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**SPECIAL PERMIT NO. SP-99-08
THOMAS & DEBORAH HACKLER/Acme #98-0049**

**FINAL ORDER OF MANATEE COUNTY HEARING OFFICER
JAMES A. PAULMANN ON BEHALF OF MANATEE COUNTY
GRANTING SPECIAL PERMIT NO. SP-99-08, TO ALLOW A 300'
LATTICE TOWER IN THE A/WP-M/ST (Agriculture, 1 du/5
acres, Watershed Protection - Lake Manatee and Special
Treatment Overlay Districts) ZONING DISTRICT(±.23
acres); LOCATED ON THE NORTH SIDE OF S.R. 64,
APPROXIMATELY 2,800 FEET EAST OF THE INTERSECTION OF
S.R. 64 AND C.R. 675; 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, Thomas & Deborah Hackler/Acme has requested a Special Permit to allow a 300' lattice tower in the A/WP-M/ST (Agriculture, 1 du/5 acres, Watershed Protection - Lake Manatee and Special Treatment Overlay Districts) zoning district (±.23 acres); and

WHEREAS, on February 3, 2000 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit, as well as conducting site inspections during the daylight and evening hours following the public hearing.

NOW, THEREFORE, the Final Order regarding Special Permit No. SP-99-08 requested by Thomas & Deborah Hackler/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 Public Hearing above referenced, hereby makes the following Findings of Fact:

- A. The request is for approval of a 300' lattice tower in the A/WP-M/ST (Agriculture, 1 du/5 acres, Watershed Protection - Lake Manatee and Special Treatment Overlay Districts) zoning district on a leased ±.23 acre parcel.
- B. The site is located on the lands of Thomas & Deborah Hackler approximately 2,800 feet east of the intersection of C.R. 675 and S.R. 64.
- C. Surrounding the site to the north, south, east, and west, are vacant agricultural properties with the same zoning designation as the subject site, with some large lot residential development generally located south of S.R. 64.

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- F. The tower site exceeds the required separation requirements of 600 feet from off-site residential uses in accordance with Section 704.59.3.3.1 of the Land Development Code.
- G. 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 telecommunication tower or alternative support structure is approximately one mile to the southwest.
- H. 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 setback approximately 1000' from S.R. 64 located to the south.

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 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 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 2.6.1.1. of the Manatee County Comprehensive Plan, which requires buffers to assist in the mitigation of any potential incompatibility between adjacent uses.
- E. The proposed use will not be detrimental to, or will it endanger the public health, safety, or general welfare. The 300' lattice 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 minimum falldown radius based on a certification prepared prior to Final Site Plan Approval provides a minimum 400' setback from any adjacent property.
- G. The proposed access from a stabilized road off of S.R. 64, as conditioned herein, provides ingress and egress to the site in a manner that minimizes traffic congestion.
- H. The agricultural use of surrounding parent parcel 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

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- H. The agricultural use of all surrounding parent parcel 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.
- K. 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 telecommunication tower or alternative support structure is approximately one mile to the southwest.
- L. 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 setback approximately 1000' from S.R. 64 located to the south.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to Thomas & Deborah Hackler/Acme for the property located approximately 2800 feet east of the intersection of S.R. 64 and C.R. 675, and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a new unmanned 300' lattice tower in the A /WP-M/ST (Agriculture, 1 du/5 acres, Watershed Protection - Lake Manatee and Special Treatment Overlay Districts) 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. Access off S.R. 64 shall be through a nonexclusive ingress and egress easement with a stabilized base.
- D. Prior to Final Site Plan approval, 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, or 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

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- 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. If the orange grove immediately adjacent to this lease parcel is removed or destroyed, the applicant must provide a 10' wide landscape buffer, including 100% automatic irrigation, meeting the planting standards in Section 704.59.3.5 of the Land Development Code. This screening buffer shall be installed on all property lines of the lease parcel within ninety (90) days of the date of removal or destruction of the existing orange trees.
- K. To further enhance buffering with the property owners located directly south of the parent parcel and East of Suggs Road, where limited native vegetation/landscaping exists, an additional planting buffer shall be instituted. This planting plan shall consist of a row of canopy trees as defined by Section 715.14 of the Land Development Code, a maximum of forty (40) feet on center shall be planted in the buffer installed along the perimeter of the parent parcel. If requested by the adjacent property owners within thirty (30) days of the issuance of this special permit, these canopy trees shall be installed on the adjacent property owner's parcels. The applicant shall provide documentation to the Planning Department that the adjacent property owners have been properly notified of this option. The canopy trees may be clustered on the adjacent parcels to conform to the individual owners landscaping schemes and or buffering strategies. The responsibility for maintenance of any canopy trees off the parent parcel will be that of the adjacent property owner. Alternative screening/landscaping plans may be approved by the Planning Director consistent with Section 715.5 of the Land Development Code.
- L. Applicable lighting of the tower shall conform to Section 704.59.3.7 of the Land Development Code and FAA regulation. Subject to FAA approval dual obstruction lighting (medium intensity white for daylight and twilight/red obstruction lighting at night) shall be pursued in lieu of obstruction marking (orange and white paint) and red obstruction lighting. The applicant shall investigate all opportunities within FAA regulations which will not compromise safety, to minimize the lighting effects of on adjacent residential uses.
- M. 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 telecommunication tower to be constructed on this site. Additionally, the Applicant shall demonstrate to the satisfaction of the Planning Department that a height of 300 feet for this lattice telecommunications antenna tower is justified for this and other co-location users.
- N. Prior to Final Site Plan approval, the applicant shall comply with Section 508 of the Land Development Code which requires the identification of jurisdictional wetlands on and within 200 feet of the project site and Section 719, Wetland Protection.

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715.14

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adjacent residential uses.

- M. 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 telecommunication tower to be constructed on this site. Additionally, the Applicant shall demonstrate to the satisfaction of the Planning Department that a height of 300 feet for this lattice telecommunications antenna tower is justified for this and other co-location users.
- N. Prior to Final Site Plan approval, the applicant shall comply with Section 508 of the Land Development Code which requires the identification of jurisdictional wetlands on and within 200 feet of the project site and Section 719, Wetland Protection.

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 effect 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 by the Hearing Officer 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.

2000. ORDERED ON BEHALF OF MANATEE COUNTY this 20th day of April.

MANATEE COUNTY, FLORIDA

BY: 

James A. Paulmann, as
Hearing Officer for Manatee County

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



BY: 
Deputy Clerk

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EXHIBIT "A"

LEGAL DESCRIPTION: THAT PART OF THE "HACKLER" TRACT AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 1485, PAGE 4739 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, LYING IN SECTION 34, TOWNSHIP 34 SOUTH, RANGE 20 EAST OF SAID MANATEE COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT A FOUND 4" BY 4" CONCRETE MONUMENT WITH NO IDENTIFICATION AT THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP 34 SOUTH, RANGE 20 EAST, MANATEE COUNTY, FLORIDA; THENCE N 00° 11' 26" E ALONG THE EAST LINE OF SAID SECTION 34 FOR 851.22 FEET TO A FOUND ½" REBAR WITH LB 613 CAP AT AN INTERSECTION WITH THE NORTH MAINTAINED RIGHT OF WAY LINE OF STATE ROAD 64 AND AN INTERSECTION WITH THE SOUTH LINE OF THE "HACKLER" TRACT AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 1485, PAGE 4739 OF THE PUBLIC RECORDS OF SAID MANATEE COUNTY; THENCE N 89° 05' 59" W ALONG SAID NORTH AND SOUTH LINES FOR 1349.32 FEET TO A FOUND ½" REBAR WITH NO IDENTIFICATION AT AN INTERSECTION WITH THE WEST LINE OF THE EAST QUARTER OF SAID SECTION 34 AND THE SOUTHWEST CORNER OF SAID "HACKLER" TRACT; THENCE N 00° 20' 05" E ALONG SAID WEST LINE AND ALONG THE WESTERLY LINE OF SAID "HACKLER" TRACT FOR 999.80 FEET TO AN INTERSECTION WITH A LINE THAT IS PARALLEL WITH SAID NORTH AND SOUTH LINES; THENCE S 89° 05' 59" E ALONG SAID PARALLEL LINE FOR 389.63 FEET TO THE POINT OF BEGINNING; THENCE N 00° 54' 01" E FOR 120.00 FEET TO AN INTERSECTION WITH A LINE THAT IS PARALLEL WITH SAID NORTH AND SOUTH LINES; THENCE S 89° 05' 59" E ALONG SAID PARALLEL LINE FOR 85.00 FEET; THENCE S 00° 54' 01" W FOR 120.00 FEET TO AN INTERSECTION WITH A LINE THAT IS PARALLEL WITH SAID NORTH AND SOUTH LINES; THENCE N 89° 05' 59" W ALONG SAID PARALLEL LINE FOR 85.00 FEET TO SAID POINT OF BEGINNING. CONTAINING 0.23 ACRES, MORE OR LESS.

TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND PUBLIC UTILITIES, OVER, UNDER AND ACROSS THAT PART OF THE "HACKLER" TRACT AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 1485, PAGE 4739 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, BING IN SECTION 34, TOWNSHIP 34 SOUTH, RANGE 20 EAST OF SAID MANATEE COUNTY AND LYING WITHIN 10 FEET OF BOTH SIDES OF A CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND 4" X 4" CONCRETE MONUMENT WITH NO IDENTIFICATION AT THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP 34 SOUTH, RANGE 20 EAST, MANATEE COUNTY, FLORIDA; THENCE N 00° 11' 26" E ALONG THE EAST LINE OF SAID SECTION 34 FOR 851.22 FEET TO A FOUND ½" REBAR WITH LB 613 CAP AT AN INTERSECTION WITH THE NORTH MAINTAINED RIGHT OF WAY LINE OF STATE ROAD 64 AND AN INTERSECTION WITH THE SOUTH LINE OF THE "HACKLER" TRACT AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 1485, PAGE 4739 OF THE PUBLIC RECORDS OF SAID MANATEE COUNTY; THENCE N 89° 05' 59" W ALONG SAID NORTH AND SOUTH LINES FOR 1349.32 FEET TO A FOUND ½" REBAR WITH NO IDENTIFICATION AT AN INTERSECTION WITH THE WEST LINE OF THE EAST QUARTER OF SAID SECTION 34 AND THE SOUTHWEST CORNER OF SAID "HACKLER" TRACT; THENCE N 00° 20' 05" E ALONG SAID WEST LINE AND ALONG THE LINE OF SAID "HACKLER" TRACT FOR 990.80 FEET TO AN INTERSECTION WITH A LINE THAT IS PARALLEL WITH SAID NORTH AND SOUTH LINES; THENCE S 89° 05' 59" E ALONG SAID PARALLEL LINE FOR 474.63 FEET; THENCE N 00° 54' 01" E FOR 11.55 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE; THENCE S 59° 02' 00" E FOR 110.14 FEET; THENCE S 38° 23' 35" E FOR 69.10 FEET; THENCE S 43° 02' 50" E FOR 589.68 FEET; THENCE S 27° 31' 46" E FOR 309.89 FEET; THENCE S 21° 25' 36" E FOR 91.60 FEET; THENCE S 30° 09' 00" E FOR 129.38 FEET TO AN INTERSECTION WITH A LINE THAT IS PARALLEL WITH AND OFFSET 10 FEET NORTHERLY OF SAID NORTH AND SOUTH LINES; THENCE S 89° 05' 59" E ALONG SAID PARALLEL AND OFFSET LINE FOR 24.90 FEET; THENCE S 00° 54' 01" W FOR 10.00 FEET TO AN INTERSECTION WITH SAID NORTH AND SOUTH LINES AND THE POINT OF TERMINUS OF THE HEREIN DESCRIBED CENTERLINE, SAID POINT OF TERMINUS BEING N 89° 05' 59" W, 62.28 FEET FROM THE INTERSECTION OF SAID EAST LINE WITH SAID NORTH AND SOUTH LINES. CONTAINING 0.61 ACRES, MORE OR LESS.

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION

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R.B. SHORE, CLERK OF CIRCUIT COURT, MANATEE COUNTY, FL.