

**MANATEE COUNTY HEARING OFFICER
REGULAR MEETING
COUNTY ADMINISTRATION BUILDING, FIFTH FLOOR, MANATEE ROOM
1112 Manatee Avenue West
Bradenton, Florida
November 6, 2023**

Present was:

Kelly Fernandez, Hearing Officer

Also present were:

Mitun Mitra, Assistant County Attorney

Camillo Soto, Assistant County Attorney

James Rigo, Planning Section Manager

Vicki Tessmer, Board Records Supervisor, Clerk of the Circuit Court

Ms. Fernandez called the meeting to order at 9:00 a.m.


All witnesses and staff giving testimony were duly sworn.


AGENDA


HO20231106DOC001

(Olivia Crisantiello, Court Reporter, was present)

1. **SPECIAL PERMIT/SP-23-04/DEVATTA AND CARLOS CRADDOCK/CRADDOCK DAY CARE**

 A duly advertised public hearing was held to consider request for approval of SP-23-04 – Devatta and Carlos Craddock/Craddock Day Care, approval of a Special Permit to allow a Child Care center for twenty-four children and four staff. The site is in the RDD-6 zoning district and located south of 32nd Avenue E, 0.11 miles to the west of the intersection with 9th Street E, commonly known as 708 32nd Avenue East in Bradenton (Manatee County) on approximately 0.16 acres of land.

 Devatta Craddock, representing the applicant, was available for questions.

 Laura Gonzalez, Planner, used a slide presentation to review the request, the Final Order, and noted the applicant must meet the requirements of both the Comprehensive Plan and Land Development Code (LDC). There are no changes to the existing site, only increasing the maximum number of employees from two to four. A day care center is an approved use in this zoning district.

Ms. Fernandez questioned if the details in the previous special permit need to be carried over.

Ms. Gonzalez clarified there are no changes to the requirements for the outdoor play area, since there are no changes to the number of children.


There being no further public comment, Ms. Fernandez closed the public hearing. She stated she was provided with a Draft Notice of Intent and Final Order and did not need a transcript.


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2. **SPECIAL PERMIT/SP-23-07/S119 PROTECTED – FAMILY CEMETERY**


A duly advertised public hearing was held to consider request for approval of SP-23-07/S119 Protected/Family Cemetery, approval of a Special Permit to allow a family cemetery as a secondary use within a property currently utilized residentially. The proposed cemetery is for the exclusive use of the property owner on approximately 47.55 acres with an AG-R (Agriculture Rural) FLUC (Future Land Use Category) and A (Agriculture General) zoning district, it will consist of twelve (12) plots covering approximately 384 square feet. The property is generally located north of Singletary Road, east of the intersection with Betts

Road, Myakka City (unincorporated Manatee County), having a protected address per Section 119.071, Florida Statutes.

 Laura Gonzalez, Planner, reviewed the request, site characteristics, FLUC and cemetery use is allowed. The applicant must meet the requirements of both the Comprehensive Plan and LDC. The proposed cemetery is for the exclusive use of the property owner on 47.55 acres with an AG-R FLUC (Future Land Use Category) and A zoning district, it will consist of 12 plots covering 384 square feet.

 Jennifer Whitmar stated the cemetery will be 12 plots with waterproof vaults. She responded she is not legally representing the applicant.

Ms. Fernandez confirmed to Camillo Soto, County Attorney, that she will be able to make a decision based on the presentation today.

 James Rigo, Planning Section Manager, noted the setback is 52 feet from the east property line; not the west property line.


There being no further public comment, Ms. Fernandez closed the public hearing. She stated she was provided with a Draft Notice of Intent and Final Order and did not need a transcript.

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3. **SPECIAL PERMIT/SP-22-03/FL7073 ELWOOD PARK**


A duly advertised public hearing was held to consider request for approval of SP-22-03 – FL7073 Elwood Park – Gloria Jean and Charles M. Adams, Trustees (Landowner)/1 Source II LLC (Applicant). Approval of a Special Permit allowing for the construction of up to a 110-foot monopole/cell phone tower Personal Wireless Service Facility (PWSF) with accompanying 50-foot x 50-foot equipment compound on a PWSF project area of approximately 2,500 square feet with an approximately 9.25-tract of land zoned A-1 (Suburban Agriculture), which is generally located west of I-75, 0.8 miles east of 57 Street East and 0.75 miles north of 44th Avenue East, more particularly described as 6610 28th Avenue East, Bradenton (unincorporated Manatee County); subject to stipulations of approval; providing for severability and providing an effective date.

James Rigo, Planning Section Manager, submitted emails received over the weekend.

 Mattaniah S. Jahn, representing the applicant 1 Source Towers II LLC, utilized a slide presentation to review the request. There is a clearing near the site that is used for high voltage power lines. The PSPI FLUC is consistent with the tower, and the tower is deigned to fall upon itself. Verizon needs the tower to allow more signal in the area. The pole will be nestled into an area close to the FPL lines. No habitat impact is planned. She continued the slides to review the tower elevation, there are no lights on the tower, there can be up to three more service providers on the tower, the aerial site plan, access is gained through landlords property, title has been provided for access, public right-of-way begins at the T-intersection, they are requesting a waiver of the setback, but they are not requesting any variances. The tower meets the required separations. She continued to review a more detailed site plan, buffers, the 50x50 compound site plan, photo simulations, line of sight analysis, and Verizon's network in the area.

Ms. Fernandez asked for an explanation as to why residents would say there are no service issues.


 William Compton, Verizon Wireless, responded to questions by Ms. Jahn and explained there is signal in the area, but there is limited capacity, for residents have good service.

 Ms. Jahn continued the presentation to review the search ring map.


Mr. Compton reviewed the existing network coverage map, and noted the speeds currently provided are not what customers are requiring. He confirmed the maps all correspond with each other. The red represents unreliable coverage. He personally tested speeds in the area, and the levels were bad. The network team provided statistics.

Ms. Jahn continued to explain the name of the project does not necessarily match the map, and notice requirements were met. An alternate site analysis was submitted in the slides and a search area was performed. A community meeting was held. She requested the Hearing Officer review Statute and requirements that local governments have limited power over cell towers. Further documentation will be submitted regarding case law. She requested approval.

Ms. Jahn responded to questions by Ms. Fernandez regarding the site search.


 Gail Buckmaster, 1 Source Towers, confirmed the correct date for the site acquisition work was 2020.

Ms. Jahn stated the construction time takes approximately 90 days, and it takes two weeks to build the structure. These structures are monitored remotely, but typically there is one visit a month. The height of the structure has been reduced, since the application was originally submitted.


 Laura Gonzalez, Planner, reviewed the request, site characteristics, FLUC Res-1, Matrix of siting and locational preference, separation requirements, administrative approval granted regarding setback reductions, fall down radius is 47 feet, tower is 232.5 feet from on-site uses, nearest tower is 12,400 feet, proposed tower is 119 feet from high-voltage power lines, preliminary site plan, positive and negative aspects, and mitigating measures. The applicant has met the requirements of both the Comprehensive Plan and LDC.


Ms. Gonzalez responded nothing was submitted by nearby residents that would change her opinion.

 Bruce King questioned if any scare tactics were used regarding negotiations, and if due diligence was performed.

 Suzanne Fisher expressed concern regarding the profit for one, and the objections of hundreds regarding health concerns and noise intrusion.


 Cynthia Warren expressed concern regarding proximity to residential properties.


 Wilma Helen Forrest opposed the tower due to 5G transmissions.


 Angela Albritton cautioned approving the cell tower due to health conditions caused by emissions.


Camillo Soto, Assistant County Attorney, questioned the documents Ms. Albritton attempted to submit, but she decided not to submit anything.


Ms. Fernandez stated there would be no modifications to the application, and her decision will be based solely on what was presented at the hearing.


 Brad Washio stated several churches and schools did not want the tower on their property, and questioned the location of the tower in a residential community.


 Mr. Soto reminded citizens to state if they were sworn in and their county of residence.


 Steven Sampson read a statement from his wife and opposed the tower. His testimony was also an accurate depiction of his thoughts.


 Dawn Jorgenson opposed the request due to loss in property values, the possibility of increasing the tower height in the future, and the negative impacts the tower will have on the neighboring community.


 Mark Ventriglia stated the property owner is now sorry he signed the contract, and the applicant has not entered into a contract to use the street. He opposed the request citing construction, maintenance, and burdens imposed on neighbors.


 Michelle Hennessy opposed the request due to the character of the neighborhood, the cell tower being in her line of sight, and loss of property value.

 Ms. Gonzalez stated the tower height proposed is 110 feet, and cannot be changed. The tower will look like an additional power structure, and an easement has been granted for access to the site. There is a property owned by Manatee County property that was a possibility, but it is a water treatment plant and is not appropriate.

 Mr. Rigo acknowledged there is a recorded easement for access to the private road. The access will be determined at final site plan.

 Rob Wenzel, Division Manager, stated the access was provided in the application, and the easement has been submitted. He responded what is in possession by the County is adequate.

 Ms. Jahn rebutted and noted legal access would be handled at final site plan. The landlord has repaired the road, and if further repairs are needed after construction, 1 Source LLC will make those repairs. There is no eminent domain authority to build cell towers. She referenced the Telecom Act that does not allow health concerns to be a reason to deny a project. Generators will comply with the noise ordinance. Data from the area was submitted, and Verizon is basing their need for the tower on that data. Every special permit stands on its own. She referenced the LDC separation requirement and the projecting all aesthetic requirement. The project is located adjacent to an FPL power line corridor. They cannot compare the height of the tower to other buildings in the County.

 David Talby, appraiser for applicant, has studied cell tower installations and the relation to property values. Cell tower installation has had no impact to nearby market values. There have been no value reductions to properties near cell towers in Manatee County. They only deal in market evidence. His report was done per the standard appraisal practices in Florida.

Ms. Jahn explained the agent of record affidavit is from the owners and their trust. There are no scare tactics being used. She referenced sheet Z-1 of the plans, which show distances to actual residences.

There being no further public comment, Ms. Fernandez closed the public hearing. She stated she was provided with a Draft Notice of Intent and Final Order and requested a copy of the transcript. She reviewed her role and reiterated she is not an employee of Manatee County.

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ADJOURN

There being no further business, Ms. Fernandez adjourned the meeting at 10:56 a.m.

Minutes Approved: November 17, 2023