

STAFF REPORT

Planning & Zoning Commission: March 13, 2006

Board of County Commissioners: April 12, 2006

APPLICANT: Vertex Development LLC **FILE NUMBER:** H-06-17

PURPOSE: Public Service Facility Overlay District for a Communication Tower

GENERAL

LOCATION: East side of Mariner Boulevard, south side of Seagate Street

LEGAL

DESCRIPTION: Tract R-D, as per a replat of a portion of Spring Hill Units 18-20 and a second replat of Spring Hill Units 18 and 19, recorded in Plat Book 17, Pages 29 - 34, of the Public Records of Hernando County, Florida in Sections 4 and 5, Township 23 South, Range 18 East

FILE STATUS: All requirements necessary to conduct the public hearing have been satisfied.

CITIZEN RESPONSE: FOR: 0 AGAINST: 1

STAFF FINDINGS:

Surrounding Zoning

North: PDP(SU), PDP(SF)
South: PDP(PSF)
East: PDP(SF), PDP(PSF)
West: PDP(SU), PDP(SF)

Surrounding Land Uses

School, SF, undeveloped
SF, water treatment, wells
SF, undeveloped
School, SF, undeveloped

SUMMARY OF REQUEST

The petitioner requests a public service facility overlay district for a communication tower. The subject property is located on the east side of Mariner Boulevard and the south side of Seagate Street.

FACTUAL INFORMATION

1. The property is currently zoned PDP(SU) for a church.
2. The property comprises approximately 8.8 acres.
3. The site has been developed with a church.

4. The site contains no majestic or specimen trees.
5. The subject property has access from Mariner Boulevard and Seagate Street.
6. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
7. The on-site soil type is Candler fine sand. Candler fine sand provides a habitat suitable for gopher tortoises. Since there is the potential for this listed species of special concern to be present, a Florida Fish and Wildlife Conservation Commission permit may be required prior to site alterations.
8. The property is located in a flood zone C.
9. The subject property contains a WHPA-2, but no wetlands or SPAs, according to County data resources.
10. The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site.
11. There are adequate public facilities available to serve the subject property.
12. The area is characterized by single family residential, institutional and utility uses, and undeveloped parcels.
13. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner requests a public service facility overlay district for a communication tower in order to develop the subject property with a 150' monocross cellular service tower. The subject site has been developed with the Dayspring Presbyterian Church. The narrative and plan provided indicates the monocross tower will be designed to accommodate five (5) wireless carriers. The site is to be fenced with a 8' board on board fence topped with barbed wire.

The petitioner indicates the communications tower will meet the setbacks as required per the LDRs. The LDRs require a monopole 100' or taller to be located a minimum of 125% of the tower height from residentially zoned property, unless such property is used or designated for a nonresidential use. The petitioner proposes locating the 150' tower a minimum of 187.5' from residentially zoned property which meets the minimum setback required.

The LDRs require monopole towers to meet the setbacks of the zoning district. The proposed use is not inconsistent with the setbacks for the PDP(SU) zoning district. The LDRs require that no building, structure or use within a public service facility overlay district shall be closer than 50' to the property line of an adjoining parcel containing a residence or the property line of a residentially zoned parcel. The plan indicates that the proposed tower and all accessory structures will be located more than 50' from the property line of an adjoining residentially used or zoned parcel.

The petitioner has provided a search ring and asserted no structures suitable for collocation and no public service facility overlay districts approved for communication towers are located within the search ring. The County mapping resources do not indicate any communication towers within the petitioner's search ring.

The petitioner indicates in the narrative that the proposed communication tower will not have a material negative impact on the parent parcel or the surrounding parcels. The subject property lies within a WHPA-1 for a public supply well and institutional uses are located on the site, south of the site and northwest of the site.

The County has an adopted Airport Ordinance which states that any communication tower shall be presumed to be a "potential airport obstruction" and requires notification to the Federal Aviation Administration. The Airport has indicated no objections to the proposed tower. The County's LDRs require that prior to approval to construct any structure determined to be a "potential airport obstruction," either an Airport Construction Permit or an Airport Obstruction Variance must be granted. If the FAA finds no impacts, a permit granting construction approval of the structure will be issued contingent upon satisfactory compliance with the FAA "Advisory Circular (AC) 70/7460-1J" which addresses Obstruction Marking and Lighting.

The county's LDRs require specific information be submitted relative to propagation maps and radio frequency (RF) data demonstrating that the tower is needed at the proposed location. The County retains a RF consultant to review all of the data required for the tower. The County's consultant indicates that the applicant has provided all of the required technical data for the site and that the proposed facility will provide improved coverage in the area. The consultant notes that a shorter tower could be utilized reducing the signal marginally; however, that would reduce the number of collocation opportunities.

The county's LDRs require the petitioner conduct a balloon test after the property posting and adjacent property owner mailings have been sent. At the time of transmittal of the staff report, the balloon test had not been completed. After viewing the balloon test and hearing testimony at the public hearing, the staff may adjust our recommendation regarding height approval.

Because the tower site is unmanned, the petitioner indicates the proposed communication tower will not require the use of central water and sewer service. The Utilities Department has indicated that

central water and sewer capacity is available to serve the subject site. A 10" water line is located on the west side of Mariner Boulevard. An 8" gravity sewer line is located in Mariner Boulevard.

The plan shows access from Mariner Boulevard. The County Engineer had no comments.

The subject property lies within a WHPA-1 for a public supply well. The proposed land use is allowable within this designation.

FINDINGS OF FACT

The area is characterized by single family residential, institutional and utility uses, and undeveloped parcels. Spring Hill single family residential lots are located to the north, east and a portion of the west of the subject property. A school is located to the northwest of the subject property. Wells and a water treatment facility is located to the south.

The subject property is located within a residential land use classification on the adopted Future Land Use Map. Communication towers are considered public service facility uses and/or structures which are allowable in any future land use classification. It is the staff's opinion the proposed tower is consistent with the adopted Comprehensive Plan.

The staff is of the opinion that the request for a public service facility overlay district for a communication tower is appropriate based on the following conclusions:

1. The proposed public service facility overlay district is proposed within an area which has other public service uses.
2. The proposed public service facility overlay district would be compatible with the surrounding land uses.
3. The proposed public service facility overlay district would be consistent with the Comprehensive Plan.

The rezoning process is a land use determination and does not constitute a permit for either construction on, or use of, the property, or a Certificate of Concurrence. Prior to use of, or construction on, the property, the petitioner must receive approval from the appropriate County department(s) for the proposed use.

The granting of this land use determination does not protect the owner from civil liability for recorded deed restrictions which may exceed any county land use ordinances. Homeowners associations or architectural review committees require submission of plans for review and approval. The applicant for this land use request should contact the local association or the Public Records for all restrictions applicable to this property.

STAFF RECOMMENDATION:

Pursuant to the findings of fact outlined in the staff's report, the Planning staff recommends the Planning and Zoning Commission recommend the Board of County Commissioners adopt Resolution # _____ approving the petitioner's request for a public service facility overlay district for a communication tower, with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. All development must occur generally in compliance with the approved site plan.
3. The tower is approved up to 150' in height.
4. The petitioner must provide the name and phone number of the contact person for the facility on a sign on the gate, fence, or access point to the site, whichever is most adjacent to the public access.
5. The Public Service Facility Overlay District for a tower shall expire within one year of the zoning approval if the tower is not constructed.

P&Z RECOMMENDATION:

At the March 13, 2006 meeting, the Planning and Zoning Commission voted 5-0 to recommend the Board of County Commissioners adopt Resolution # _____ approving the petitioner's request for a public service facility overlay district for a communication tower, with the following modified performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. All development must occur generally in compliance with the approved site plan.
3. The tower is approved up to a maximum 150' in height. (staff does not object, accomplishes same idea as our recommendation)
4. The petitioner must provide the name and phone number of the contact person for the facility on a sign on the gate, fence, or access point to the site, whichever is most adjacent to the public access.

5. The Public Service Facility Overlay District for a tower shall expire within one year of the zoning approval if the tower is not constructed.

BCC ACTION:

The Board of County Commissioners voted 5-0 to adopt Resolution # 2006-103 approving the petitioner's request for a public service facility overlay district for a communication tower, with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. All development must occur generally in compliance with the approved site plan.
3. The tower is approved up to a maximum 150' in height.
4. The petitioner must provide the name and phone number of the contact person for the facility on a sign on the gate, fence, or access point to the site, whichever is most adjacent to the public access.
5. The Public Service Facility Overlay District for a tower shall expire within one year of the zoning approval if the tower is not constructed.

NOTE: PLEASE NOTE THAT DEVELOPMENT ACTIONS TAKEN IN RELIANCE WITH THIS ZONING APPROVAL MUST BE CONSISTENT WITH THE APPROVED MASTER PLAN, DEVELOPER'S NARRATIVE, DEVELOPER'S REPRESENTATIONS ON THE RECORD, AND THE APPROVAL CONDITIONS BY THE BCC.