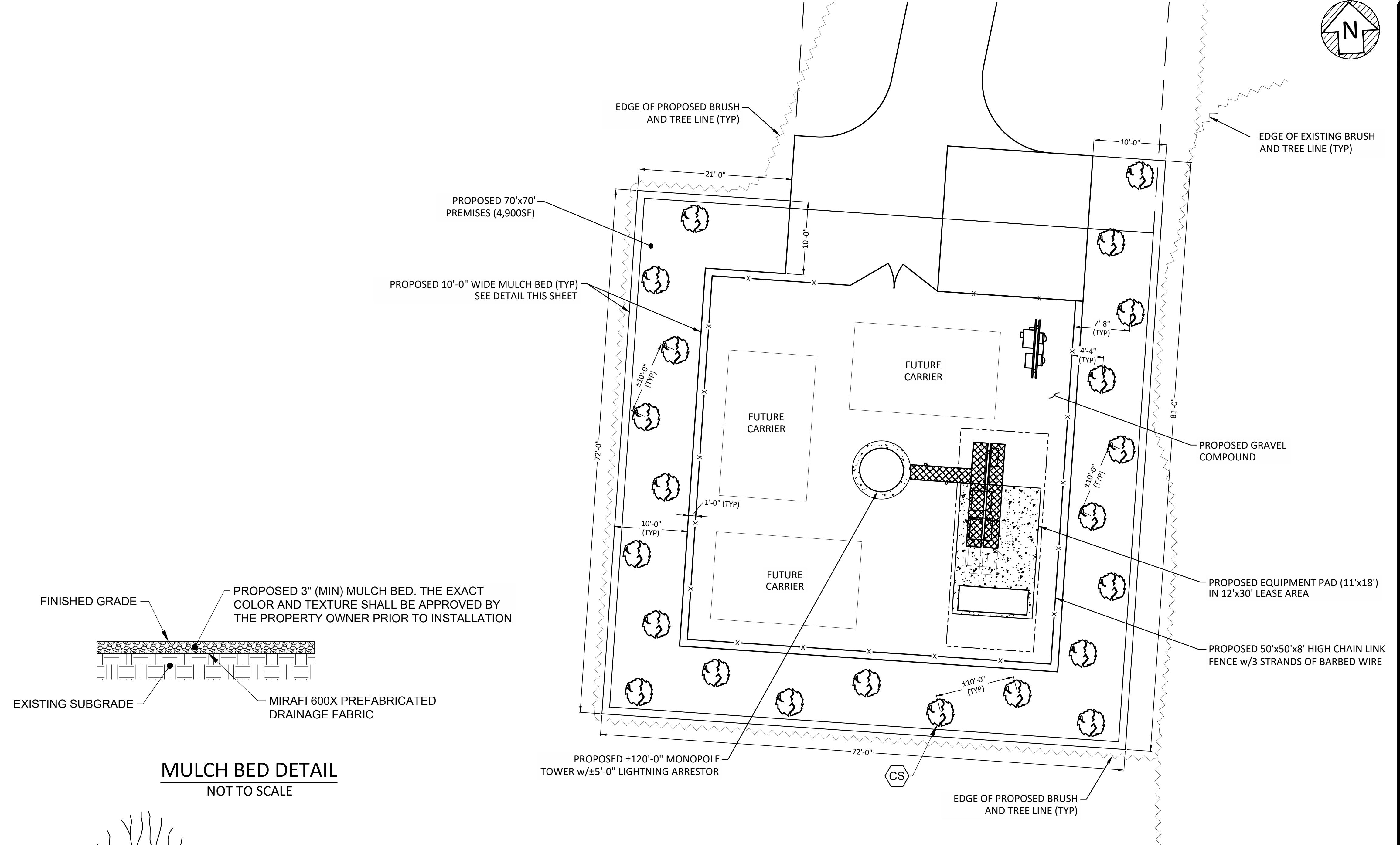
**ENLARGED  
SITE LAYOUT**

SHEET NUMBER:

**C-3.2**

## **GENERAL LANDSCAPING NOTES:**

1. PRUNE NEWLY INSTALLED SHRUBS. WORK SHALL BE DONE BY EXPERIENCED PERSONNEL TO THE ACCEPTED HORTICULTURAL AND ARBORICULTURAL STANDARDS. PRUNING SHALL RESULT IN A LOOSE OUTLINE CONFORMING TO THE GENERAL SHAPE OF THE SHRUB TYPE. DO NOT USE HEDGE SHEARS.
2. ALL PLANTING STOCK SHALL BE NURSERY-GROWN IN ACCORDANCE WITH GOOD HORTICULTURAL PRACTICE. PLANTS SHALL BE FREE OF DISEASE, INSECTS EGGS, LARVAE AND DEFECTS SUCH AS KNOTS, SUN-SCALD, INJURIES, ABRASIONS OR DISFIGUREMENT. THEY SHALL HAVE SOUND, HEALTHY VIGOROUS AND UNIFORM GROWTH TYPICAL OF THE SPECIES AND VARIETY, WELL-FORMED, FREE FROM IRREGULARITIES, WITH THE MINIMUM QUALITY AND SIZE CONFORMING TO AMERICAN STANDARD FOR NURSERY STOCK
3. GUARANTEE: WARRANT ALL PLANT MATERIAL TO BE TRUE TO BOTANICAL NAME AND SPECIFIED SIZE. AFTER COMPLETION OF PLANTING, ALL PLANT MATERIALS SHALL BE WARRANTED AGAINST DEFECTS, INCLUDING DEATH AND UNSATISFACTORY GROWTH FOR A WARRANTY PERIOD OF ONE YEAR. THE CONTRACTOR WILL NOT BE RESPONSIBLE FOR DEFECTS RESULTING FROM NEGLECT, ABUSE, DAMAGE BY OTHERS, OR UNUSUAL PHENOMENA OR INCIDENTS BEYOND THE CONTRACTOR'S CONTROL WHICH RESULT FROM NATURAL CAUSES SUCH AS FLOODS, STORMS, FIRES OR VANDALISM. REPLACEMENTS: DURING THE WARRANTY PERIOD, REPLACE ONE TIME, AT NO ADDITIONAL COST TO THE OWNER, PLANT MATERIALS THAT ARE DEAD, OR IN THE OPINION OF THE LANDSCAPE ARCHITECT, IN AN UNHEALTHY OR UNSIGHTLY CONDITION. REJECTED PLANT MATERIALS SHALL BE REMOVED FROM THE SITE AT CONTRACTOR'S EXPENSE. REPLACEMENTS ARE TO BE MADE NO LATER THAN THE SUBSEQUENT PLANTING SEASON. RESTORE AREAS DISTURBED BY REPLACEMENT OPERATIONS.
4. MULCHING SHALL BE DONE WITHIN 48 HOURS AFTER PLANTING. MULCH SHRUB BEDS TO A UNIFORM DEPTH OF THREE INCHES. MULCH SHALL BE CLEAN COMPOSTED PINE BARK MULCH FREE OF FOREIGN MATERIAL AND LARGE PIECES OVER THREE INCHES LONG. DO NOT MULCH TREE AND SHRUB PLANTING PITS.
5. TOPSOIL SHALL CONSIST OF FERTILE FRIABLE NATURAL LOAM, CONTAINING A LIBERAL AMOUNT OF HUMUS AND SHALL BE SUBJECT TO INSPECTION AND APPROVAL. IT SHALL BE FREE OF ADMIXTURES OF SUBSOIL AND FREE OF CRAB GRASS, ROOTS, STICKS AND OTHER EXTRANEOUS MATTER, AND SHALL NOT BE USED FOR PLANTING OPERATIONS WHILE IN A FROZEN OR MUDDY CONDITIONS.
6. REPAIR ALL TURF AREAS BY SEEDING. SEEDING INSTALLATION SHALL BE EXECUTED ONLY AFTER ALL FINISH GRADING HAS BEEN COMPLETED. NO SEEDING WORK SHALL BE DONE PAST SEPTEMBER 15, UNLESS APPROVED BY THE OWNER'S REPRESENTATIVE. SEED: SEED MIX SHALL MATCH EXISTING TURF, OR BE A 50/50 MIX OF CERTIFIED IMPROVED BLEND OF BLUEGRASS AND CERTIFIED IMPROVED PERENNIAL RYE. MIX SHALL BE APPROVED BY THE OWNER'S REPRESENTATIVE PRIOR TO PLANTING. SEEDING SHALL BE APPLIED AT A MINIMUM RATE OF 120 POUNDS PER ACRE. FUTERRA BLANKET, OR EQUAL, SHALL BE USED FOR EROSION CONTROL MULCH WHERE NECESSARY IN LIEU OF HYDRO MULCH.



# TREE PLANTING DETAIL

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NOT TO SCALE

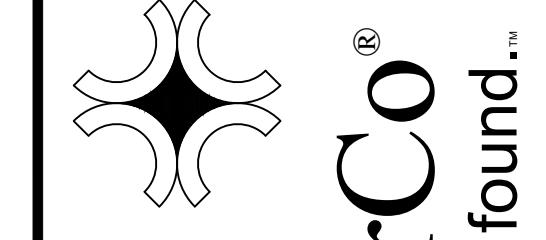
## PLANT LIST

SYMBOL	BOTANICAL NAME	COMMON NAME	QUANTITY	SIZE/HEIGHT	COMMENTS
	PICEA PUNGENS	COLORADO BLUE SPRUCE	22	5'-0" (MIN)	BALLED AND BURLAPPED

PARDED BY:  
**JURGESS & NIPLE**  
Engineers ■ Architects ■ Planners  
330 RUSH ALLEY,

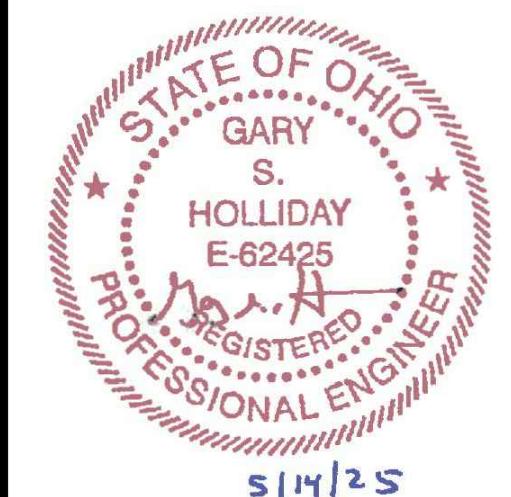
SUITE 700  
COLUMBUS, OH 43215  
614-459-2050

SPARED FOR:



# TowerCo<sup>®</sup>

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**FULL SCALE PRINT IS  
ON 24" x 36" MEDIA**

# CONSTRUCTION DRAWINGS

DATE	DESCRIPTION
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SITE INFORMATION:  
**PARVENU2**

SITE NUMBER:  
**OH0506**

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ITEM NUMBER: PR62451

SIGNED BY: GSH

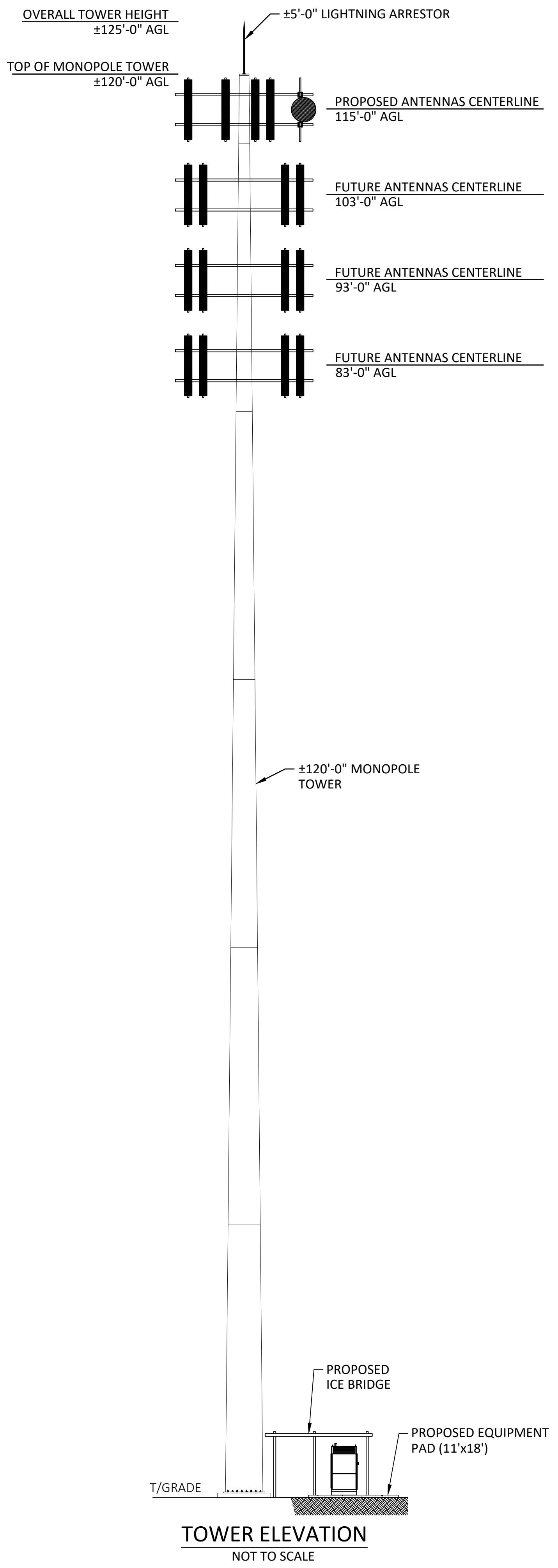
AWN BY: GSH

TE: 05/14/2025

SHEET TITLE:  
**LANDSCAPING  
SITE LAYOUT**

---

SHEET NUMBER:  
**C-4**

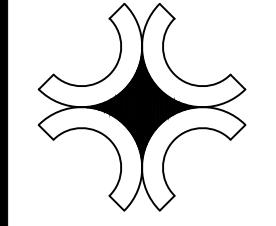


## TOWER NOTES:

1. THE TOWER WILL BE GALVANIZED COATED PRODUCING A NON-CONTRASTING GRAY COLOR TO MINIMIZE IT'S VISIBILITY
2. THE TOWER WILL NOT BE LIT EXCEPT AS REQUIRED BY THE FAA

ED BY:  
**RGESS & NIPLE**  
ers ■ Architects ■ Planners  
330 RUSH ALLEY,  
SUITE 700  
COLUMBUS, OH 43215  
614-459-2050

PREPARED FOR:



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ON 24" x 36" MEDIA**

# CONSTRUCTION DRAWINGS

## SITE INFORMATION:

# PARVENU2

0 S PIONEER BLVD.  
SPRINGBORO, OH 45066

WARREN COUNTY

**SITE NUMBER:**

OH0506

---

A&E NUMBER: PR62451

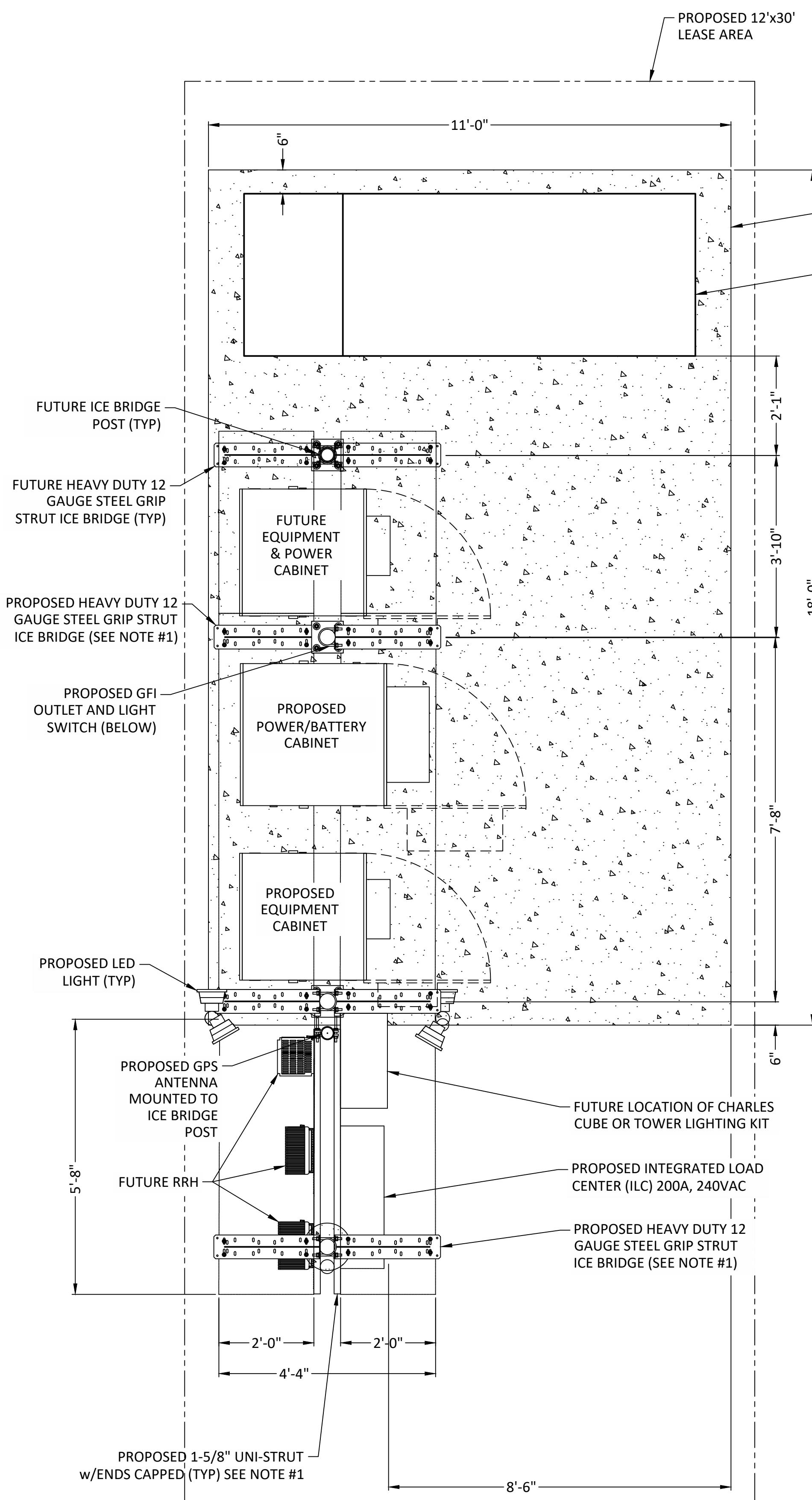
DESIGNED BY: GSH

DRAWN BY: GSH

DATE: 05/14/20

SHEET TITLE:  
**TOWER ELEVATION  
& ANTENNA  
DETAILS**

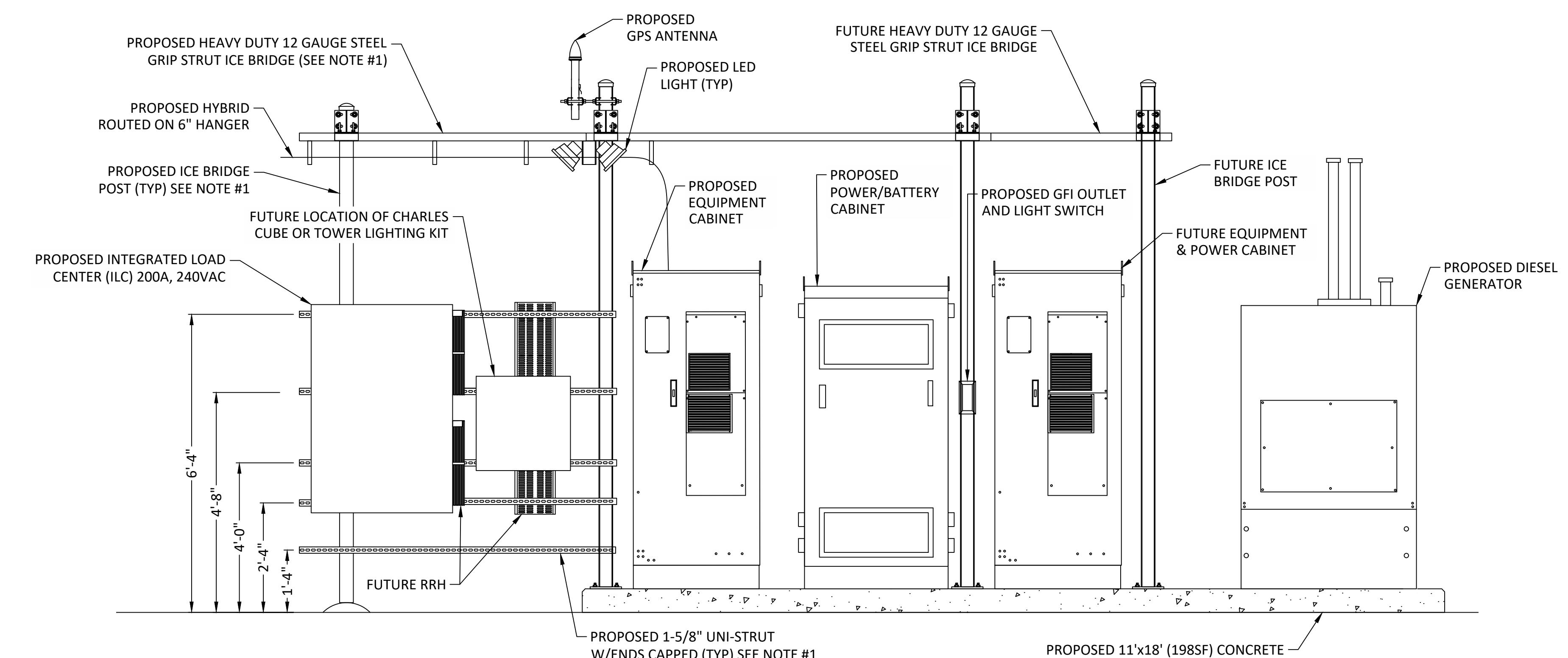
**SHEET NUMBER:**  
**C-5**



# EQUIPMENT PAD LAYOUT IN LEASE AREA

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NOT TO SCALE



# EQUIPMENT PAD LAYOUT ELEVATION 2

---

NOT TO SCALE

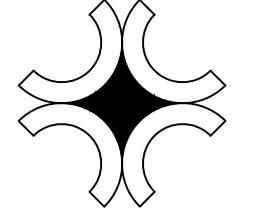


## **Ohio Utilities Protection Service**

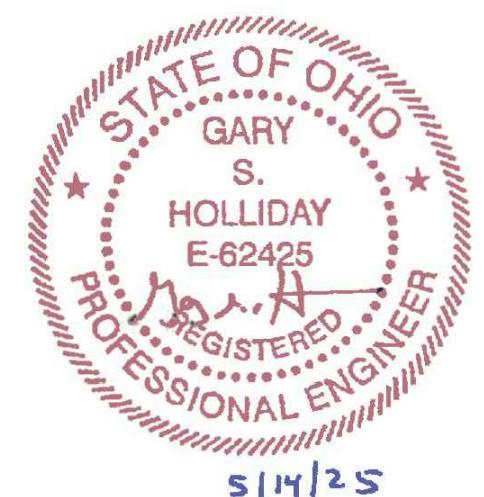
The logo for Call 811 features the text "Call 811" in a large, bold, blue and green sans-serif font. A blue hand icon is positioned to the right of the "11". Below this, the words "before you dig" are written in a smaller, blue, sans-serif font.

PREPARED BY:  
**BURGESS & NIPLE**  
Engineers ■ Architects ■ Planners  
330 RUSH ALLEY,  
SUITE 700  
COLUMBUS, OH 43215  
614-459-2050

**PREPARED FOR:**



**TowerCo<sup>®</sup>** simplicity. found.™



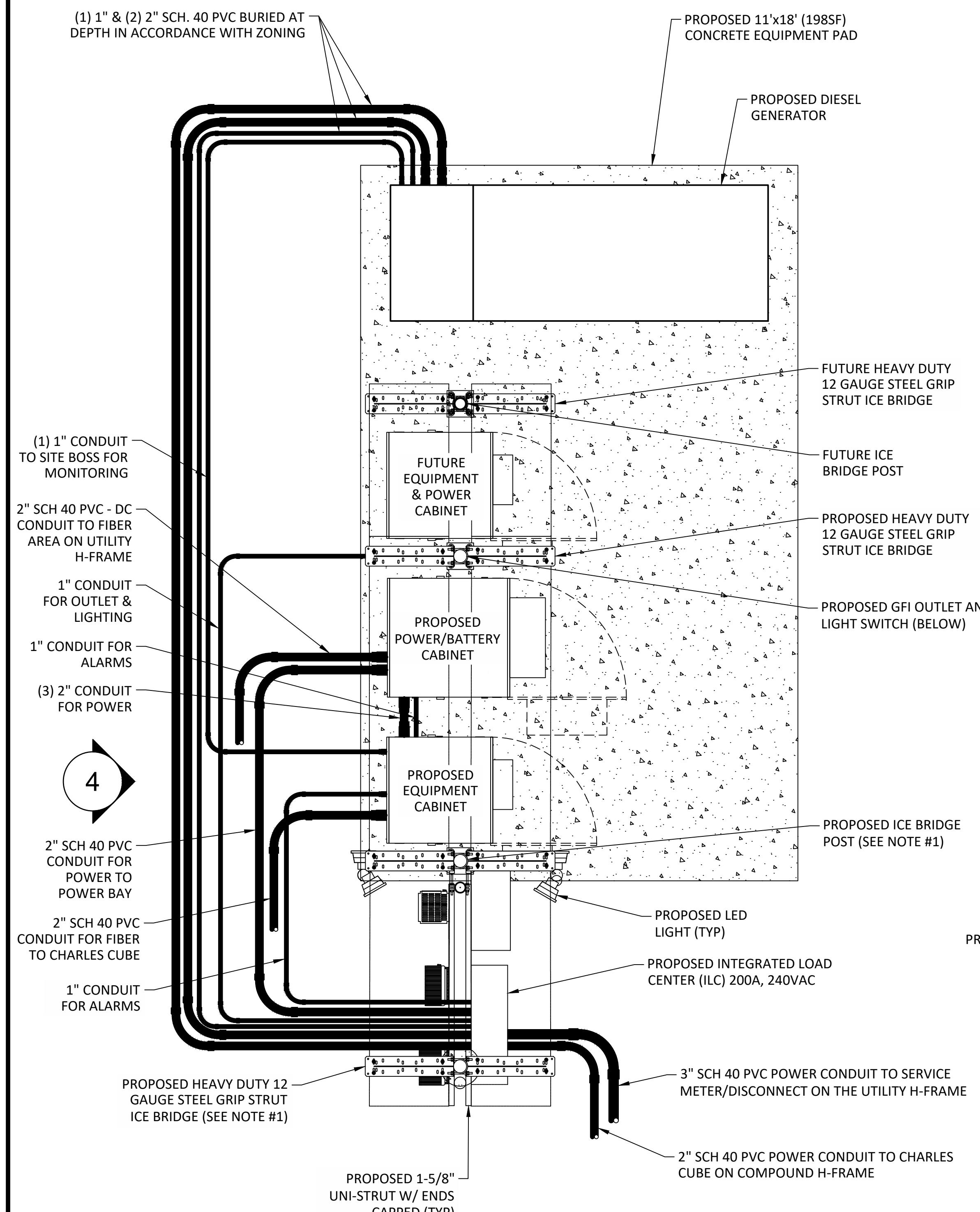
**FULL SCALE PRINT IS  
ON 24" x 36" MEDIA**

# CONSTRUCTION DRAWINGS

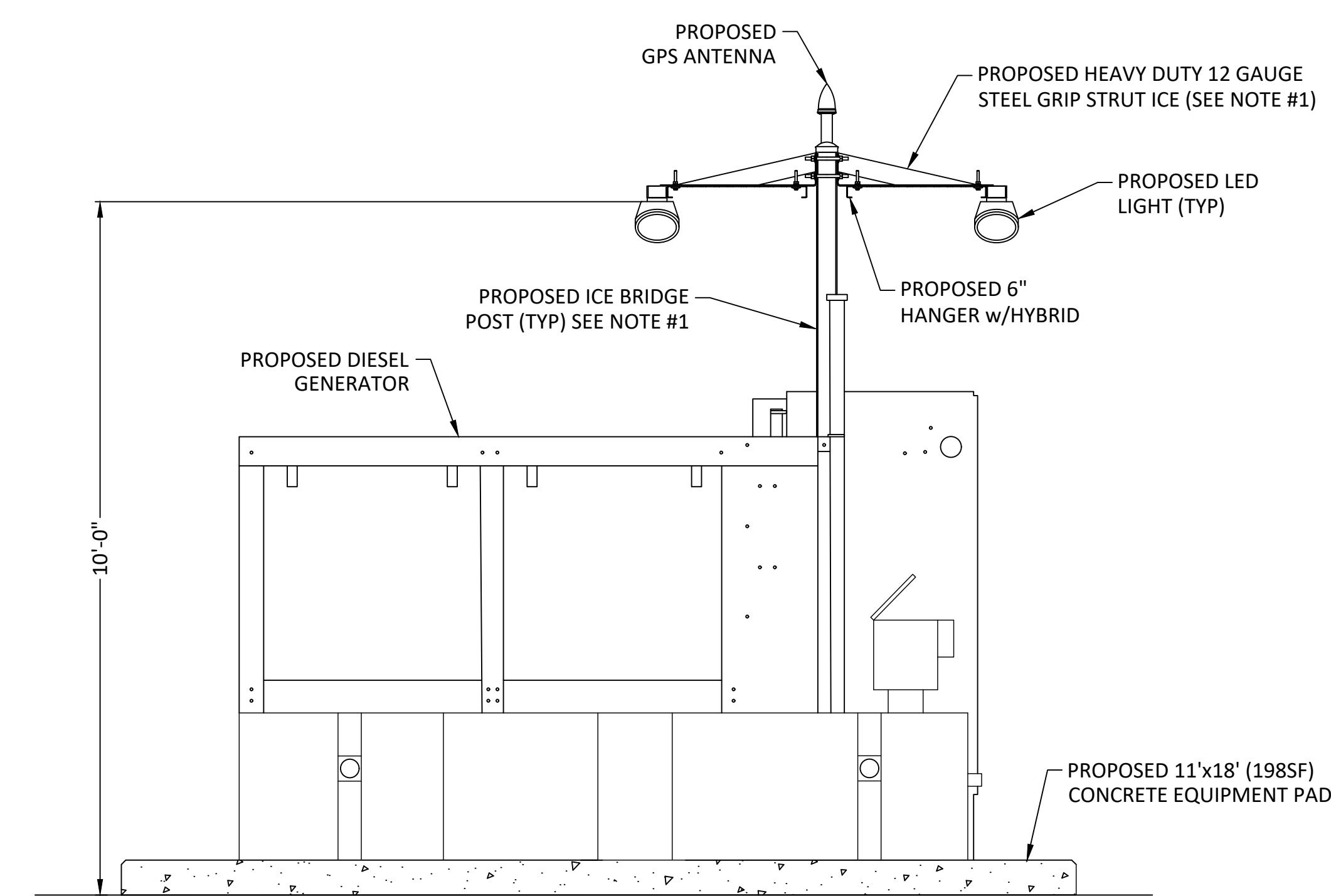
## SHEET TITLE:

# EQUIPMENT PAD LAYOUT

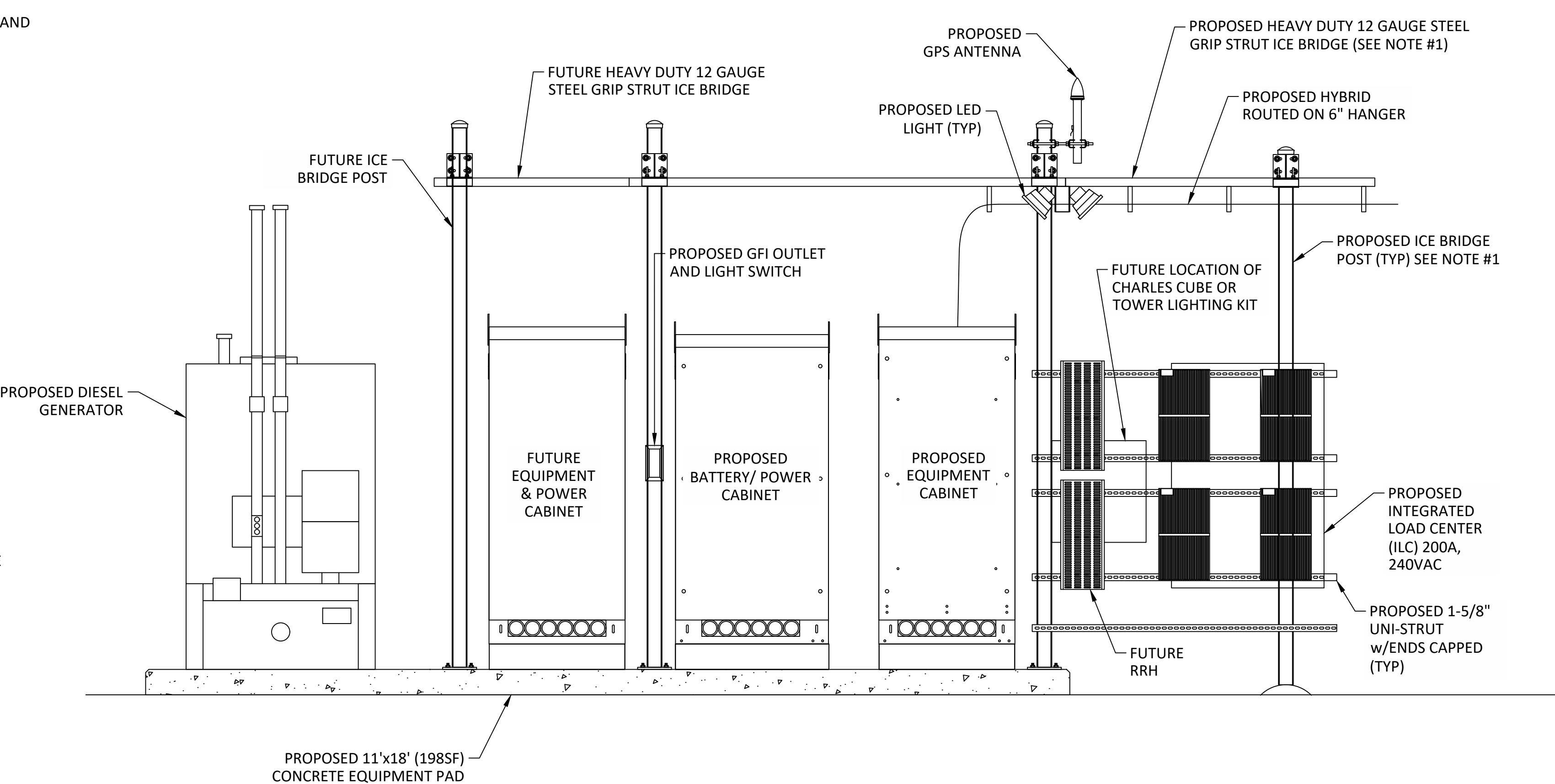
SHEET NUMBER:  
**C-6**



EQUIPMENT PAD LAYOUT w/ CONDUITS  
NOT TO SCALE



EQUIPMENT PAD LAYOUT ELEVATION 3  
NOT TO SCALE



EQUIPMENT PAD LAYOUT ELEVATION 4  
NOT TO SCALE



PREPARED BY:  
**BURGESS & NIIPLE**  
Engineers ■ Architects ■ Planners  
330 RUSH ALLEY,  
SUITE 700  
COLUMBUS, OH 43215  
614-459-2050

PREPARED FOR:

**TowerCo**  
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FULL SCALE PRINT IS  
ON 24" x 36" MEDIA

**CONSTRUCTION DRAWINGS**

REV DATE DESCRIPTION

SITE INFORMATION:  
**PARVENU2**  
0 S PIONEER BLVD.  
SPRINGBORO, OH 45066  
WARREN COUNTY

SITE NUMBER:  
**OH0506**

A&E NUMBER: PRG2451  
DESIGNED BY: GSH  
DRAWN BY: GSH  
DATE: 05/14/2025

SHEET TITLE:  
**EQUIPMENT PAD LAYOUT**

SHEET NUMBER:  
**C-7**



**City of Springboro**  
**320 West Central Avenue, Springboro, OH 45066**

**Board of Zoning Appeals Meeting & Public Hearing**  
**Wednesday, November 1, 2023, 6:00 p.m.**

**Board of Zoning Appeals**

**Sheila Lairson, Acting Chair**  
**Ed Syron, Acting Vice Chair**  
**Jerry Ferris**  
**Scott Oxley**

**Brian Retterer**  
**Paul Sheuermann**  
**Mike Thompson**

**City Staff**

**Dan Boron, City Planner**  
**September Bee, City Planning Assistant**

**Dan Fitzpatrick, Zoning Inspector**

**I. Call to Order & Roll Call**

Ms. Lairson called the meeting to order at 6:00 p.m. and asked for the calling of the roll.

**Roll Call: Sheila Lairson, yes; Ed Syron, yes; Jerry Ferris, yes; Scott Oxley, yes; Brian Retterer, yes; Paul Sheuermann, yes; Mike Thompson, yes**

**II. Approval of Minutes**

November 22, 2022 Board of Zoning Appeals Meeting

Ms. Lairson asked for motion to approve the November 22, 2022 meeting minutes.

*Mr. Syron motioned to approve the November 22, 2022 Meeting Minutes. Mr. Sheuermann seconded the motion.*

**Vote: Lairson, yes; Syron, yes; Ferris, yes; Oxley, abstain; Retterer, yes; Sheuermann, yes; Thompson, abstain. (Motion carried 5 yes-0 no-2 abstain)**

**III. Appointment of Officers – Chair, Vice Chair**

Ms. Lairson announced that because this is a new year, a Chair and Vice Chair need to be nominated. She called for nominations.

*Mr. Sheuermann nominated Ms. Lairson as Chair. Mr. Thompson seconded the nomination.*

Ms. Lairson called for roll call for Ms. Lairson as Chair.

**Vote: Lairson, yes; Syron, yes; Ferris, yes; Oxley, yes; Retterer, yes; Sheuermann, yes; Thompson, yes. (7 yes-0 no)**

Ms. Lairson called for nominations for Vice Chair.

*Mr. Syron volunteered to continue as Vice Chair. Mr. Ferris seconded the nomination.*

Ms. Lairson called for roll call for Mr. Syron as Vice Chair.

**Vote: Lairson, yes; Syron, yes; Ferris, yes; Oxley, yes; Retterer, yes; Sheuermann, yes; Thompson, yes. (7 yes-0 no)**

Ms. Lairson said both nominations have been accepted; Ms. Lairson will be the Chair and Mr. Syron will be the Vice Chair.

#### **IV. Action Agenda Items**

##### **A. Public Hearing**

**Variance Request, 1550 South Main Street (SR 741), variance from the front yard location restriction for an accessory structure.**

##### **Background Information**

This agenda item is based on application filed by Daklak Do, property owner, requesting a variance from the strict interpretation of the Planning & Zoning Code's prohibition on the placement of accessory structures in front of their residence at 1550 South Main Street (SR 741). The property is located in the R-1, Estate-Type Residential Zoning District.

The Planning & Zoning Code establishes the purpose, permitted uses, and lot and building development standards for the R-1 District and other zoning districts in the City. The R-1 District was established to provide for estate-type, detached, single-family residential development at a density of two (2) units per acre on lots with a minimum acreage of 20,000 square feet (0.5 acres effectively). The subject property is approximately 8.41 acres in area. Land uses permitted in the R-1 District include single-family residential homes, churches, schools, cultural/public uses, parks, bed and breakfasts, golf courses, farmer's markets, roadside stands, accessory buildings such as the one proposed, and other uses (Section 1263.04, Table 6). Commercial and industrial development is prohibited (Section 1261.08(b)) in the R-1 District. Design and development standards for detached accessory buildings, such as the barn that is the subject of this variance case, are included in Section 1272.02 of the Planning & Zoning Code and are as follows:

- Accessory building maximum Height: 15 feet
- Maximum Building Coverage: 10 percent of required yard
- Permitted Locations: rear yard only

The applicants are proposing to construct a 31-foot by 44-foot barn on the north side of the property, 1,364 square feet in area on the ground floor, with a loft on the second floor. The

structure would be roughly 370 feet from the front property line, 40 feet from the north property line, and 20 feet from the west edge of a pond. The area between the north property line and the barn would remain as vegetation and a driveway would be added to access the building. The house on the property is located roughly 550 feet from the front property line, 250 feet from the proposed site of the barn. The house sits above a wooded and sloped area on the east end of the property, an area that also includes a creek. Also included in this area is a pool, a garage with driveway, and a large birdcage. The applicant has indicated that the area behind the house is not suitable for the barn because of topographical limitations, and their desire to keep this area wooded to in-part screen the house from the adjacent Heatherwoode subdivision.

Properties in the vicinity of the subject property are used as follows: To the east lands in the Heatherwoode subdivision. To the south a home owned by the property owner, and the Ashton Woods subdivision. To the west, on the west side of South Main Street, large-lot residential lots in Clearcreek Township, and the entrance to Springboro Junior High School and the site of Miracle Field, and to the northwest large-lot residential lots. To the north is a large undeveloped property, and two residences facing South Main Street.

Lands to the east in Heatherwoode are zoned PUD, Planned Unit Development, Ashton Woods is zoned R-2, Low-Density Residential District, school property is zoned PUD, and lands to the northwest and north are zoned R-1 District. Lands in Clearcreek Township on the west side of South Main Street are zoned SR-1, Suburban Residence Zone.

### **Variance Review Process**

Section 1285.04, Variances, of the Planning and Zoning Code establishes a process for the review of variances by the Board of Zoning Appeals (BZA) from the strict interpretation of the Planning and Zoning Code:

The BZA is hereby authorized to grant, upon appeal in specific cases, a variance from this Zoning Code and will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this Zoning Code would result in a practical difficulty. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

The following criteria need to be met in order for the BZA to grant a variance from the strict interpretation of the Planning & Zoning Code. The applicants have provided a response to each criterion indicated in *italics* below.

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.

*The property is large, 8.4 acres in area, and the house is set back over 550 feet from the street. The code would require construction of the accessory structure behind the house, however that area is steep, dropping off into a stream. That and existing buildings, a pool, and more, make this area impractical for the proposed barn site.*

*The unusually large size of the lot would allow the owner to place the accessory structure on the north side of the lot and screen it from adjoining parcels exceeding code requirements (10 feet required, 40 feet is proposed).*

2. A literal interpretation of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under this Zoning Code.

*For areas zoned R-1 District in the immediate area, there are accessory structures in front of the houses at 1305 and 1525 South Main Street.*

3. That special conditions and circumstances do not result from the actions of the applicant.

*The applicant has indicated that this is not a self-created condition.*

4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other lands, structures or buildings in the same district.

*A variance was granted for a similar condition at 3883 West Lower Springboro Road by the BZA in 2022: Large lot, unusual topography, same zoning.*

In granting any variance, the BZA may prescribe appropriate conditions and safeguards in conformity with the Planning & Zoning Code. A violation of any of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Planning & Zoning Code.

City staff has not proposed any conditions for these variance requests.

### **Discussion**

Ms. Lairson opened the Public Hearing and announced Agenda Item A, Variance Request, 1550 South Main Street (SR 741), variance from the front yard location restriction for an accessory structure. She asked if all the Board members had a chance to review the submitted information for this item. All replied yes.

Ms. Lairson swore in Mr. Daklak Do, property owner, and Mr. Fitzpatrick before testifying.

Ms. Lairson asked Mr. Fitzpatrick for a summary of this agenda item.

Mr. Fitzpatrick said that Mr. Do, 1550 South Main Street, applied for a permit to build a 31' x 40' barn on his property. Zoning was turned down because the proposed site of the new accessory structure on his property is located 375 feet from the front yard line and 40 feet from his property line. This district is zoned R-1 which requires accessory structures to be located in the rear yard.

Based on the topography of the property, locating a structure in the rear yard would not be feasible. The property itself is 8.4 acres and sits off from the road quite a bit.

Mr. Thompson addressed Ms. Lairson and said that given the large size of the property and its topography, it appears that it would be nearly impossible to locate a pole-barn in the rear and the only other option would be to allow for it to be built in the front yard, away from the roadway. He noted that there was precedent for a similar situation on Lower Springboro Road where the Board of Zoning Appeals approved the variance.

Ms. Lairson called for anyone who would like to speak on behalf of the applicant to approach the podium.

Mr. Do introduced himself and stated that he would like to add the barn to his property for additional vehicle storage. He spoke with one of his neighbors, Ms. Regina Crane, before the meeting and he explained the project to her. After hearing his explanation, Ms. Crane had no objection to the variance requested.

Ms. Lairson called for anyone who is opposed to this variance to please approach the podium and introduce themselves.

Mr. Gene Simone, 30 Royal Dornosh, had several questions. He asked if the barn would be located near SR 741 or would it be closer to Heatherwoode Boulevard?

Mr. Do said the front of the barn would face SR 741, the rear of the barn would be about 670 feet away from Heatherwoode.

Mr. Simone wanted to be assured that Mr. Do will not be tearing down the trees buffering the property and he will not be using Heatherwoode as a construction entrance.

Mr. Do confirmed he would not be tearing down the trees and would use SR 741 as the construction entrance.

Mr. Simone thanked the Board and Mr. Do for their time.

Ms. Lairson called for any further discussion.

Mr. Retterer referred to the aerial footage of the property and asked which trees would be removed. Will trees remain separating SR 741 and the barn?

Mr. Do said that most of the trees would remain. A few dead Ash trees between the existing pond and the new barn will be removed to allow for construction. He may plant new trees on the property.

Mr. Oxley asked Mr. Fitzpatrick if the barn would be visible from SR 741.

Mr. Fitzpatrick replied that he believes it will not be visible from the roadway.

Ms. Lairson commented that there is a nice tree line along the front of the property and the property is well screened from SR 741.

Mr. Ferris said he had driven onto the property recently and determined that the new structure will not be visible from SR 741 because it will be set far enough back from the roadway and screened by trees along the roadway.

Mr. Oxley asked about the residents who live along the north side of the property; will they be able to see the new barn?

Mr. Boron stated that one of the properties is owned by Mr. Do and the other property to the north is vacant but owned by the Crane family. The Crane's family intends to split that lot sometime in the future and build two single-family homes.

Mr. Sheuermann asked if the Cranes were okay with this project moving forward.

Mr. Boron said that it was his understanding that the Crane's had spoken with Mr. Do and were no longer concerned about the new structure. Mr. Do's barn will have a 40-foot setback from the road; only 10 feet is required in this district.

Ms. Lairson asked if there were any further questions or comments.

Mr. Boron added that this variance request is to the request that was before the Board and approved at the November 22, 2022 meeting, so there is precedent for approval.

Ms. Lairson said there are four conditions that must be met before voting can continue and it appears that these conditions have been met. She called for a motion to approve the variance request for 1550 South Main Street (SR 741).

*Mr. Syron motioned to approve the variance of restricting accessory structures in a front yard as submitted, including a finding that the applicant had met all four conditions of approval for a 31' x 44' barn at 1550 South Main Street (SR 741). Mr. Ferris seconded the motion.*

Ms. Lairson called for roll call.

**Vote: Lairson, yes; Syron, yes; Ferris, yes; Oxley, yes; Retterer, yes; Sheuermann, yes; Thompson, yes. (7 yes-0 no)**

Ms. Lairson said the motion is approved unanimously and Mr. Do can proceed with his plans for building a new barn on his property.

Mr. Do thanked the Board and staff.

Mr. Boron said that the Building and Zoning Department will be notified of the Board's decision to approve his variance request and he can move ahead with the permitting process.

Ms. Lairson closed the Public Hearing for 1550 South Main Street (SR 741).

## **B. Public Hearing**

### **Variance Request, 60 Elkins Drive, variances from rear yard setback requirement**

#### **Background Information**

This agenda item is based on application filed by Judy Elswick and John Sullivan, property owners, requesting a variance from the strict interpretation of the Planning & Zoning Code's requirement for a 25-foot rear setback for their residence at 60 Elkins Court. The property is located in the R-3, Medium-Density Residential Zoning District.

The Planning & Zoning Code establishes the purpose, permitted uses, and lot and building development standards for the R-3 District and other zoning districts in the City. The R-3 District was established to provide moderate- to high-density residential development. Apartments, and both attached and detached single-family residential dwellings are permitted. Other permitted land uses include churches, schools, cultural/public uses, parks, bed and breakfasts, golf courses,

farmer's markets, roadside stands, accessory buildings, and other uses (Section 1263.04, Table 6). Commercial and industrial development is prohibited (Section 1261.08(b)) in the R-3 District.

The applicants are proposing to build a 12-foot by 14-foot sunroom addition on the rear/north side of the home. The plans for the addition were rejected by the Building and Zoning Department since the proposed sunroom would extend to within 18 feet of the rear property line, 25 feet being the minimum setback in the R-3. As indicated in their application, the homeowners—who purchased the home in 2020—were under the impression that a fence line to the rear of their home coincided with the rear property line when in fact there was a small parcel associated with the historic Universality Cemetery between the fence and property line. As a result, the applicants are seeking a 7-foot variance from the rear yard requirements.

Properties in the vicinity of the subject property are nearly all residential. To the north there are single-family residential lots on the south side of Parker Drive. Lands to the east, south, and west are a mix of one- and two-family residences on Elkins Lane and Music Court.

Lands to the east, south, and west are zoned R-3 District. Lands to the northeast are zoned R-2, Low-Density Residential District, while lands to the northwest are zoned UVD, Urban Village District.

### **Variance Review Process**

Section 1285.04, Variances, of the Planning and Zoning Code establishes a process for the review of variances by the BZA from the strict interpretation of the Planning and Zoning Code:

The BZA is hereby authorized to grant, upon appeal in specific cases, a variance from this Zoning Code and will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this Zoning Code would result in a practical difficulty. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

The following criteria need to be met in order for the BZA to grant a variance from the strict interpretation of the Planning & Zoning Code. The applicants have provided a response to item #1 in *italics* below.

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.

*When I purchased (the property) in 2020 we were under the understanding the fence line was on the property line. The plan was always to put a sunroom on the back of the home. When we applied for the permit, we were told that part of our property belongs to the graveyard down at the end of the road. We have researched the graveyard and cannot find anything on who owns it. When we spoke to a couple of neighbors, they were not aware of this either, unlike us they thought the property line was the fence line.*

2. A literal interpretation of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under this Zoning Code.

No answer supplied.

3. That special conditions and circumstances do not result from the actions of the applicant.

No answer supplied.

4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other lands, structures or buildings in the same district.

No answer supplied.

In granting any variance, the BZA may prescribe appropriate conditions and safeguards in conformity with the Planning & Zoning Code. A violation of any of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Planning & Zoning Code.

City staff has not proposed any conditions for these variance requests other than providing written answers to criteria 2-4 prior to the November 1 meeting/hearing. City staff will forward any submission to members of the BZA.

### **Discussion**

Ms. Lairson opened the Public Hearing for the variance request at 60 Elkins Drive, variance from rear yard setback requirement. She called for anyone who would like to speak on behalf of the property owners. Mr. John Sullivan and Mr. Steve Frye were sworn in by Ms. Lairson that their testimony and evidence that they are providing at this hearing to be truthful.

Mr. Fitzpatrick said that Judy Elswick, property owner at 60 Elkins Drive, applied for a building permit for a four-season sunroom to be added to the rear (north) side of the house. This application was denied because the site plan does not meet the rear yard setback minimum requirement of 25 feet in the R-3, Medium-Density Residential Zoning District.

After meeting with Ms. Elswick onsite, Mr. Fitzpatrick determined that there is a small strip of land behind their property that is approximately 7 feet wide that the historic cemetery owns that prevents the owners from building on that land. When the owners purchased their property, they thought that the property line extended to the fence line at the rear of the property.

Ms. Lairson asked if there was another house behind 60 Elkins Drive or is it just the cemetery.

Mr. Fitzpatrick said that there is another house, located on Parker Drive, behind the Elswick home as well as a small strip of land to the west of their property. The cemetery located near their home dates to the early 1800s and is maintained by the Sullivans.

Mr. Thompson observed that the two small strips of land that are in question should not really be there in the first place. Given the absence of ownership for this property, it makes sense to allow the variance and let the current owners at 60 Elkins Drive continue to maintain the property as their own.

Mr. Boron commented that it is not uncommon for small plots of land to be scattered throughout the subdivisions in the city because of the way it was developed in sections. Sometimes small areas of land get left off the property lines like this case.

Mr. Oxley asked if there was a fence line between the Elkins property and the property on Parker Drive.

Ms. Elswick said there is a fence around the cemetery, but it is inside the cemetery.

Mr. Oxley asked who owned the shed located on the cemetery property.

Mr. Sullivan replied that it is theirs and is on their property, not the cemetery.

Mr. Boron said the setback is 25 feet and the proposed addition is projecting into the setback required in the R-3 district.

Mr. Scheuermann asked if there had been any complaints by the adjoining property owners.

Mr. Fitzpatrick said he has not received any complaints.

Mr. Retterer asked if any of the properties shown on the aerial view in the R-3 district had buildings that project into the setback.

Mr. Boron said there are examples of additions or structures that project into setbacks on the property. These came into existence before the current development standards were set.

Ms. Lairson asked if there was anyone present who are opposed to this request and would like to speak. There were no comments.

Mr. Boron asked Mr. Frye about the comments submitted for the Variance Review Process that were not completed.

Mr. Frye stated that he was not sure how to answer the questions and his discussions with Mr. Sullivan determined that they were not asking for anything to be considered that wasn't already existing on adjoining properties.

Mr. Boron reviewed the discussion this evening and said that the applicants do meet the criteria for consideration of this variance request.

Ms. Lairson said that given that all four conditions have been met by the applicant, she would like to call for a motion to approve the request for a variance from the rear yard setback.

*Mr. Syron motioned to approve the variance of minimum rear yard setback requirements as submitted, including a finding that the applicant had met all four conditions of approval for a new 12' x 14' sunroom requiring a 7-foot variance at 60 Elkins Lane. Mr. Thompson seconded the motion.*

Ms. Lairson called for roll call.

**Vote: Lairson, yes; Syron, yes; Ferris, yes; Oxley, yes; Retterer, yes; Sheuermann, yes; Thompson, yes. (7 yes-0 no)**

Ms. Lairson said the motion is approved unanimously.

Ms. Lairson closed the Public Hearing for 60 Elkins Lane.

## **C. Public Hearing**

### **Variance Request, 216 East Mill Street, variances from rear yard setback requirement**

#### **Background Information**

This agenda item is based on application filed by Posey Construction on behalf of H&S Hamilton Properties, LLC, property owner, requesting a variance from the strict interpretation of the Planning & Zoning Code's requirement for a 40-foot rear setback for their property at 216 East Mill Street. The property is the location of Digilube Systems, and is in the M-1, Light Manufacturing Zoning District.

The Planning & Zoning Code establishes the purpose, permitted uses, and lot and building development standards for the M-1 District and other zoning districts in the City. The M-1 District was established to provide for manufacturing establishments that are clean, quiet, and free of hazardous elements, and which operate within enclosed structures. In addition to manufacturing operations, kennels, technical schools, hospitals, public recreation, vehicle repair, offices, garden centers, and pet day cares are permitted uses (Section 1263.04, Table 6). Residential uses are prohibited (Section 1261.08(b)) in the M-1 District.

The applicants are proposing to build a 3,200-square foot addition on the west side of the existing Digilube building, matching the 26.99-foot setback from the north property line on the existing building. When the applicants approached the City about the proposed addition, their application was denied since the minimum rear setback in the M-1 District is 40 feet. The applicant was given options to resolve the issue including requesting the 13-foot variance that is now being reviewed.

Properties in the vicinity of the subject property are used as follows: to the north, northeast, and east are buildings and property used for the City of Springboro Public Works operation. Property immediate to the east is in Clearcreek Township. To the south is a residence and Springboro Baptist Church, both on the south side of East Mill Street. To the west there is a parking lot and the main operation, east of Mound Park Drive, for Mound Steel.

Lands to the north, south, and west are zoned M-1 District, with the main Mound Steel operation further west zoned M-2, Heavy Manufacturing District. Lands in the City of Springboro to the northwest are zoned PUD-O, Planned Unit Development-Office. Lands to the south on the south side of East Mill Street are zoned R-2 District. Lands to the east in Clearcreek Township are zoned R-1, Rural Residence.

#### **Variance Review Process**

Section 1285.04, Variances, of the Planning and Zoning Code establishes a process for the review of variances by the BZA from the strict interpretation of the Planning and Zoning Code:

The BZA is hereby authorized to grant, upon appeal in specific cases, a variance from this Zoning Code and will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this Zoning Code would result in a practical difficulty. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

The following criteria need to be met in order for the BZA to grant a variance from the strict interpretation of the Planning & Zoning Code. The applicants have provided a response to each criterion indicated in *italics* below.

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.

*The current structure is grandfathered into the old code. In order to expand this building, we are asking for the board to approve smaller setback on the north property line.*

2. A literal interpretation of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under this Zoning Code.

*A literal interpretation of the code would prevent this business from expanding on their own property...(and) would cause safety issues for street traffic and would make the building look awkward.*

3. That special conditions and circumstances do not result from the actions of the applicant.

*The applicant is only asking to add onto their existing structure, the applicant did not cause these special circumstances.*

4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other lands, structures or buildings in the same district.

*No special privilege would be given if the variance is approved.*

In granting any variance, the BZA may prescribe appropriate conditions and safeguards in conformity with the Planning & Zoning Code. A violation of any of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Planning & Zoning Code.

City staff has not proposed any conditions for these variance requests other than noting that following action by the BZA, approval of a site plan by the Springboro Planning Commission will be required.

#### **Discussion:**

Ms. Lairson opened the Public Hearing for the variance request at 216 East Mill Street, variance from rear yard setback requirement. She called for anyone who would like to speak on behalf of the property owners. Mr. David Hamilton, Digilube and Mr. Zach Posey, were sworn in by Ms. Lairson that their testimony and evidence that they are providing at this hearing to be truthful.

Mr. Fitzpatrick said that Mr. Hamilton applied for a building permit to build a 3,200 square foot addition at 216 East Mill Street, zoned M-1, Light Manufacturing Zoning District. A 40-foot rear yard setback is required in this district, but the applicant would like to match the existing building which puts it at an approximately 27-foot rear yard setback.

Mr. Posey said the new building will use the same building materials as used for the existing building and will match its current size.

Ms. Lairson said that it appears the current structure is nonconforming. Would the old code allow this feature?

Mr. Fitzpatrick said that at the time the building was built in 1972 it was allowed through the City code.

Mr. Fitzpatrick further stated that the addition the applicant has requested makes sense because if they went 40 feet from the rear yard setback, it would impede the functionality of the site.

Mr. Retterer asked if the zoning for this area had changed since the original building date of 1972.

Mr. Fitzpatrick said the zoning had not changed.

Ms. Lairson asked if this was the original property owner.

Mr. Fitzpatrick replied that it was not the same owner.

Mr. Ferris asked if the property to the north of this property is the City's service building.

Mr. Boron said that the City has an easement along the shared property line to the east of the building and can access their building from the rear entrance as well as from Mound Park Drive.

Mr. Boron referred to Mr. Retterer's question regarding the zoning at the time of the original building's approval. He explained that over time zoning variances and changes, along with building design and development standards may have changed. The current code has the 40-foot setback requirement. This is a light industrial area and some of the setbacks are not quite as necessary.

Ms. Lairson asked about the reply to statement number two, 'A literal interpretation of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under this Zoning Code', of the applicant's response. Why would the current zoning cause a safety issue for street traffic?

Mr. Posey replied that if the building were to be located 13 feet closer to the road, the semi-trucks delivering product to their building would no longer be able to safely make a U-turn and be required to back in to the building from the street, which could cause potential traffic flow issue and would also be a concern for pedestrians who frequently use the connected public sidewalk.

Ms. Lairson asked if there was anyone present who opposes the requested variance. There was no one present in opposition.

Mr. Ferris asked if there had been any complaints reported regarding the variance request.

Mr. Fitzpatrick and Mr. Boron said that they had not received any complaints. Courtesy letters were sent out to all residents and businesses within 200 feet of this site and no complaints were received.

Mr. Boron said that all four conditions to qualify for a variance have been met by the applicant.

Ms. Lairson said that given that all four conditions have been met by the applicant, she would like to call for a motion to approve the request for a variance from the rear yard setback.

*Mr. Syron motioned to approve the variance of rear yard setback requirements as submitted, including a finding that the applicant had met all four conditions of approval for a 3,200-square foot addition on*

*the west side of the existing Digilube building at 216 East Mill Street, matching the 26.99-foot setback from the north property line on the existing building. Mr. Thompson seconded the motion.*

Ms. Lairson called for roll call.

**Vote: Lairson, yes; Syron, yes; Ferris, yes; Oxley, yes; Retterer, yes; Sheuermann, yes; Thompson, yes. (7 yes-0 no)**

Ms. Lairson said the motion is approved unanimously.

Mr. Boron reminded the applicant that because this is commercial property, this project does need approval of the site plan from the Planning Commission. The submittal deadline to be considered at the December 10 meeting is November 17 by noon.

Mr. Hamilton and Mr. Posey thanked the Board and staff and said they would submit their final plans for approval by Planning Commission by the November 17 deadline.

Ms. Lairson closed the Public Hearing for 216 East Mill Street.

## **VI. Comments**

There were no comments.

## **VII. Adjournment**

There being no other business, Ms. Lairson asked for a motion to adjourn the meeting.

*Mr. Syron motioned to adjourn the November 01, 2023 meeting, seconded by Mr. Ferris*

**Vote: Lairson, yes; Syron, yes; Ferris, yes; Oxley, yes; Retterer, yes; Sheuermann, yes; Thompson, yes. (7 yes-0 no)**

Ms. Lairson adjourned the meeting at 6:51 p.m.

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Chair, Board of Zoning Appeals

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Dan Boron, City Planner