

SPECIAL PERMIT NO. SP-98-10
SMR, INC./SPRINT PCS SITE NO. 136

JUN 18 10 32 AM '99

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER ANDREW A. BAKER ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO. SP-98-10, TO ALLOW A 250' GUYED TOWER (FOR AT LEAST THREE USERS) IN THE A (AGRICULTURAL GENERAL, 1 DU/5 ACRES) ZONING DISTRICT (LEASE PARCEL, \pm 2,500 SQUARE FEET); LOCATED APPROXIMATELY 14,400 FEET EAST OF THE INTERSECTION OF LORRAINE ROAD AND UNIVERSITY PARKWAY, AND APPROXIMATELY 1,330 FEET NORTH OF THE SARASOTA COUNTY BOUNDARY; 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; 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, Schroeder-Manatee Ranch, Inc./Sprint has requested a Special Permit to allow a 250' guyed tower (for at least three users) in the A (Agricultural General) zoning district. (Lease Parcel, \pm 2,500 square feet); and

WHEREAS, on May 19, 1999 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit for Schroeder-Manatee Ranch, Inc./Sprint.

NOW, THEREFORE, the Final Order regarding Special Permit No. SP-98-10 requested by Schroeder-Manatee Ranch, Inc./Sprint 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 Public Hearing above referenced, hereby makes the following Findings of Fact:

A. The request is for approval of a 250' guyed tower (for at least three users) in the A (Agricultural General) zoning district on a leased 2,500 sq. ft. parcel.

B The site is located on the lands of Schroeder-Manatee Ranch, Inc., approximately 14,400 feet east of the intersection of Lorraine Road and University Parkway, and approximately 1,330 feet north of the Sarasota County boundary.

C. To the north, south, east, and west, within 1,000 feet, are vacant properties owned by Schroeder-Manatee Ranch, Inc. used for pasture and agricultural purposes, and zoned A (Agricultural General).

D. The Future Land Use Category for this parcel is AG/R (Agricultural/Rural).

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E. The tower site exceeds the required separation requirements of 750 feet from off-site residential uses in accordance with Section 704.59.3.3.1 of the Land Development Code.

F. There are no existing telecommunication towers or alternative support structures within one mile of the proposed tower in accordance with Section 704.59.3. of the Land Development Code.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, the above referenced Hearing Officer hereby makes the following Findings 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 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 2.2.1.8.1 of the Manatee County Comprehensive Plan, which establishes the AG/R Future Land Use Category and outlines the intent to identify areas for long term agricultural character.

D. The proposed use is consistent with Policy 2.2.1.8.2 of the Manatee County Comprehensive Plan, which permits farms and ranches. This facility will also serve as an accessory use for the day to day communications of the existing ranch.

E. The proposed use will not be detrimental to, or will it endanger the public health, safety, or general welfare. The 250' guyed wire communication tower is proposed on an isolated site with no surrounding homes within 1,000 feet.

F. The proposed use will not impede the normal and orderly development of the area. The location of the tower and the fall down radius easement will provide more than enough room for any future extension of University Parkway, as shown on the Future Traffic Circulation Map. The future alignment of University Parkway will be further south within Manatee County along the Sarasota County boundary line.

G. The proposed access from a stabilized road off of the paved section of University Parkway, as conditioned herein, provides ingress and egress to the site in a manner that minimizes traffic congestion.

H. The agricultural use of all surrounding property minimizes potential adverse effects, including visual impacts, of the proposed use on adjacent property.

I. Adequate provisions have been made to provide landscaping and buffers.

J. This request meets all the standards set forth in Section 704.59 of the Manatee County Land Development Code, Conditional Use Criteria which must be met for all communication antenna structures.

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Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to Schroeder-Manatee Ranch, Inc./Sprint for the property located approximately 14,400 feet east of University Parkway and Lorraine Road, approximately 1,330 feet north of the Sarasota County boundary line, and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a new unmanned 250' guyed wire tower for at least three users in the A (Agricultural General) zoning district, 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.

C. The tower site shall be unmanned and accessed by University Parkway through a non-exclusive ingress and egress easement with a stabilized access. This stabilized access shall remain until a paved access road is established.

D. Prior to issuance of a Building Permit, an affidavit for maintenance shall be recorded with the easement. The affidavit shall state that it is the sole responsibility of the applicant to both construct and maintain the 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 the easement.

E. 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.

F. Prior to development-related land clearing activities, all applicable County approvals must be obtained through the Planning Department. If burning of trees and/or branches is required for land clearing, a burn permit must first be obtained from the Environmental Management Department.

G. The owner or operator shall file annually on or before January 31 of each year, with the Planning Department, a Telecommunications Facility Annual Report in accordance with Section 704.59.3.13 of the Land Development Code.

H. This tower shall be subject to the "Abandonment" requirements in accordance with Section 704.59.3.14 of the Land Development Code.

I. Prior to Final Site Plan approval, the applicant shall provide a lighting design which would result in the least impact to the surrounding properties.

Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by courts 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.

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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 18th day of June, 1999.

MANATEE COUNTY, FLORIDA

BY: Andrew A. Baker

Andrew A. Baker, as
Hearing Officer for Manatee County

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

James Roark
Deputy Clerk

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EXHIBIT "A"

LEGAL DESCRIPTION:

A parcel of land lying within the Southeast 1/4 of Section 36, Township 35 South, Range 19 East, Manatee County, Florida and being more particularly described as follows:

Commence at found 4' x 4' concrete monument marking the Southeast corner of the Southeast 1/4 said Section 36; thence N 89° 58' 23" W., on the South line of the Southeast 1/4 of said Section 36 a distance of 957.66 feet; thence N 00° 01' 37" E., departing the South line of the Southeast 1/4 of said Section 36 a distance of 1292.28 feet to the POINT OF BEGINNING; thence S 84° 55' 55" W., a distance of 50.00 feet; thence N 05° 04' 05" W, a distance of 50.00 feet; thence N 84° 55' 55" E., a distance of 50.00 feet; thence S 05° 04' 05" E., a distance of 50.00 feet to the POINT OF BEGINNING.

Parcel contains 2500 square feet, more or less.

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION