

**SPECIAL PERMIT NO. SP-01-01
WILLIAM & MATTIE MORAN/ACME 250-FOOT LATTICE
TELECOMMUNICATIONS TOWER**

**FINAL ORDER OF MANATEE COUNTY HEARING
OFFICER SUSAN HARTMANN SWARTZ ON BEHALF
OF MANATEE COUNTY GRANTING SPECIAL
PERMIT NO. SP-01-01, TO CONSTRUCT A 250-FOOT
HIGH LATTICE TELECOMMUNICATIONS TOWER IN
THE A (GENERAL AGRICULTURE, 1 DWELLING
UNIT PER 5 ACRES) ZONING DISTRICT;
PROVIDING FOR SEVERABILITY; AND PROVIDING
AN EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 90-01, as amended (hereinafter "the Land Development Code"); and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 90-01, as amended, the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, William & Mattie Moran/Acme have requested a Special Permit to allow a 250-foot tall lattice telecommunications structure in the A (General Agriculture, 1 dwelling unit per 5 acres) zoning district; and

WHEREAS, on November 1, 2001, Hearing Officer Susan Hartmann Swartz held a public hearing to receive the staff, applicant, and public comment and argument regarding the proposed Special Permit for William & Mattie Moran/Acme;

NOW, THEREFORE, the Final Order regarding Special Permit No. SP-01-01 requested by William & Mattie Moran/Acme states as follows:

Section 1. Findings of Fact. The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation, and staff report presented, as well as all other matters presented at the above-referenced public hearing, hereby makes the following Findings of Fact:

- A. This request is for approval to construct a 250-foot tall lattice telecommunications tower.
- B. The site is located approximately 2,350 feet north of S.R. 64, approximately 1.75 miles east of Rye Road, at 1703 Zipperer Road. The tower is proposed to be built on an approximately 100' x 110' lease parcel located within a ± 23 acre parent parcel.
- C. This site is currently zoned A (Agriculture, 1 dwelling unit per 5 acres). The Future Land Use designation for this property is AG/R (Agriculture/Rural, 1 dwelling unit per 5 acres).
- D. The property to the north, east and west is zoned A and contains large parcel single-family homes. The land to the south is vacant agricultural and is zoned A.
- E. In accordance with Section 704.59.3.3.3 of the Land Development Code, the applicant has located the tower site to exceed the required separation requirements

of 2,500 feet between a proposed lattice tower and any existing tower. The nearest existing telecommunications tower or alternative support structure is located approximately 3.5 miles southwest of the proposed lease parcel.

- F. In accordance with Section 704.59.3.3.4 of the Land Development Code, the proposed antenna exceeds the minimum setback from classified arterial roadways of 125% of the tower height. This tower is proposed to be set back a minimum of 2,350 feet from S.R. 64 to the south.
- G. The proposed telecommunications tower meets or exceeds the separation requirements from adjacent off-site residential uses as provided in Section 704.59.3.3.1 of the Land Development Code.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation, and staff report presented, the above-referenced Hearing Officer hereby makes the following Conclusions of Law:

- A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to the Land Development Code.
- B. The applicant has the burden of proving entitlement to the Special Permit it seeks. See Irvine v. Duval County Planning Commission, 495 So.2d 167 (Fla. 1986); Florida Department of Transportation v. J.W.C. Company, Inc., 396 So.2d 778 (Fla. 1st DCA 1981).
- C. The proposed use is consistent with Policy 2.2.1.8 of the Manatee County Comprehensive Plan which establishes the AG/R Future Land Use Category and outlines the intent to identify areas suitable for long term agricultural or rural residential uses and provides for a complement of agricultural/residential uses.
- D. The proposed use is consistent with Policy 2.6.1.1 of the Manatee County Comprehensive Plan, which requires buffers to assist in the mitigation of any potential incompatibility between adjacent parcels.
- E. The establishment of the proposed use will not be detrimental or an endangerment to the public health, safety, or general welfare. The proposed communication tower is in a rural, agricultural area with few surrounding homes. The parent parcel is used for agricultural purposes and has an existing mobile home on site.
- F. The establishment of the proposed use, as conditioned herein, will not impede the normal and orderly development of the area. This parent parcel fronts on Zipperer Road and has an existing mobile home, and a large pole barn. Adjacent uses to the north, east, south, and west are agricultural, with some large parcel single-family development.
- G. Adequate ingress and egress will be provided to the tower site by a proposed 20-foot-wide driveway off Zipperer Road.

- H. As conditioned herein, the proposed use minimizes adverse effects, including visual impacts, of the proposed use on adjacent property.
- I. This request meets all conditional use criteria for communication antenna structures set forth in Section 704.59 of the Land Development Code.
- J. In accordance with Section 704.59.3.3.3, the applicant has located the tower site to exceed the required separation requirements of 2,500 feet between a proposed lattice tower and any existing tower. The nearest existing telecommunications tower or alternative support structure is located approximately 3.5 miles from the proposed lease parcel.
- K. In accordance with Section 704.59.3.3.4, the proposed antenna exceeds the minimum setback from classified arterial roadways of 125% of the tower height. This tower is proposed to be set back a minimum of 2,350 feet from S.R. 64, to the south.
- L. The proposed use meets the requirements of Section 704.59.3.3.1 of the Land Development Code. The applicant has established that none of the adjacent parcels has a residential use.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to William & Mattie Moran/Acme for the property located 2,350 feet north of S.R. 64, approximately 1.75 miles east of Rye Road at 1703 Zipperer Road, and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a 250-foot-high lattice telecommunications structure in the A (General Agriculture, 1 dwelling unit per 5 acres), subject to the following conditions:

- A. This Special Permit shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning Department.
- B. The Site Plan submitted with this application shall be part of this approval, but only at a preliminary level. Administrative approval of the Final Site Plan by Manatee County shall be required subsequent to approval of this Special Permit by the Hearing Officer.
- C. The tower site shall be unmanned. Access off Waterline Road shall be through an ingress and egress easement with a stabilized base.
- D. Prior to Final Site Plan approval, the applicant shall revise the site plan to include the detail for the proposed stabilized access to the lease parcel. This access must meet the standards provided in the Engineering comments from Manatee County, which include FDOT #57 Rock, washed shell, or crushed granite with geoweb containment. Crushed concrete is not allowable.
- E. Prior to Issuance of a Building Permit, an affidavit for maintenance shall be recorded with the ingress and egress easement. The affidavit shall state that it is the sole responsibility of the applicant to both construct and maintain the ingress and

egress easement in a condition suitable for daily travel for emergency vehicles to the unmanned tower site. The affidavit shall also eliminate any County responsibility for maintenance of the ingress and egress easement.

- F. All Ingress and Egress Easements shall be recorded with the Clerk of the Court in a manner to run with the land before issuance of Building or Access and Drainage Permits. All such easements shall grant Manatee County non-exclusive vehicular access rights.
- G. Prior to development-related land clearing activities, all applicable County approvals must be obtained through the Planning Department. If burning of vegetation is required for land clearing, a burn permit must first be obtained from the Environmental Management Department.
- H. The owner or operator shall file annually on or before January 31st, with the Planning Department, a Telecommunications Facility Annual Report in accordance with Section 704.59.3.13 of the Land Development Code.
- I. This tower shall be subject to the "Abandonment" requirements in accordance with Section 704.59.3.14 of the Land Development Code.
- J. The applicant must provide a 10-foot-wide wide landscape buffer, including 100% automatic irrigation, meeting the planting standards in Section 704.59.3.5 of the Land Development Code.
- K. Prior to Final Site Plan approval, the applicant shall provide a certification prepared by an Engineer which provides the minimum falldown radius for the specific telecommunications tower to be constructed on this site. The applicant will be required to demonstrate, prior to final site plan approval, that the fall radius will be contained either entirely within the lease parcel or within a recorded easement in conformance with Section 704.59.3.3.2 of the Land Development Code.
- L. Should there be any damage to any existing property of other property owners during construction of the tower, the developer of the telecommunications tower shall be liable and responsible for all costs of repairs thereto.

Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of the Special Permit, which shall remain in full force and effect.

Section 5. Effective Date. The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of the Clerk of the Circuit Court and receipt of a copy of the recorded Order by the Planning Department.

ORDERED ON BEHALF OF MANATEE COUNTY, this 4TH day of DECEMBER, 2001.


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MANATEE COUNTY, FLORIDA



SUSAN HARTMANN SWARTZ, as
Manatee County Hearing Officer

ATTEST: R. B. SHORE
Clerk of the Circuit Court



Deputy Clerk

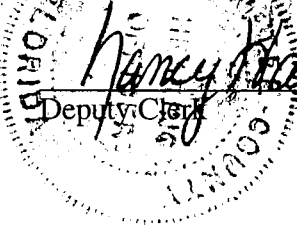


EXHIBIT "A"

LEGAL DESCRIPTION:

LEASE PARCEL:

THAT PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 35, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA; THENCE N 89° 43' 00" W ALONG THE NORTH LINE OF SAID SECTION 35 FOR 476.08 FEET; THENCE S 00° 17' 00" W FOR 460.05 FEET TO THE POINT OF BEGINNING; THENCE S 00° 15' 39" W FOR 110.00 FEET; THENCE N 89° 44' 21" W FOR 100.00 FEET; THENCE N 00° 15' 39" E FOR 110.00 FEET; THENCE S 89° 44' 21" E FOR 100.00 FEET TO SAID POINT OF BEGINNING.
CONTAINING 0.25 ACRES, MORE OR LESS.

20' WIDE INGRESS, EGRESS AND UTILITY EASEMENT

THAT PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, LYING WITHIN 10.00 FEET OF BOTH SIDES OF A CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 35, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA: THENCE N 89° 43' 00" W ALONG THE NORTH LINE OF SAID SECTION 35 FOR 476.08 FEET; THENCE S 00° 17' 00" W FOR 460.05 FEET; THENCE S 00° 15' 39" W FOR 110.00 FEET; THENCE N 89° 44' 21" W FOR 50.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE; THENCE S 00° 15' 39" W FOR 120.06 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 89° 55' 34" , A RADIUS OF 60.00 FEET AND A CHORD OF 84.80 FEET THAT BEARS S 44° 42' 08" E; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE FOR 94.17 FEET TO A POINT OF TANGENCY; THENCE 89° 39' 55" E FOR 377.99 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 89° 43' 33", A RADIUS OF 60.00 FEET AND A CHORD OF 84.65 FEET THAT BEARS N 45° 28' 19" E; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE FOR 93.96 FEET TO A POINT OF TANGENCY; THENCE N 00° 36' 32" E FOR 617.22 FEET; THENCE N 21° 34' 20" E FOR 30.98 FEET; THENCE N 69° 27' 43" E FOR 14.19 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 35 AND THE POINT OF TERMINUS OF THE HEREIN DESCRIBED CENTERLINE.
CONTAINING 0.62 ACRES, MORE OR LESS

20' WIDE UTILITY EASEMENT

THAT PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, LYING WITHIN 10.00 FEET OF BOTH SIDES OF A CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 35, TOWNSHIP 34 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA; THENCE N 89° 43' 00" W ALONG THE NORTH LINE OF SAID SECTION 35 FOR 476.08 FEET; THENCE S 00° 17' 00" W FOR 460.05 FEET; THENCE S 00° 15' 39" W FOR 82.86 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE, THE SIDELINES OF SAID EASEMENT TO BE PROLONGED OR SHORTENED TO BEGIN AT AN INTERSECTION WITH A LINE THAT BEARS N 00° 15' 39" E AND S 00° 15' 39" W, RESPECTIVELY, FROM SAID POINT OF BEGINNING: THENCE S 78° 56' 44" E FOR 224.02 FEET TO THE POINT OF TERMINUS OF THE HEREIN DESCRIBED CENTERLINE.
CONTAINING 0.10 ACRES, MORE OR LESS.

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION

BK 1737 PG 335 FILED AND RECORDED 3/25/02 11:44:54 AM 6 of 6
R.B. SHORE CLERK OF CIRCUIT COURT MANATEE COUNTY FL.