



**SPECIAL PERMIT NO. SP-20-07
36251 SR 70 LLC/MYAKKA PLN2012-0113**

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER KELLY FERNANDEZ ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO. SP-20-07 FOR A SPECIAL PERMIT TO ALLOW CONSTRUCTION OF AN UNMANNED 240-FOOT LATTICE TYPE PERSONAL WIRELESS SERVICE FACILITY (PWSF); LOCATED ON THE NORTH SIDE OF SR 70 AND WEST OF WAUCHULA ROAD, COMMONLY KNOWN AS 36251 SR 70 EAST, IN MYAKKA CITY (MANATEE COUNTY) (APPROXIMATELY 5.36 ACRES); THE SITE IS IN THE A-1 (SUBURBAN AGRICULTURE) AND NC-M (NEIGHBORHOOD COMMERCIAL-MEDIUM) ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 15-17, as amended; and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 15-17, as amended, the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, requested a Special Permit for an unmanned 240-foot lattice type Personal Wireless Service Facility (PWSF) located on the north side of S.R. 70 and west of Wauchula Road, commonly known as 36251 S.R. 70 East, in Myakka City, the site is in the A-1 (Suburban Agriculture) and NC-M (Neighborhood Commercial-Medium) zoning districts on approximately 5.36 acres; and

WHEREAS, on August 18, 2021 the aforementioned Hearing Officer held a public hearing to receive the staff report, applicant, and public comment, and argument regarding the proposed Special Permit.

NOW, THEREFORE, after consideration of the application for Special Permit 20-07 requested by 36251 SR 70 LLC/1 Source Tower LLC, the Hearing Officer makes the following Findings of Fact and Conclusions of Law and issues the Final Order 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 Public Hearing above referenced, hereby makes the following Findings of Fact:

- A. The site is in the RES-1 (Residential -1 dwelling unit per acre) Future Land Use Category which allows for neighborhood commercial support uses as well as public/semi-public uses such as PWSFs.
- B. The site is in the A-1 (Suburban Agriculture) and NC-M (Neighborhood Commercial-Medium) zoning districts.
- C. The request is to approve a Special Permit to allow an unmanned 240-foot lattice type PWSF on the north side of S.R. 70 and west of Wauchula Road, commonly known as 36251 S.R. 70 East, in Myakka City, on approximately 5.36 acres.
- D. The overall site lies within X and A per FIRM panel 12081C0460E effective 03/17/2014.
- E. There are 0.717 acres of wetlands. No wetland impacts are proposed.
- F. The properties adjacent to the subject site are zoned A-1 (Suburban Agriculture) and are within the same Future Land Use Category as the subject site.
- G. The proposed PWSF has a fall radius of 150 feet which is completely contained within the subject property.
- H. The proposed PWSF meets the 100 percent of the tower height setbacks (per administrative approval) required between a PWSF and property lines that abut residential uses.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, and a review of the applicable provisions of the Manatee County Comprehensive Plan and Manatee County Land Development Code, 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. Irvine v. Duval Cty 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 the Manatee County Comprehensive Plan.
- D. The proposed use is in compliance with the Manatee County Land Development Code, including Sections 316.6 (Special Permit Review Criteria) and 531.17 (Standards for Specific Uses – Personal Wireless

Service Facilities).

- E. The proposed PWSF meets all applicable separation distance requirements, as reduced through administrative determination.
- F. The establishment, maintenance or operation of the proposed use will not be detrimental to or endanger the public health, safety or general welfare.
- G. The establishment of the use will not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the zoning district.
- H. Adequate measures exist to provide ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets.
- I. The use, as proposed, is compatible with the surrounding uses and the general desired character of the area (height, bulk, scale, intensity, traffic, noise, drainage, lighting, and appearance).
- J. Development of the proposed use will not have a substantial adverse effect on a known archaeological, historical or cultural resource located on or off the subject site as there are no known resources located on or near the subject site.
- K. Adequate provisions have been made for screening and buffers to improve compatibility and harmony of the proposed use and structures with the uses and structures of adjacent and nearby properties.
- L. Development of the proposed use will not have a significant adverse effect on the natural environment, including land, air, water, wetlands, minerals, flora, fauna, and ambient noise.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to 36251 SR 70 LLC/1 Source Tower, LLC for an unmanned 240-foot lattice type Personal Wireless Service Facility (PWSF) located on the north side of S.R. 70 and west of Wauchula Road, commonly known as 36251 S.R. 70 East, in Myakka City, on approximately 5.36 acres, as more particularly described in Exhibit “A” attached hereto and incorporated herein, subject to the following conditions:

A. DESIGN AND LAND USE STIPULATIONS

1. 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 Building and Development Services.
2. The site plan submitted with this application will be part of this approval. Administrative approval by Manatee County of a Final Site Plan will be required subsequent to the approval of this Special Permit.

3. All telecommunication support facilities shall not exceed twenty (20) feet in height.

B. ENVIRONMENTAL STIPULATIONS

1. All other applicable state or federal permits shall be obtained prior to commencement of development.
2. Hand watering for the new tree/shrub landscaping is acceptable as long as watering is done throughout the establishment period and until the rainy season has commenced. Occasional watering outside of the rainy season is recommended. Trees or shrubs that die are to be immediately replaced.
3. There are no impacts to jurisdictional wetlands or wetland buffers being approved by the adoption of this Ordinance.
4. Roadway and perimeter buffers are not shown at time of PSP. Staff will evaluate whether these are needed at time of Final Site Plan submittal and review.
5. No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas.
6. Per the applicant's ESA and NEPA proposal, dated November 13, 2020, as required by the Federal Communications Commission (FCC), a NEPA investigation to determine and document whether a full Environmental Assessment report is required, will be conducted. Part of this investigation will involve an assessment of threatened and endangered species.
7. If wells are encountered, a Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the EPS for review and approval prior to recommencing construction activities. The Well Management Plan shall include the following information:
 - Digital photographs of the well along with nearby reference structures (if existing);
 - GPS coordinates (latitude/longitude) of the well;
 - The methodology used to secure the well during construction (e.g. fence, tape); &
 - The final disposition of the well - used, capped, or plugged.

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 decisions 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 Building and Development Services Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 16th day of September, 2021.



MANATEE COUNTY, FLORIDA

BY: [Signature], as
Hearing Officer for Manatee County

ATTEST: ANGELINA COLONNESO,
Clerk of the Circuit Court

BY: [Signature]
Deputy Clerk

EXHIBIT "A"
Legal Description

PARENT TRACT

(PER OFFICIAL RECORD BOOK 2769, PAGE 907 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA)

BEGIN AT THE SOUTHEAST CORNER OF SECTION 11, TOWNSHIP 36 SOUTH, RANGE 21 EAST, MANATEE COUNTY, FLORIDA;

THENCE N 89°30'01" W, ALONG THE SOUTH LINE OF SAID SECTION 11, A DISTANCE OF 121.79 FEET;

THENCE S 00°03'47" W, A DISTANCE OF 59.07 FEET;

THENCE S 14°32'51" W, A DISTANCE OF 115.58 FEET TO A POINT ON THE NORTHERLY MAINTAINED RIGHT-OF-WAY LINE OF STATE ROAD 70'

THENCE N 70°08'52" W, ALONG SAID NORTHERLY MAINTAINED RIGHT-OF-WAY LINE, A DISTANCE OF 516.61 FEET;

THENCE S 89°30'01" E, A DISTANCE OF 40.86 FEET;

THENCE N 17°13'32" E, A DISTANCE OF 445.30 FEET;

THENCE S 70°19'40" E, A DISTANCE OF 493.55 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 11;

THENCE S 00°08'53" W, ALONG SAID EAST LINE A DISTANCE OF 264.38 FEET TO THE POINT OF BEGINNING.

1 SOURCE TOWERS LEASE PARCEL

A PARCEL OF LAND BEING A PORTION THE SOUTHEAST ONE-QUARTER (1/4) OF SECTION 11, TOWNSHIP 36 SOUTH, RANGE 21 EAST, MANATEE COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 11 (FOUND 4" X 4" CONCRETE MONUMENT - NO I.D.);

THENCE ON AN ASSUMED BEARING OF N89°30'01"W ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 11, A DISTANCE OF 121.79 FEET (FOUND 1/2" IRON ROD & CAP - LB 613);

THENCE S00°03'47"W A DISTANCE OF 59.07 FEET (FOUND NAIL & DISK - NO I.D.);

THENCE S14°32'51"W A DISTANCE OF 115.58 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 70 (70 FOOT PUBLIC RIGHT-OF-WAY) (FOUND 1/2" IRON ROD - NO I.D.);

THENCE N70°08'52"W ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 516.61 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 11 (FOUND 1" IRON PIPE - NO I.D.);

THENCE S89°30'01"E ALONG SAID SOUTH LINE, A DISTANCE OF 40.86 FEET (FOUND 1" IRON PIPE - NO I.D.);

THENCE N17°13'32"E A DISTANCE OF 130.17 FEET (SAID LINE REFERENCED BY A FOUND 1/2" IRON ROD & CAP - LB 613 AT A BEARING OF N17°13'32"E AND A DISTANCE OF 445.30 FEET);

THENCE S72°46'28"E A DISTANCE OF 220.98 FEET TO THE POINT OF BEGINNING;

THENCE N17°13'32"E A DISTANCE OF 60.00 FEET;

THENCE S72°46'28"E A DISTANCE OF 60.00 FEET;

THENCE S17°13'32"W A DISTANCE OF 60.00 FEET;

THENCE N72°46'28"W A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL OF LAND SITUATE WITHIN MANATEE COUNTY, FLORIDA, CONTAINING 3,600.00 SQUARE FEET MORE OR LESS.

NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT

A PARCEL OF LAND BEING A PORTION THE SOUTHEAST ONE-QUARTER (1/4) OF SECTION 11, TOWNSHIP 36 SOUTH, RANGE 21 EAST AND A PORTION OF THE NORTHEAST ONE-QUARTER (1/4) OF SECTION 14, TOWNSHIP 36 SOUTH, RANGE 21 EAST, MANATEE COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 11 (FOUND 4" X 4" CONCRETE MONUMENT - NO I.D.);

THENCE ON AN ASSUMED BEARING OF N89°30'01"W ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 11, A DISTANCE OF 121.79 FEET (FOUND 1/2" IRON ROD & CAP - LB 613);

THENCE S00°03'47"W A DISTANCE OF 59.07 FEET (FOUND NAIL & DISK - NO I.D.);

THENCE S14°32'51"W A DISTANCE OF 115.58 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 70 (70 FOOT PUBLIC RIGHT-OF-WAY) (FOUND 1/2" IRON ROD - NO I.D.);

THENCE N70°08'52"W ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 516.61 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 11 (FOUND 1" IRON PIPE - NO I.D.);

THENCE S89°30'01"E ALONG SAID SOUTH LINE, A DISTANCE OF 40.86 FEET (FOUND 1" IRON PIPE - NO I.D.);

THENCE N17°13'32"E A DISTANCE OF 130.17 FEET (SAID LINE REFERENCED BY A FOUND 1/2" IRON ROD & CAP - LB 613 AT A BEARING OF N17°13'32"E AND A DISTANCE OF 445.30 FEET);

THENCE S72°46'28"E A DISTANCE OF 220.98 FEET;

THENCE N17°13'32"E A DISTANCE OF 60.00 FEET;

THENCE S72°46'28"E A DISTANCE OF 60.00 FEET;

THENCE S17°13'32"W A DISTANCE OF 60.00 FEET;

THENCE N72°46'28"W A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING;

THENCE S17°13'32"W A DISTANCE OF 48.13 FEET;

THENCE S03°56'04"E A DISTANCE OF 60.49 FEET;

THENCE S19°51'08"W A DISTANCE OF 52.11 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. 70 (70 FOOT PUBLIC RIGHT-OF-WAY);

THENCE N70°08'52"W ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 20.00 FEET;

THENCE N19°51'08"E A DISTANCE OF 47.89 FEET;

THENCE N03°56'04"W A DISTANCE OF 60.01 FEET;

THENCE N17°13'32"E A DISTANCE OF 51.87 FEET;

THENCE S72°46'28"E A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL OF LAND SITUATE WITHIN MANATEE COUNTY, FLORIDA, CONTAINING 3,204.95 SQUARE FEET MORE OR LESS.