



VILLAGE OF PALMETTO BAY
 9705 E. HIBISCUS STREET
 PALMETTO BAY, FLORIDA 33157
 (305) 259-1234 Fax: (305) 259-1290

Approved

 Edward Silva, Village Manager

 12/13/19

 Date

X received by Yani on
 12/16/19

REQUEST FOR PUBLIC RECORDS

Requests are filled in accordance with the provisions of Chapters 119 and 257, Florida Statutes.

DATE: November 19, 2019

NAME: Juan Ruiz

COMPANY: _____

ADDRESS: 9120 S.W. 162 St.

PHONE: (305) 951-7021 FAX: (305) 238-0514

EMAIL: JCR24@outlook.com

REQUEST (Attach additional page, if necessary): Copies of the following documents:

from the agenda last night item 4
wants to confirm the distance of the
cell tower proposal to the residential
homes. Mr. Ruiz thinks it's 300 feet and
would like to confirm that.

FOR USE BY VILLAGE STAFF ONLY

TRACKING NO.: 2019-385

DATE FORWARDED: 11-19-19

ASSIGNED DEPT: Planning & Zoning

DATE REQUEST FILLED: 12/17/19

NUMBER OF COPIES: _____

ESTIMATED TIME (IF APPLICABLE): _____

ESTIMATED COST: _____

HOW WAS REQUEST FILLED? emailed response received from
Administration to the requestor.
 IF NOT FILLED, REASON: _____

BY: _____

Admin Temp

From: Maria Pineda
Sent: Friday, December 06, 2019 9:54 AM
To: Admin Temp
Cc: Karla Morales-Maestre
Subject: RE: Public Record Request - 2019-385 (Ruiz)
Attachments: Eco Site II Conditional Use Approval VPB 19-008.docx

Hello Yani,

Here is staff report to respond to M. Ruiz. Please have him look at page 6 and page 11. This will help him with distance to residential areas.

Thanks,
M

From: Admin Temp <admintemp@palmettobay-fl.gov>
Sent: Thursday, December 5, 2019 4:07 PM
To: Maria Pineda <mpineda@palmettobay-fl.gov>
Cc: Olga Cadaval <ocadaval@palmettobay-fl.gov>; Missy Arocha <marocha@palmettobay-fl.gov>; Melissa Dodge <mdodge@palmettobay-fl.gov>; Idalmy Vidaurre <ividaurre@palmettobay-fl.gov>; Karla Morales-Maestre <kmorales@palmettobay-fl.gov>
Subject: FW: Public Record Request - 2019-385 (Ruiz)

Good afternoon Maria,

Please see the attached request and forward the response to my attention and cc' Karla.

Thank you!

Yanara Modroño
Executive Assistant
Office of the Village Manager
Village of Palmetto Bay
9705 East Hibiscus Street
Palmetto Bay, Florida 33157
T: 305-259-1234
F: 305-259-1290

From: Melissa Dodge <mdodge@palmettobay-fl.gov>
Sent: Tuesday, November 19, 2019 5:00 PM
To: Admin Temp <admintemp@palmettobay-fl.gov>; Olga Cadaval <ocadaval@palmettobay-fl.gov>
Cc: Missy Arocha <marocha@palmettobay-fl.gov>; Edward Silva <esilva@palmettobay-fl.gov>
Subject: Public Record Request - 2019-385 (Ruiz)

Good Afternoon,

Attached is Public Record Request No. 2019-385 received from Mr. Juan Ruiz. Please forward to the appropriate department.

Sincerely,

Melissa Dodge

Administrative Assistant/Passport Acceptance Agent
Office of the Village Clerk
Village of Palmetto Bay
9705 East Hibiscus Street
Palmetto Bay, FL 33157
Ph: 305-259-1234
Fax: 305-259-1290

PLEASE NOTE: Florida has very broad public records laws. Most written communications to or from local officials regarding official business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.



Village of Palmetto Bay
Florida

STAFF ANALYSIS

FILE: VPB 19-008

HEARING DATE: November 18, 2019

APPLICANT: Eco-site II, LLC

COUNCIL DISTRICT: 2

REQUEST:

The request is to grant a conditional use approval to permit the construction and operation of a new, camouflaged 115-foot high monopole wireless telecommunication tower at 16051 South Dixie Highway in the Business District (B-2) zoning district. The site is a 0.06 acre (2,441 square-foot) parcel of land behind the primary structures of the shopping center which is comprised of 17.92 acres of land. A camouflaged monopole antenna is defined by the Village code as a freestanding antenna support structure consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation, designed to support itself without the use of guy wires or other stabilization devices. Camouflaged means a facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure in a manner that makes it not readily identifiable as a personal wireless services facility. [§30-60.30(b) of the Village of Palmetto Bay code]

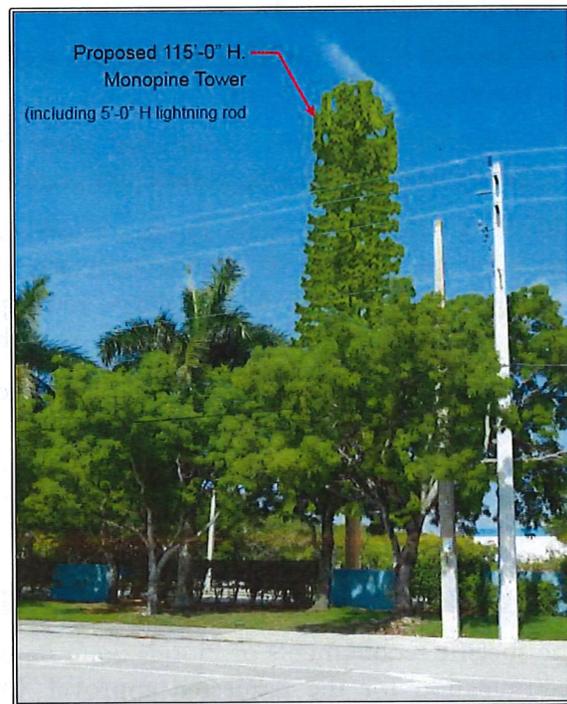


Photo simulation of camouflaged monopole tower ("Monopine")
viewed from SW 92nd Avenue – source: applicant

The requested conditional use approval would include the permit for the use of the wireless telecommunication tower, as permit or the requested height of 115 feet and would require maintenance of all conditions of approval written into development order (resolution). Permits and conditions will be in a legal form that runs with the use and the land. The applicant's tenure of the land on which the application is made is a 30-year lease that began in May 2019.

BACKGROUND:

Village of Palmetto Bay Regulatory Requirements:

The conditional use request is made pursuant to §30-30.4(a), *Conditional Use Approval*; and §30-60.30, *Telecommunications Towers, Antennas and Satellite Dishes* of the Village of Palmetto Bay code. The general purpose of a conditional use as defined in §30-30.4(a),

- issued after a quasi-judicial hearing
- only permitted on specific sites where the proposed use may be adequately accommodated without generating material adverse impacts on properties and land uses within the immediate vicinity
- the immediate vicinity shall be defined as the radius of required mailed notice (500-ft)
- A conditional use is one that would not be appropriate without restriction throughout the land use district, but which, if controlled as to the area, location, hours of operation, and relation to the neighborhood or impacted vicinity, would promote the public health, safety, welfare, order, comfort, convenience, appearance or prosperity of the neighborhood.
- The section sets forth the procedures and criteria for approval which are analyzed in this staff report
- Telecommunications conditional uses shall additionally comply with §30-60.30, *Telecommunications towers, antennas and satellite dishes*.

§30-60.30, *Telecommunications Towers, Antennas and Satellite Dishes* establishes the requirement that any new commercial wireless telecommunication facility, including towers supporting commercial antennas shall be reviewed and approved by the Village Council, during a public hearing based upon the criteria established in the section.

Along with the conditional use request, the development order sought would include approval of the site plan, pursuant to §30-30.5, *Site Plan Approval*; §30-50.17, B-2, *Business District*; and §30-60.30, *Telecommunications Towers, Antennas and Satellite Dishes* of the Village of Palmetto Bay code. The criteria of these sections is combined and analyzed together in this staff report.

State of Florida Statute Requirements in Addition to Village Code:

The specific requirements of Florida State statutes should also be considered for hearing and determination for the requested approval. Of particular importance to the process and decision making framework are requirements in §365.172 F.S. *Regulation of Wireless Facilities – State Statutes, D. “Land development regulation provisions and review of applications for wireless facilities”*, which in paragraph 1. limits the zoning review to only land development an zoning issues and criteria, and contains the following language pertinent to this issue:

§365.172 1. only to address land development or zoning issues.

- a) “A local government’s land development and construction regulations for wireless communications facilities and the local government’s review of an application for the placement, construction, or modification of a wireless

- communications facility shall only address land development or zoning issues.” (§365.172(12)(b)1., Florida Statutes)
- b) “In such local government regulations or review, the local government may not require information on or evaluate a wireless provider’s business decisions about its service, customer demand for its service, or quality of its service to or from a particular area or site, unless the wireless provider voluntarily offers this information to the local government.” (§365.172(12)(b)1., Florida Statutes)
 - c) “In such local government regulations or review, a local government may not require information on or evaluate the wireless provider’s designed service unless the information or materials are directly related to an identified land development or zoning issue or unless the wireless provider voluntarily offers the information.” (§365.172(12)(b)1., Florida Statutes)
 - 1) “Information or materials directly related to an identified land development or zoning issue may include, but are not limited to, evidence that no existing structure can reasonably be used for the antennae placement instead of the construction of a new tower, that residential areas cannot be served from outside the residential area, as addressed in subparagraph 3., or that the proposed height of a new tower or initial antennae placement or a proposed height increase of a modified tower, replacement tower, or collocation is necessary to provide the provider’s designed service. Nothing in this paragraph shall limit the local government from reviewing any applicable land development or zoning issue addressed in its adopted regulations that does not conflict with this section, including, but not limited to, aesthetics, landscaping, land use based location priorities, structural design, and setbacks.” (§365.172(12)(b)1., Florida Statutes)

The Federal Telecommunications Act of 1996:

The Federal Telecommunications Act of 1996 was the first significant overhaul of telecommunications law since the Communications Act of 1934. The Act includes seven titles; with Title VII, Section 704 of covering facilities siting and radio frequency emission standards.

Section 704(a) of the 1996 Act amends Section 332(c) of the Communications Act ("Mobile Services") by adding a new paragraph (7). It preserves the authority of state and local governments over decisions regarding the placement, construction, and modification of personal wireless service facilities, except as provided in the new paragraph (7). Exceptions include:

a. States and Localities May Not Take Discriminatory or Prohibiting Actions

Section 704(a) of the 1996 Act states that the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services. 47 U.S.C. §332(c)(7)(B)(i).

Review: Any person that is adversely affected by a state or local government's action or failure to act that is inconsistent with Section 332(c)(7) may seek expedited review in the courts. 47 U.S.C. §332(c)(7)(B)(v).

b. Procedures for Ruling on Requests to Place, Construct or Modify Personal Wireless Service Facilities

Section 704(a) also requires a State or local government to act upon a request for authorization to place, construct, or modify personal wireless service facilities within a reasonable time. Any decision to deny a request must be made in writing and be supported by substantial evidence contained in a written record. 47 U.S.C. §332(c)(7)(B)(ii), (iii).

c. Regulations Based On Environmental Effects of RF Emissions Preempted

Section 704(a) of the 1996 Act expressly preempts state and local government regulation of the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions. 47 U.S.C. §332(c)(7)(B)(iv).

Review: Parties may seek relief from the FCC if they are adversely affected by a state or local government's final action or failure to act that is inconsistent with this provision. 47 U.S.C. §332(c)(7)(B)(v).

There are legal interpretations that reference to the FCC compliance denotes that local governments can't even discuss, much less consider, adverse health impacts, so as long as the cell tower and antennas are compliant with FCC regulations. This must be confirmed with the Village Attorney or designee.

PROPOSED RESOLUTION

An ordinance of the Mayor and Village Council of the Village of Palmetto Bay, Florida, relating to zoning; granting conditional use approval in a Business District - Special (B-2) zone for a telecommunication tower, pursuant to Section 30-30.4 Conditional Use and Section 30-60.30 Telecommunication Towers, Antennas and Satellite Dishes; and request for approval of a site plan for the installation of a camouflaged 115-foot wireless communication mon tower, on a 2,441 square-foot parcel located in the southeast portion of the 17.92-acre shopping center located at 16051 South Dixie Highway, zoned Business District (B-2) pursuant to Section 30-30.5 Site Plan Approval; and Section 30-50.17 B-2, Business District.

PROJECT AND SITE DESCRIPTION

The proposed site for the 115' tall, camouflaged monopole antenna is in the vicinity of the southeast corner of the shopping center at 16051 South Dixie Highway, located in a triangle of vegetated land within the rear parking lot area. Table 1 contains general site data. The aerial exhibit on the following page shows the site location which will be secured by a locked fence.

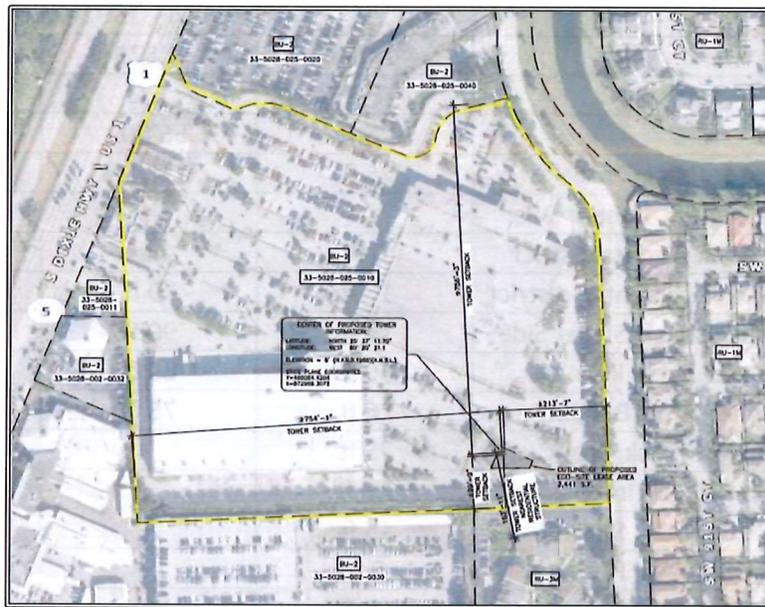
**Table 1
 Site Plan Data**

	Required	Entire Site	Eco-Site II Lease
Address		16051 South Dixie Highway	
Folio		33-5028-025-0010	
Lot Area	30,000 s.f. min.	17.92 acres	0.056 acre (0.3%)
Occupancy	0.40 at 1 story to 0.80 FAR at 5 stories	251,061 s.f. retail space	monopole
Lot Coverage	40% max.	32.2%	0
Year(s) Built		1969, 1991	proposed
Parking Spaces	1,038	1,579	0
Zoning District	B-2	B-2	B-2
Height Permitted	75 ft.	56 feet	115 ft*
Principal Structure Setback, Front	25 ft.	25 ft. (BK)	-
Principal Structure Setback, Interior Side:			
- adjacent to a business district	0 ft.	n.a.	-
- adjacent to a residential district	15 ft.	70 ft.	-
Principal Structure Setback, Street Side	15 ft.	90 ft.	-
Principal Structure Setback, Rear	20 ft.	60 ft.	-
Distance between Principal Buildings	20 ft.	75 ft.	-
Accessory Structure Setback, Front	75 ft.	-	754'-1"
Accessory Structure Setback, Interior Side	7½ ft.	-	756'-3"; 99'-9"
Ancillary Structure Setback, Street Side	15 ft.	-	213'-7"
Ancillary Structure Setback, Rear	5 ft.	-	213'-7"
Distance between Structures	10 ft.	-	140'

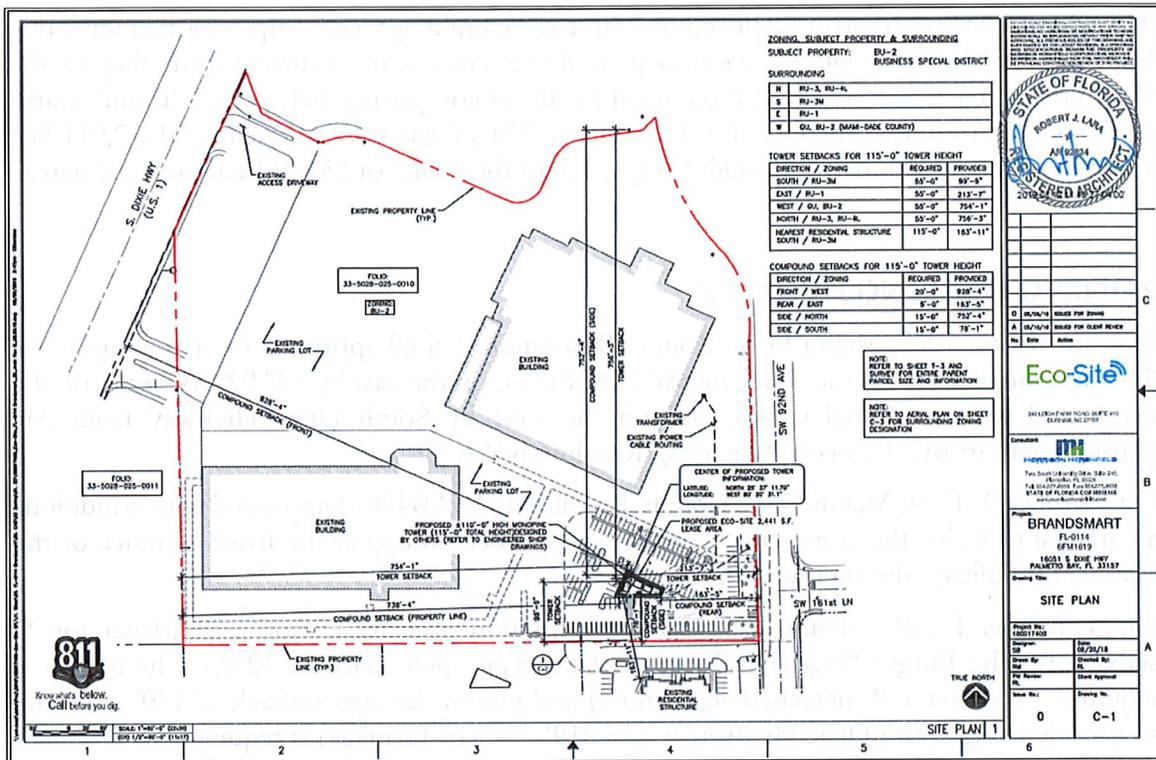
* by conditional use approval



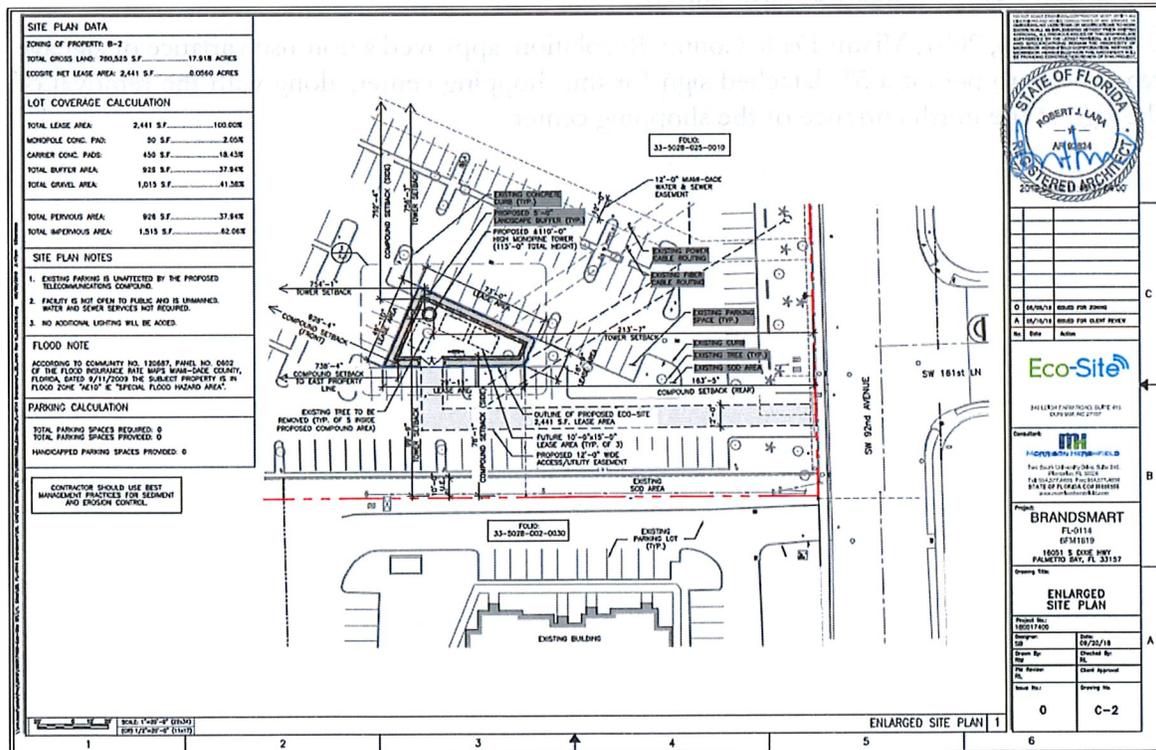
2019 aerial view of site and surrounding area



2019 aerial view of property – source: Applicant Submittal set, Sheet C-3



Site Plan



Enlarged Site Plan showing antenna and antenna compound

The overall site is currently comprised of 2 large retail buildings with outparcels including one fast food establishment with a drive through and a gas station. In its current form, they are the shopping center which included three retail buildings comprising 101,745 s.f. (BrandsMart); 52,625 s.f. (LA Fitness); 44,436 s.f. (Marshall's); a 738 s.f. gas station (Shell); and a 2,911 fast service restaurant with drive-through (Burger King) for a total of 251,061 s.f. on 17.92 acres.

ZONING HEARING HISTORY

On January 31, 1969, Miami-Dade County Resolution Z-6-69 approved the rezoning of the 24.9-acre site, bound on the south by SW 164th Street, on the east by SW 92nd Avenue, on the north and west by Canal C-100, and on the west by South Dixie Highway from AU (Agricultural) to BU-2 (Special Business). Resolution Z-6-69

On October 3, 1974, Miami-Dade County Resolution 4ZAB47874 approved with conditions a variance to waive the conduct of outdoor sales under canopy at the front entrance of the store(s) on holidays during the year.

On September 4, 1991, Miami-Dade County Resolution approved a non-use variance for: 1) setback for the Burger King site; 2) permit landscape open space of 12.4% where 14% is required; 3) permit a 3rd detached sign; and 4) and permit the sign setback of 130' from the south side along South Dixie Highway where 219' (30% of frontage) is required.

On October 4, 1999, Miami-Dade County Resolution approved a non-use variance to relocate an existing pylon sign in order to facilitate redesign of the south entrance with a 600-foot deceleration lane to enhance traffic safety.

On March 14, 2001, Miami-Dade County Resolution approved a non-use variance of signage regulations to permit a 5th detached sign for the shopping center, along with the removal of the sign at the north entrance of the shopping center.

Zoning District

Subject Property Zoning District

B-2, Business District (red hatch)

Surrounding Properties

North:

B-2, Business District (red hatch)

South:

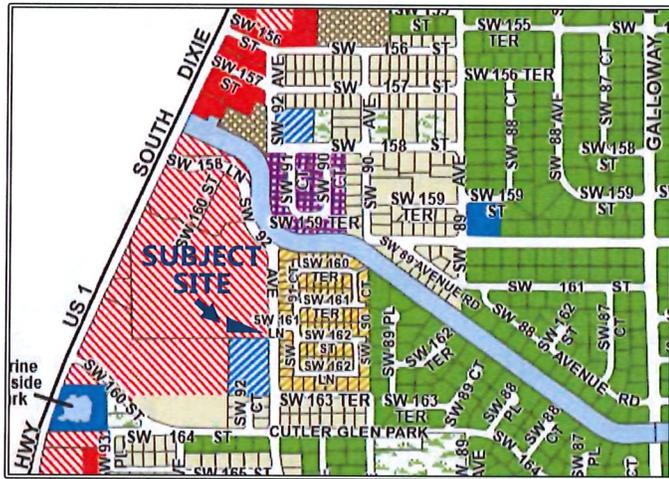
- R-3M, Minimum Apartment House (blue hatch)
- R-1, Single-Family Residential District (tan)

East:

- R-1M, Modified Single-Family Residential District (orange hatch)
- E-M, Estate Modified Single-Family (green)

West:

B-2, Business District (red hatch)



Excerpt of Village of Palmetto Bay Zoning Map

“The purpose of the B-2 District, is to provide for large scale commercial and/or office facilities that service the needs of the village's urban areas.” (§30-50.17, B-2, Business District”, *Village of Palmetto Bay code*).

The B-2 permits a range of commercial and office facilities as permitted uses, and also provides that telecommunication towers, co-location towers and stealth towers, are permitted as conditional uses in accordance with §30-60.30 of the code. (§30-50.17(c)(2) B-2, Business District”, *Village of Palmetto Bay code*).

Protected Residential Areas

Section 30-60.30(e) provides special protection to certain residential areas, referred to as “protected residential areas”, in that no tower shall be placed on or adjacent to protected residential property which is otherwise eligible in accordance with subsection (k)(3) below, if such eligible area is four acres or less in size.

“Protected Residential Areas” is defined as a “single family neighborhoods that lacks adequate development area to accommodate the construction of a wireless communication facility and ancillary structure and access ways as required by this division and federal and state regulations, and is an area representing predominantly single family and duplex homesteads to be protected from commercial infringement and maintain a compatible character of a suburban nature without unnecessary aesthetic damage.” The residential areas to the east, including: the R-1M,

Siting Analysis

Section 30-60.30(d)(1) of the Village of Palmetto Bay code provides criteria for the review of siting preferences for telecommunications towers. Applicants shall demonstrate to the satisfaction of the village council that these preferences have been evaluated and adhered to in their proposed site selection, and may require opinions from qualified licensed professional engineers, to be paid for by the applicant. Siting preferences are listed in descending order of preference.

- Class I. Camouflaged antennas located on village-owned buildings, and structures.
- Class II. Camouflaged antennas located on village-owned property, provided they meet the appropriate search radius required by this section.
- Class III. Camouflaged towers located on other public governmental buildings (including county, state, or federal buildings, excluding public schools) or properties.
- Class IV. Camouflaged towers located public or private school buildings, houses of worship, or hospital structures.
- Class V. Camouflaged towers located on commercial buildings located within commercial districts, especially along the U.S. 1 Corridor, at least 300 feet from residential zoning districts.
- Class VI. Camouflaged towers located on residential properties as provided under subsection (e)(5), below.

This application is substantially a Class V site, being located within a commercial district and along the U.S. 1 Corridor; however, it is not 300 feet from a residentially zoned district. Evaluating it as a Class VI site would not be correct as it is not located on a residential property.

The applicant has provided an RF-Report that includes a zoning map with the RF Search Area overlay of the Village in support of its demonstration that higher preference sites are not available within the Village. This zoning map demonstrates that:

- I. there are no Village-owned buildings or structures upon which an antenna could be collocated (Class I).
- II. Class II village-owned properties do not exist within the Search Area.
- III. There are no Class III properties consisting of public governmental buildings (including county, state, or federal buildings, excluding public schools) or properties within the Search Area.
- IV. There are no Class IV public or private school buildings, houses of worship, or hospital structures within the Search Area.

The highest ranked opportunity is the Class V commercial property located along the US 1 Corridor.

Visual Impacts

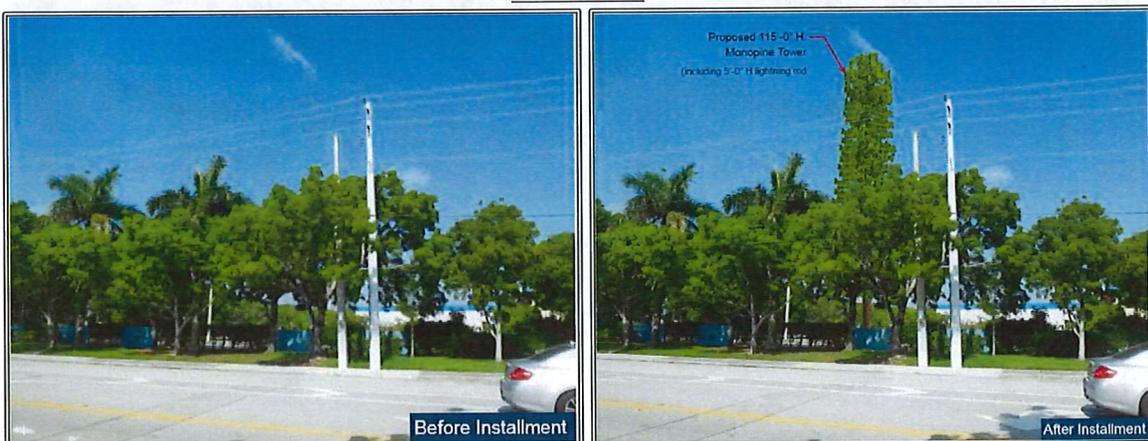
The visual impacts of the monopole tower, as a matter of compatibility with the surrounding area have been evaluated by the applicant's submittal of photo-simulations which are verified by the performance of a balloon test, as required by §30-60.30(g)(3)a. of the Village of Palmetto Bay code. The visual results are contained in the balloon test and photo simulations provided by the applicant with locations for the balloon test determined in coordination with Village administration. Results are excerpted below.

Photo simulations:

Photo simulations Locations



Location 1



Location 2



Location 3



Location 4

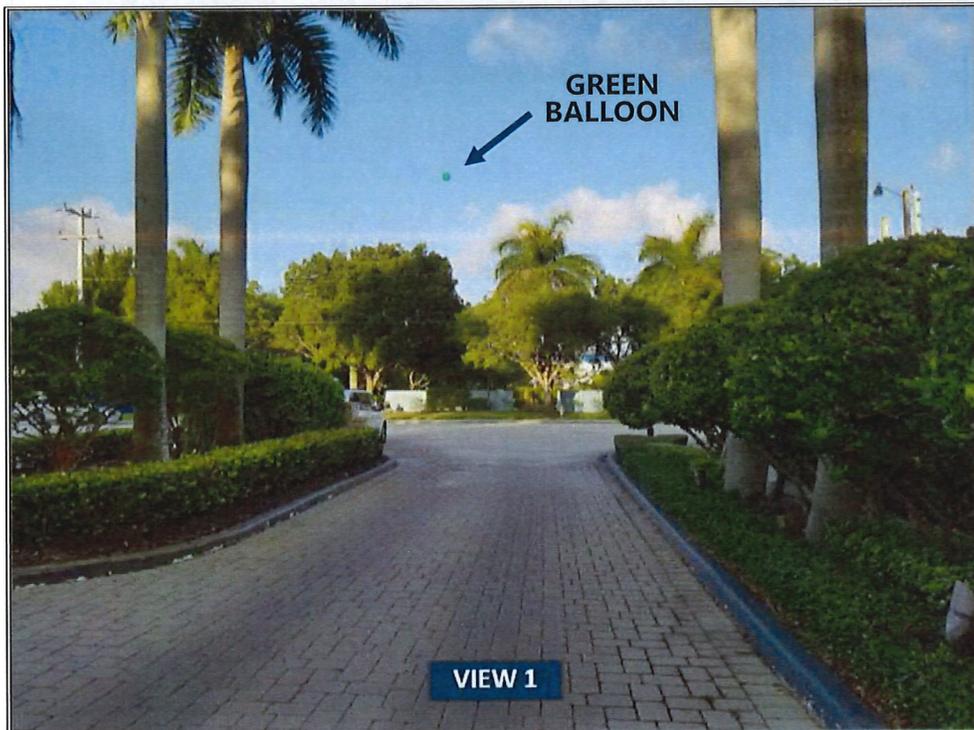


Balloon Test:

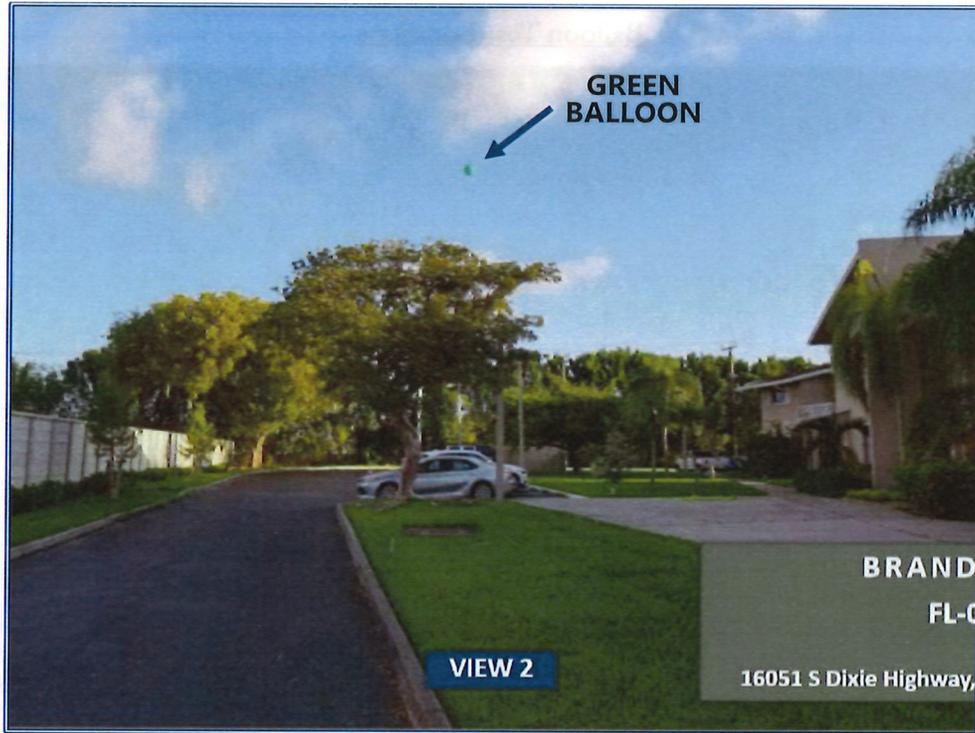
Balloon Test Locations



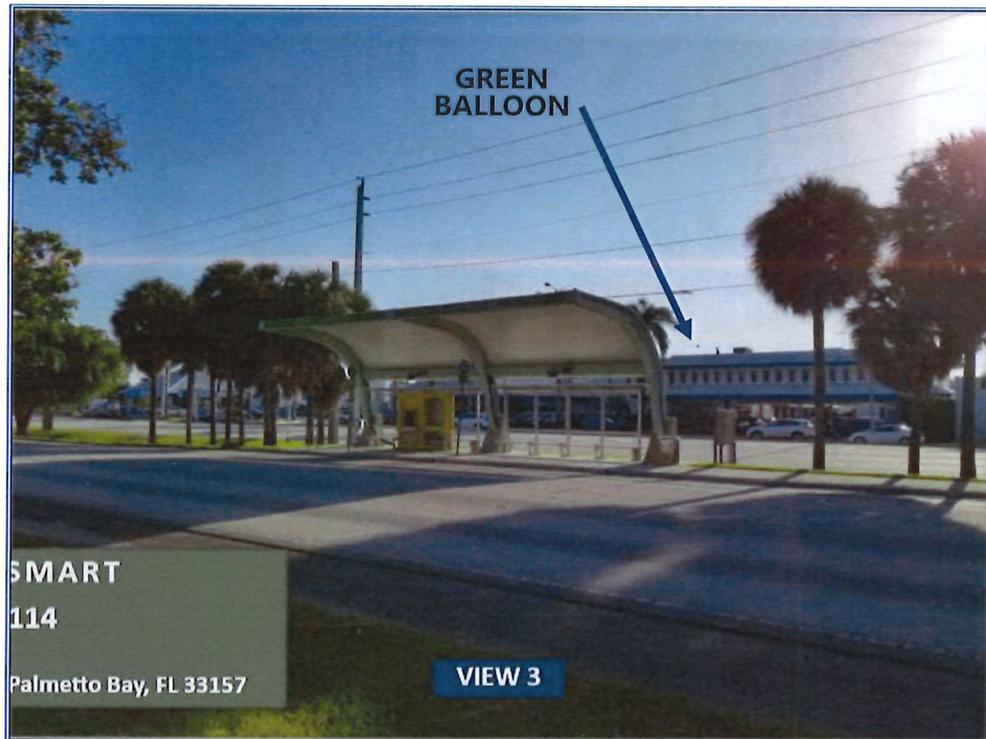
Location 1



Location 2



Location 3



Location 4



Location 5



Location 6



Location 7



SUFFICIENCY

The criteria for submittal sufficiency are listed below: the application has satisfied all of the requirements for sufficiency of required information for review by the Mayor and Council of the Village of Palmetto Bay.

Criterion		Status
1.	A report from a qualified licensed professional engineer which:	SEE BELOW
1.a	Describes the tower height and design including a cross section and elevation;	PROVIDED
1.b	Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas;	PROVIDED
1.c	Describes the tower's capacity, including the number and types of antennas that it can accommodate;	PROVIDED
1.d	Documents what steps the applicant has taken, or will take, to avoid interference and obstruction with established or proposed public safety telecommunication facilities;	PROVIDED
1.e	Documents that the tower and/or antennas have been designed to withstand sustained wind speeds of 110 miles per hour, or the requirements of the Florida Building Code, as amended, whichever is greater;	PROVIDED
1.f	An analysis and/or other data and/or documentation that certifies that in the event of a catastrophic failure, fall, or collapse of the tower, said tower would fall or collapse within the collapse zone of the proposed tower;	PROVIDED
1.g	Includes a qualified licensed professional engineer's signature, seal and registration number;	PROVIDED
1.h	Other information necessary to evaluate the request.	PROVIDED
2	For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for collocation.	PROVIDED
3	Balloon test. As part of an application the applicant shall submit documentation of having conducted a balloon test, together with a visual impact analysis of the test.	PROVIDED
4	Aesthetic effects, devices and techniques. The purpose of this subsection is to assist the village, in determining whether or not a proposed tower is camouflaged and/or concealed appropriately in a given area. The applicant shall submit the following documentation:	SEE BELOW
4.a	Colorized pictorial representation, artist rendering, or similar representation drawn to scale;	PROVIDED
4.b	Design specifications of the various proposed techniques (if drawings, plans and/or other graphic representations are included, they shall be drawn to scale); and	PROVIDED
4.c	A corresponding statement explaining what the nature and character of the area is within which the tower is proposed with respect to land use, surrounding environment, building heights and design, and how the proposed camouflaging and/or concealment agent(s) will blend in and harmonize with the nature and character of the area.	PROVIDED

ANALYSIS: CONDITIONAL USE REVIEW CRITERIA

A conditional use shall be permitted upon a finding by the Village Council that the proposed use, application, and site plan comply with the Telecommunications conditional use application provisions of §30-60.52[30] of this Code. A conditional use shall be denied if the Village determines that the applicant has not demonstrated that the proposal does not meet the criteria or is adverse to the public interest as defined by the criteria.

1. Land use compatibility. §30-30.4(c)1

The conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts shall be compatible and harmonious with adjacent land uses and shall not adversely impact land use activities in the immediate vicinity. Compatibility is defined as a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time so that no use condition is unduly negatively impacted directly or indirectly by another use or condition. Compatibility of land uses is dependent on numerous development characteristics which may impact adjacent or surrounding uses. They include the items listed above at subsection 30-30.4(b). Compatibility shall be measured based on the following characteristics of the proposed use or development in relationship to surrounding development in the immediate area:

Land Use Compatibility Criterion		Finding
1.a	Permitted uses, structures and activities allowed within the land use category.	COMPLIES
1.b	Building location, size, scale, dimensions, height, and floor area ratio.	ACCEPTABLE
1.c	Location and extent of parking, access drives and service areas.	ACCEPTABLE
1.d	Traffic generation, hours of operation, noise levels and outdoor lighting.	ACCEPTABLE
1.e	Alteration of light and air.	ACCEPTABLE
1.f	Setbacks and buffers such as fences, walls, landscaping and open space treatment.	ACCEPTABLE

Finding: Acceptable

2. Scale and Lot Size §30-30.4(c)2

Sufficient site size, site specifications, and infrastructure to accommodate the proposed use. The size and shape of the site, the proposed access and internal circulation, and the design must be adequate to accommodate the proposed scale and intensity of conditional use requested. The site shall be of sufficient size to provide adequate screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, drainage, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use on the immediate vicinity.

Analysis: The overall site at 17.92 acres of improved land is adequate to accommodate the proposed scale and intensity of the camouflaged monopole antenna. The and the specific antenna compound provides adequate screening, setbacks and landscaping. Open space is not impacted by the proposal. No off-street parking is displaced by the proposal and the overall site exceeds required parking. Internal traffic circulation and drainage are not impacted.

Finding: Acceptable.

3. Compliance with the Village Comprehensive Plan and Zoning Code §30-30.4(c)3

Compliance with the Village's Comprehensive Plan and Chapter 30. The conditional use and site plan shall comply with environmental, zoning and other applicable regulations of Chapter 30, and shall be consistent with the comprehensive plan.

Analysis: The proposal is consistent with the Village's adopted Comprehensive Plan and Future Land Use Map (FLUM) which designates the property as Business and Office (BO). The application does not countervail the objective and policy that defines the intent of the Village of Palmetto Bay adopted Comprehensive Plan. Although not explicitly supportive, the proposal is consistent by not directly contravening the effect of the policy.

Objective 1.1 Future Land Use Map

Adoption and implementation of the Future Land Use Map (FLUM), including the land use amendments to individual parcels as referenced in the supporting Data, Inventory, and Analysis, and presented in Exhibit 1 and the element goals, objectives, and policies herein as the official and primary standard governing land use density and intensity in the Village of Palmetto Bay.

Policy 1.1.1 Business and Office (BO): This category accommodates the full range of sales service activities including retail, wholesale, personal and professional services, commercial and professional offices, hotels, motels, hospitals, theaters, medical buildings, nursing homes, entertainment and cultural facilities, amusement and commercial recreation establishments (such as private commercial marinas). These uses may occur in self-contained centers, high rise structures, campus parks and municipal centers business districts. The specific range and intensity of uses appropriate in BO areas vary by location as a function of such factors as availability of public services, roadway access and neighborhood compatibility. Special limitations may be imposed on uses in BO where necessary to protect environmental resources including wellfield protection areas. Through the assignment of zoning districts and special conditions, the specific range and intensity of uses appropriate for a specific site will be determined. Strip commercial shopping centers with inadequate lot depth, which allow only a single row of commercial structures and parking in front, are discouraged in this

designation. The floor area ratio (FAR) is 0.4 for the first story, plus 0.11 for each additional story up to six (6) stories.

Mixing of residential use with commercial, office, and hotels is also permitted in BO areas provided that the scale and intensity is not out of character with adjacent nearby development, and the project does not negatively affect any area neighborhoods. Where these conditions are met, residential density may be approved up to one density category higher than the average land use density of adjacent parcels. If no residentially-designated parcels exist adjacent to a BO parcel or no higher density categories exist on the Village FLUM, the maximum density allowed shall be 13.0 units per gross acre.

Finding: Consistent with Comprehensive Plan

Analysis: The proposal is in the B-2 Zoning District. The purpose of the B-2 District, is to provide for large scale commercial and/or office facilities that service the needs of the village's urban areas. B-2 permits a range of commercial and office facilities as permitted uses, and also provides that telecommunication towers, co-location towers and stealth towers, are permitted as conditional uses in accordance with §30-60.30 of the code.

There are no other parts of the Village of Palmetto Bay zoning code, Chapter 30 that are contravened by this application.

Finding: Consistent with the Zoning Code

4. Mitigative Techniques §30-30.4(c)4

The conditional use and site plan shall incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not unduly burdened with adverse impacts detrimental to the general public health, safety and welfare.

Analysis: The monopole antenna is within height and setbacks requirements, and completely camouflages the monopole as a Norfolk Island pine tree as mitigation to the zoning considerations of visual impact and compatibility. The plan meets all engineering conditions to assure public safety regarding fall radius, wind loads and hazards to aviation.

Finding: Acceptable.

5. Hazardous Waste §30-30.4(c)5

No conditional use which generates hazardous waste or uses hazardous materials shall be located in the village unless the specific location is consistent with the comprehensive plan, Chapter 30, and does not adversely impact wellfields, aquifer recharge areas, or other

conservation resources, as may be applicable now or in the future. The proposed use shall not generate hazardous waste or require use of hazardous materials in its operation unless the village council approves conditions requiring mitigative techniques designed to prevent any adverse impact to the general health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material, and regulate its use, storage and transfer consistent with best management principles and practices.

Analysis: There are no hazardous material production, storage, transfer or hazardous by products identified as being produced or present by the project.

Finding: Not Applicable.

ANALYSIS: WIRELESS COMMUNICATION TOWER REVIEW CRITERIA

The intent of the public hearing criteria and requirements of §30-60.30(i) through §30-60.30(l) regarding telecommunication towers is to address and balance the residents zoning-related concerns regarding the construction of wireless telecommunication towers in their community. These concerns may include, but are not limited, to safety, aesthetic, and compatibility conflicts when these facilities are located in close proximity to residential uses and the recognized need of the services the wireless telecommunication towers provide to the public. These issues shall be reviewed pursuant to the adopted standards on a case-by-case basis for each request. The Village Council shall consider and weigh the aesthetic impact and compatibility issues with the public benefit derived from having efficient and reliable wireless telecommunications systems when determining whether or not to approve the application. Additionally, the Village Council and planning and zoning departments shall adhere to all FCC requirements and guidelines, as enacted or amended.

Visual Impact §30-60.30(i)

In addition to general review criteria, in order to be approved, towers and antennas shall be designed, as determined by the village, to blend into the surrounding environment through the use of color, texture, and/or camouflaging architectural treatment, or by reason of existing conditions, to minimize its visual intrusiveness and negative aesthetic impact. When considering approval of an application the village shall review such application with consideration of the following factors:

Aesthetic / Visibility Criteria		Finding	
1.a	Whether the tower will be readily visible.	The tower will be visible from certain locations that are close to the monopole, but not visible from most locations in protected residential areas. Where visible, it will be visible as a tree.	ACCEPTABLE
1.b	Whether the proposed facility/tower will, as determined by the village, unreasonably interfere with the view from any public park, historic building or district, or scenic road corridor.	One of the balloon test sites was performed for the nearest park, Wayside Park. The balloon test results show that the tower will not be visible from the park. There are no other historic sites or scenic roads nearby.	ACCEPTABLE
1.c	Type of tower, the shape and width of the facility relative to its height, and the color, texture, and reflectivity of materials, with neutral colors and nonreflective materials being given preference, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.	The monopole tower is camouflaged as a pine tree with artificial pine branches affixed to conceal the tower and antenna to provide a natural appearance that aesthetically blends in with the community as much as possible.	ACCEPTABLE
1.d	Type of antennas proposed for the tower, with narrow profile antenna arrays being given preference, if feasible.	The proposed monopole has three arrays at three levels: 100 ft., 90 ft. and 80 ft. All of the arrays are completely camouflages by the "pine tree branches."	ACCEPTABLE

Aesthetic / Visibility Criteria		Finding	
1.e	Nature of uses on adjacent and nearby properties and the relationship of the proposed facility to the character and scale of surrounding structures and uses, with preference being given to sites adjacent to nonresidential uses.	The monopole tower is completely within an existing large-scale commercial shopping center, with business use to the north and west. To the south is a 2-story multi-family residential development, and to the east a 1 and 2-story single family development ("Casa del Campo"). The proposed monopole is 163'-11" from the nearest point of the multi-family and over 230' from the nearest single family property. With consideration of setbacks, buffering, landscape and camouflage, the proposal satisfies the criterion.	ACCEPTABLE
1.f	On-site and surrounding tree coverage and foliage.	The overall site is surrounded by a maintained landscape buffer on the south and east sides, and the secured monopole compound will include a 5-foot landscape buffer with 8'-high green buttonwood, mimosa ground cover and five 14'-high live oaks.	ACCEPTABLE
1.g	The effectiveness of the use of screening and concealment devices and techniques, including but not limited to the use of structural camouflaging, buffer walls, opaque fencing and landscaping.	See 1.f.	ACCEPTABLE

Design and Construction §30-60.30(j)

Tower and antenna design and construction requirements. New or replacement towers and antennas shall meet the following design and construction requirements.

Design and Construction Criteria		Finding	
1.	The base of the tower, anchors, and any accessory facility or building shall be substantially screened from view from public streets and adjoining and nearby protected residential properties with a combination of evergreen and deciduous trees and shrubs, except when the village council determines a design of nonvegetated screening better reflects and complements the architectural character of the surrounding neighborhood. The use of all types of barbed wire, razor wire, and similar items is prohibited. No types of chain link fencing shall be used as buffering or screening material. Additionally, the following minimum landscaping shall be required:	The monopole tower is completely within an existing large-scale commercial shopping center, with business use to the north and west. To the south is a 2-story multi-family residential development, and to the east a 1 and 2-story single family development ("Casa del Campo"). The proposed monopole is 163'-11" from the nearest point of the multi-family and over 230' from the nearest single family property. Fencing is used for security purposes that is behind and concealed by landscaping. With consideration of setbacks, buffering, landscape and camouflage, the proposal satisfies the criterion.	ACCEPTABLE (see below)
1.a	A row of shade trees at least eight feet in height, at a maximum distance of ten feet apart, shall be planted around the perimeter of the fence.	The monopole compound landscaping includes five 14'-high live oaks.	ACCEPTABLE

Design and Construction Criteria		Finding
1.b	A continuous hedge at least 30 inches in height at planting and capable of growing to a height of 36 inches within 18 months shall be planted on the outside of the perimeter of the fence and tree line.	The monopole compound will include a 5-foot landscape buffer with 8'-high green buttonwood around the entire perimeter. ACCEPTABLE
1.c	All landscaping shall be properly maintained to insure good health and viability.	To be assured through code compliance and condition for 1.e. (below) APPROVAL CONDITION
1.d	In locations where the impact of the personal wireless service facility would be minimal, the planning and zoning director may waive or reduce the landscaping requirements.	All landscape requirements are met. ACCEPTABLE
1.e	The provider shall provide a maintenance agreement providing for perpetual maintenance of the landscaping during the existence of the telecommunication site, and provide a performance bond to ensure same, should provide declare bankruptcy and/or fail to maintain the landscaping.	To be included as a condition of approval. APPROVAL CONDITION
2.	All ground-mounted commercial wireless telecommunication service towers shall be of a monopole design unless the village determines that an alternative design would better blend in to the particular surrounding environment.	Proposal is for a monopole ACCEPTABLE
3.	With the exception of necessary electric and telephone service and connection lines approved by the village, no part of any tower, anchoring devices, or guys, equipment or wires or braces in connection with either shall at any time project across or over any part of a public right-of-way, public street, highway, sidewalk, easement unless agreed to by the easement holder, or property line.	No part of the monopole or any associated structure projects across any part of a public right-of-way, public street, highway, sidewalk, easement, or property line. ACCEPTABLE
4.	Every tower affixed to the ground shall be designed to discourage climbing of the tower by unauthorized persons.	The compound is secured with a locking 6'-high fence. ACCEPTABLE
5.	Only one tower shall exist at any one time on any individual protected residential property as defined in this article.	Only one tower is proposed for the site. ACCEPTABLE
6.	All ground-mounted commercial wireless telecommunication towers shall be located to create a collapse zone equal to one-fourth of the tower's height. Such collapse zone shall be free of all buildings, except for those associated with the commercial wireless telecommunication facility and those located on the zoning lot the tower is proposed to be located on.	The proposed 115' monopole requires collapse zone of 29'. The nearest building is 163'-11" away. ACCEPTABLE

Tower Setbacks §30-60.30(k)

All towers shall conform with the following minimum setback requirements:

Tower Setback Criteria		Finding	
1.	Towers shall meet the setbacks of the underlying zoning district.	The tower meets all setbacks of the underlying B-2 Zoning District.	ACCEPTABLE
2.	New towers shall be setback from the public rights-of-way of thoroughfare plan roads, as shown on the most recently amended village street plan, by a minimum distance equal to one-half of the height of the tower including all antennas and attachments.	The proposed 115' tower requires a 57'-6" setback from the nearest public right-of-way which is SW 92 nd Avenue. The proposed tower is setback 213'-7" from SW 92 nd Avenue.	ACCEPTABLE
3.	New towers shall not be located in the public rights-of-way of nonthoroughfare plan roads. However, new antennas may be located on existing towers, poles and other structures in all public rights-of-way.	The proposed tower is not located in a public rights-of-way of nonthoroughfare plan roads.	ACCEPTABLE
4.	Towers shall not be located between a principal structure and a public street, with the following exceptions:	The proposed monopole is to be placed within the site, and will not be in a front, side or rear yard area.	ACCEPTABLE
4.a	On sites with public streets on all sides, towers may be placed within a side yard that abuts a local street.	The monopole site does not have public streets on all sides.	NOT APPLICABLE
4.b	A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the village council, only to allow the integration of a tower onto an existing or proposed structure or building such as a church steeple, light standard, power line support device (e.g., power line tower), or similar structure.	The proposed tower is not integrated into an existing structure.	NOT APPLICABLE
4.c	Towers erected on any protected residential property are also subject to the setback provisions of subsection (l) below.	The proposed monopole is not in a protected residential property.	NOT APPLICABLE

Tower Height §30-60.30(1)

All proposed towers shall conform with the following maximum height requirements:

Tower Setback Criteria		Finding
1.	The height of towers shall be determined by measuring the vertical distance from the tower's lowest point of contact with the ground to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure and tower must meet the height restrictions listed below.	The ground-mounted monopole height is measured from the lowest point of contact. ACCEPTABLE
2.	On all protected residential property as identified at subsection (f), the maximum height of any tower, including all antennas and other attachments, shall be 35 feet. The height limitation does not apply to Class I—IV, which are regulated at subsection (3), below. The height limitation for any tower on protected residential property utilizing camouflaging architectural treatments and techniques in constructing the facility shall be as specified in subparagraph c. below.	The proposed monopole is not in a protected residential area. NOT APPLICABLE
3.	Except as stated in subsection (l)(2) above, in all zoning districts, the maximum height of any tower not mounted on an existing building, including antennas and other attachments, shall not exceed one foot for each two feet the tower is setback from adjacent protected residential property. However, in no event shall any ground-mounted tower exceed the following heights: Three or more levels of arrays: 200 ft. Two levels of arrays: 160 ft. One level of arrays: 100 ft.	The proposed monopole has 3 levels of arrays. The entire tower is 115' in height. The highest level of antenna arrays . ACCEPTABLE
4.	Towers shall not be located between a principal structure and a public street, with the following exceptions:	See below: NOT APPLICABLE
4.a	Towers mounted on existing buildings shall comply with the requirements of subsection (r), below.	The proposed monopole is not mounted to an existing building. NOT APPLICABLE
4.b	In accordance with the Federal Communication Commission's preemptive ruling PRB1, towers erected for the sole purpose of supporting amateur radio antennas may exceed 35 feet in height provided that determination is made by the village, based on evidence submitted by the applicant, that the proposed tower height is technically necessary to successfully engage in amateur radio communications.	The proposed monopole is not intended for amateur radio communications. NOT APPLICABLE

Tower Lighting §30-60.30(m)

Towers shall not be illuminated by artificial means and shall not display strobe lights, except for aviation caution lights shielded from sight from the ground, unless such lighting is specifically required by the Federal Aviation Administration, local emergency medical services or other federal or state authority for a specific tower. When incorporated into the approved design of the tower, and when in accordance with all other appropriate portions of this Code, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

Analysis: Non-safety related or regulated illumination of the proposed camouflaged tower is not included in the proposal. No commercial lighting of any kind will be permitted on the camouflaged tower.

Finding: Acceptable

Signs and Advertising §30-60.30(n)

The use of any portion of a tower for signs, other than warning or equipment information signs, is prohibited. Warning signs for high voltage and trespassing. No signs, including commercial advertising, logo, political signs, flyers, flags, or banners, but excluding warning signs, shall be allowed on any part of an antenna or tower. Any signs placed in violation of this section shall be removed immediately at the facility owner's expense. If high voltage is necessary for the operation of the communication tower, associated equipment, or backhaul network or any accessory structures, "HIGH VOLTAGE—DANGER" warning signs shall be permanently attached to the fence or wall and spaced no more than 40 feet apart. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and spaced no more than 40 feet apart. The height of the lettering of the warning signs shall be at least 12 inches in height. The warning signs shall be installed at least five feet above the finished grade. The warning signs may be attached to freestanding poles if the content of the sign may be obstructed by landscaping.

Analysis: Non-safety related signage is not included in the proposal. No commercial signage of any kind will be permitted on the camouflaged tower.

Finding: Acceptable

RECOMMENDATION

Based on the analysis and findings contained in this report, Village planning and zoning staff recommends approval of the proposed conditional use and site plan.



Mark Alvarez
Interim Planning & Zoning Director