

**STAFF REPORT**

Planning & Zoning Commission: November 8, 2004  
Board of County Commissioners: December 8, 2004

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**APPLICANT:** Verizon Wireless **FILE NUMBER:** H-04-65

**PURPOSE:** Public Service Facility Overlay District for a Communication Tower with a Reduction in Setbacks

**GENERAL**

**LOCATION:** North side of William Street, approximately 700' east of US 19

**LEGAL**

**DESCRIPTION:** Lots 9 and 10, Block 36, Townsite of Berkeley, as per plat thereof recorded in Plat Book 4, Page 10, of the Public Records of Hernando County, Florida in Section 10, Township 23 South, Range 17 East

**FILE STATUS:** All requirements necessary to conduct the public hearing have been satisfied.

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 2

**STAFF FINDINGS:**

Surrounding Zoning

North: PDP(HC)  
South: R-1C  
East: PDP(HC)  
West: PDP(HC)

Surrounding Land Uses

Retail plaza  
Undeveloped  
Miniwarehouses  
Retail plaza

**SUMMARY OF REQUEST**

The petitioner requests a Public Service Facility Overlay District for a Communication Tower, with a reduction in setbacks. The subject property is located on the north side of William Street, approximately 500' east of US 19.

**FACTUAL INFORMATION**

1. The property is currently zoned PDP(HC) with an additional C-4 use for light manufacturing.
2. The property comprises approximately a third of an acre.

3. The site contains miniwarehouses and retail uses.
4. The site contains no specimen or majestic trees.
5. The subject property has access from William Street.
6. There is a commercially designated strip area identified on the adopted future land use map along US 19 in this area.
7. The on-site soil type is Candler fine sand. Candler fine sand provides a habitat suitable for gopher tortoises. Since there is the potential for this listed species of special concern to be present, a Florida Fish and Wildlife Conservation Commission permit may be required prior to site alterations.
8. The property is located in a flood zone C.
9. The subject property does not contain any wetlands, WHPAs or SPAs according to County data resources.
10. The Utilities Department has indicated that central water and sewer are not available to serve the subject site.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by commercial development and undeveloped parcels.
13. The petitioner has requested a reduction in setbacks from 225' to 106' from the residentially-zoned parcel to the south, which is a deviation from the County's LDRs.

### **STAFF DISCUSSION**

The petitioner requests a public service facility overlay district for a communication tower in order to develop the subject property with a 180' monopole cellular service tower. The subject site is a part of Winchester Plaza, which has been developed with miniwarehouses and retail uses. Winchester Plaza was rezoned in 2000 to PDP(HC) with an additional C-4 use for light manufacturing. The C-4 use is limited to a location approximately 200' northeast of the subject property.

The narrative and plan provided indicate the petitioner proposes to develop the subject site with a 180' monopole tower designed to accommodate a minimum of three (3) carriers and equipment cabinets within an approximately 1,090 square foot fenced area. The site is to be fenced with a

6' chain link fence with 1' of barbed wire on top. The narrative estimates the proposed use will generate one round trip per carrier per month.

The petitioner requests a reduction in setbacks. The LDRs require a monopole 100' or taller to be located a minimum of 125% of the tower height from residentially zoned property, unless such property is used or designated for a nonresidential use. The petitioner proposes locating the 180' tower approximately 106' from a vacant parcel zoned R-1A located south of the subject property. The petitioner asserts the setback requirement was intended to protect existing residential development and is not applicable in this case because the property is vacant and has not been developed with residential uses. The Planning staff does not object to the reduction in setbacks in this area. The area contains general and highway commercial uses and undeveloped residential parcels which are anticipated to develop as a transitional area over time.

The LDRs require monopole towers to meet the setbacks of the zoning district. The proposed use meets the setbacks for the PDP(HC) zoning district. The LDRs require that no building, structure or use within a public service facility overlay district shall be closer than 50' to the property line of an adjoining parcel containing a residence or the property line of a residentially zoned parcel. The plan indicates that the proposed tower and all accessory structures will be located more than 50' from the property line of an adjoining residentially used or zoned parcel.

The petitioner has provided a search ring and asserted no structures suitable for collocation and no public service facility overlay districts approved for communication towers are located within the search ring. The County mapping resources do not indicate any communication towers within the petitioner's search ring.

The petitioner indicates in the narrative that the proposed communication tower will not have a negative material impact on the surrounding land uses, infrastructure and environment. The petitioner notes that the surrounding land uses are predominantly general to heavy commercial uses and vacant parcels. The petitioner notes that the closest residential development is 900' away. The petitioner notes that the proposed communication tower will generate minimal traffic, will generate minimal noise, will not be lighted, will generate no odor or dust, will not use central water and sewer service and will positively impact police and fire services by providing a connection through the E911 service. The petitioner notes the proposed communication tower will have no impacts on the environment. The subject property does not contain any wetlands, WHPAs or SPAs according to County data resources. The petitioner notes that no wetlands or other natural resources are located adjacent to the subject site.

The petitioner indicated the balloon test would be conducted on November 2, 3, and 4, 2004 pursuant to ordinance requirements. Staff made a site visit to observe the balloon test on November 2, 2004. An affidavit verifying the completion of the balloon test was not provided prior to finalization of the staff's report.

The County's RF engineering consultant has reviewed the petitioner's request and confirmed the petitioner's need for a cell site in this vicinity. The consultant notes that he is concurrently reviewing a second request for a cell site less than 2,200' to the west of this site. He has determined that the service providers on both sites may operate from either site with little or no adverse consequences. The consultant indicates the two sites will provide equal coverage and accessibility. The consultant is of the opinion the site to the west of this site would provide slightly better spacing and geometric conditions for both applicants. He notes that if for any non-technical reason the Verizon Wireless site is deemed superior, the decision to approve this petition will have virtually no impact on the technical provision or quality of service, because the technical differences between the two sites are minimal. The consultant notes he evaluated no non-radio subjects such as aesthetic and compatibility issues.

The County has an adopted Airport Ordinance which states that any communication tower shall be presumed to be a "potential airport obstruction" and requires notification to the Federal Aviation Administration. The Airport Director has verbally indicated no issues with this tower. The County's LDRs require that prior to approval to construct any structure determined to be a "potential airport obstruction," either an Airport Construction Permit or an Airport Obstruction Variance must be granted. If the FAA finds no impacts, a permit granting construction approval of the structure will be issued contingent upon satisfactory compliance with the FAA "Advisory Circular (AC) 70/7460-1J" which addresses Obstruction Marking and Lighting.

The County Engineer had no comments.

The petitioner indicates central water and sewer service will not be used. The Utilities Department has indicated that central water and sewer are not available to serve the subject site.

### **FINDINGS OF FACT**

The area is characterized by commercial development and undeveloped parcels. The subject site has been developed with miniwarehouses and retail uses. Undeveloped parcels zoned for single family residential uses are located to the south. The Planning staff is of the opinion that the proposed commercial tower would be compatible in this area characterized by highway commercial uses and vacant parcels.

There is a commercially designated strip area identified on the adopted future land use map along US 19 in this area. The commercial land use category allows for a range of commercial intensity from office professional to regional commercial centers provided other goals, objectives, and policies (GOPs) within the comprehensive plan can be met. Communication towers are considered public service facility uses and/or structures which are allowable in any future land use classification. It is the staff's opinion the proposed tower is not inconsistent with the adopted Comprehensive Plan.

The staff is of the opinion that the request for a public service facility overlay district for a communication tower with a reduction in setbacks is appropriate based on the following conclusions:

1. The proposed public service facility overlay district would be compatible with the surrounding land uses.
2. The proposed public service facility overlay district would be consistent with the Comprehensive Plan.

**The rezoning process is a land use determination and does not constitute a permit for either construction on, or use of, the property, or a Certificate of Concurrency. Prior to use of, or construction on, the property, the petitioner must receive approval from the appropriate County department(s) for the proposed use.**

**The granting of this land use determination does not protect the owner from civil liability for recorded deed restrictions which may exceed any county land use ordinances. Homeowners associations or architectural review committees require submission of plans for review and approval. The applicant for this land use request should contact the local association or the Public Records for all restrictions applicable to this property.**

**STAFF RECOMMENDATION:**

Pursuant to the findings of fact outlined in the staff's report, the Planning staff recommends the Planning and Zoning Commission recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request for a public service facility overlay district for a communication tower, with a reduction in setbacks, with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. All development must occur generally in compliance with the approved site plan.
3. The tower is approved as a monopole with up to 180' in height.
4. The petitioner must provide the name and phone number of the contact person for the facility on a sign on the gate, fence, or access point to the site, whichever is most adjacent to the public access.
5. The Public Service Facility Overlay District for a tower shall expire within one year of the zoning approval if the tower is not constructed.

**P&Z RECOMMENDATION:**

On November 8, 2004, the P&Z voted 5-0 to recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request for a public service facility overlay district for a communication tower, with a reduction in setbacks, with the following unmodified performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. All development must occur generally in compliance with the approved site plan.
3. The tower is approved as a monopole with up to 180' in height.
4. The petitioner must provide the name and phone number of the contact person for the facility on a sign on the gate, fence, or access point to the site, whichever is most adjacent to the public access.
5. The Public Service Facility Overlay District for a tower shall expire within one year of the zoning approval if the tower is not constructed.

**NOTE:**

The petitioner clarified at the November 8<sup>th</sup> P&Z meeting that future co-locators' equipment would be located within the subject property, but within the building to the north of the pad containing the proposed tower and Verizon Wireless equipment area.

**BCC ACTION:**

On December 8, 2004, the Board of County Commissioners voted 5-0 to adopt Resolution # 2004-321 approving the petitioner's request for a public service facility overlay district for a communication tower, with a reduction in setbacks, with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. All development must occur generally in compliance with the approved site plan.
3. The tower is approved as a monopole with up to 180' in height.

4. The petitioner must provide the name and phone number of the contact person for the facility on a sign on the gate, fence, or access point to the site, whichever is most adjacent to the public access.
5. The Public Service Facility Overlay District for a tower shall expire within one year of the zoning approval if the tower is not constructed.