

AGENDA ITEM VII.

PUBLIC MEETING OF THE DESOTO COUNTY PLANNING COMMISSION HELD ON TUESDAY, December 05, 2017 AT 5:30 PM IN THE COUNTY COMMISSIONERS' MEETING ROOM ARCADIA, FLORIDA

I. CALL TO ORDER

Chairperson William Martin called the December 5th, 2017 Planning Commission meeting to order at 5:30 pm.

II. PLEDGE OF ALLEGIANCE

Chairperson Martin led the Planning Commission in the pledge of allegiance.

III. ROLL CALL

Chairperson Martin requested Ms. McEwen call the roll and the following persons were in attendance:

Members in Attendance

Chairperson, William "Bill" Martin
Vice Chairperson, Larry Hudson
Commissioner, Judy Kirkpatrick
Commissioner, Melinda Masters
Commissioner, Mike Provau
Commissioner, Mel Jackson
Commissioner, Alternate, Morrisia Stewart

Others in Attendance

Development Director, Earl R. Hahn
Planning Technician, Kathy Heitman
Administrative Assistant, Stevee McEwen
County Attorney Don Conn

IV. SET OR AMEND THE AGENDA

Chairperson Martin requested a motion to approve or amend the agenda. Commissioner Masters moved to approve, which motion was seconded by Commissioner Provau, and which motion was approved unanimously.

V. PUBLIC FORUM FOR NON-AGENDA ITEMS

Chairperson Martin opened the floor to the public so that they could address the Planning Commission on any items that was not on this evening's agenda. There being no request to address the Planning Commission, Chairman Martin closed the floor for non-agenda items.

VI. PROOF OF PUBLICATION

Chairperson Martin requested a motion to approve filing the proof of publication. Commissioner Provau moved to approve and file proof of publication. Commissioner Masters seconded the motion, and the motion was approved unanimously.

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Commissioner Kirkpatrick brought to the attention that the date was wrong in the publication. County Attorney Don Conn explained that the sign posted did have the correct date and the publication for the next hearing will be corrected.

VII. PLANNING COMMISSION MEETING MINUTES

Chairperson Martin requested a motion to approve or amend the Planning Commission meeting minutes. Commissioner Masters moved to approve the November 7th, 2017 minutes with a change on page 5 from recreational vehicles to mobile homes, which motion was seconded by Commissioner Stewart, and approved unanimously.

VIII. DEVELOPMENT DIRECTOR COMMENTS

Development Director Hahn stated that terms of office for Commissioner Jackson and Chairperson Martin expire on December 31st, 2017 and he requested confirmation from each Commissioner that they would like to continue serving. Both Commissioners responded in the affirmative and Director Hahn stated he will add to the December 12, 2017 Board hearing an agenda item re-appointing them to the Planning Commission.

IX. ACTION ITEMS

- A. *A Resolution of the Desoto County Board of County Commissioners granting to Applicant North American Towers, LLC. a special exception use development order with conditions to allow within the Agricultural (5) zoning district communication transmitting and receiving facilities near the southwest corner of the intersection of SW Highway 72 and SW CR 769, Arcadia, Florida, the Property Identification Number being 06-38-24-0000-0020-0000; incorporating the whereas clauses; incorporating the Development Department Report; and providing an effective date.*

Development Director Hahn read the title of the resolution into the record. He stated that he does not have any objections from the applicant and wanted to introduce into the record the development review report and the application that is filed with the Department. He then gave a brief power point presentation explaining the proposal, requirements, and site. Director Hahn concluded that it is in conformance with the Land Development Regulations and recommended approval subject to conditions.

Chairperson Martin opened the floor to allow the Planning Commissioners to question staff. Vice Chairperson Hudson questioned the setback of the tower noting that it could result in a substantial loss of agricultural lands. Director Hahn explained the LDR require a setback equal to the height of the tower.

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Planning Technician Kathy Heitman stated that the compound area is 80 feet by 80 feet and the rest of the area will be open for agricultural use.

Commissioner Masters questioned the statement in the report that states a local government may impose reasonable surety requirements. She asked how that would be calculated. Director Hahn explained that the LDR allows the imposition of conditions or safeguards on special exception uses and that the cost of the surety is negotiated between the County and the Applicant based upon the reasonable amount for removal.

Vice Chairperson Hudson inquired about who determines the landscaping plans around the fence line. Director Hahn stated that if approved, an Improvement Plan will need to be filed along with a landscape plan demonstrating the equipment will be hidden. He noted that although the LDR does not have any landscaping requirement for towers, such requirement can be imposed through the special exception use process.

Commissioner Masters inquired about the future lease spaces on the tower. Director Hahn explained that the compound area drawing demonstrates that five equipment spaces are available to serve the tower, which number corresponds to the number of antenna array on the tower.

Commissioner Kirkpatrick stated that she is aware of the poor reception in that part of the county and asked if we are aware of the service providers that will be a part of the tower. Director Hahn stated that the applicant is in a better position to answer that question.

Commissioner Masters questioned the Director's findings the application was inconsistent with the Comprehensive Plan. Director Hahn explained that state law requires the Future Land Use Element (FLUE) provide a list of the uses allowed within each Future Land Use Map (FLUM) category. He noted that communications equipment is not listed as an allowable use in the Rural/Agricultural category. Nonetheless, the Board has allowed uses that are not listed as allowable uses within the Rural/Agricultural category. Director Hahn noted as an example that although the FLUE does not list recreational vehicle parks as an allowable use, because many recreational vehicle parks are operating within the Rural/Agriculture category, it can be concluded it is an allowable use. He noted that he had checked to see whether a particular tower off of SR-72 was within the Rural/Agricultural category but it was not. Director Hahn stated the burden of proof is on the Applicant to demonstrate that there is an existing tower within the Rural/Agricultural category and if such proof is

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provided, then he would be willing to concede the application is consistent with the Comprehensive Plan.

Chairperson Martin asked if the commissioners had any other questions for staff. There being no further questions, he opened the floor to the applicant.

Legal Counsel for North American Towers, Mary Solik, gave her address as 121 South Orange Avenue, Suite 1500, Orlando, Florida. She stated that she is going to address the questions the members have asked along with the four factors that Director Hahn has found not in compliance. Attorney Solik began her presentation by responding to Vice-Chairperson Hudson's comments on the effect on agricultural. She stated the applicant is proposing a lattice and not a guyed tower. Guyed Towers are lightweight to heavyweight towers supported by guy wires, which wires takes up a lot of space. In contrast, the lattice tower is self-supporting and can be accommodated within a small building footprint. She noted that within the 6,400 square foot lease area, the tower and five equipment spaces will be accommodated.

Attorney Solik addressed Commissioner Kirkpatrick's question about the surety by noting that the cost of removal is based upon an engineer's estimate and that based upon her experience the proposed tower removal cost is estimated to be around \$35,000.00. The surety is provided during the building permit process.

Commissioner Provau inquired about the space on the tower for multiple tenants. He stated that he did not see other towers with multiple carriers and asked if they had other towers with multiple carriers in Desoto County. Attorney Solik explained that they do not currently have any other towers in Desoto County. She stated that she did see other towers in the county and they did have more than one tenant. Planning Technician Heitman explained that the Building Division has received permits from various wireless providers that desire to collate on an existing tower.

Attorney Solik stated she agreed with the Director's conclusion the application was in conformance with eight (8) factors of approval but disagreed with his conclusion it was not in conformance with four (4) other factors. Attorney Solik presented into the record two Comprehensive Plan policies supporting her opinion the application was consistent with the Comprehensive Plan. She explained that the FLUE provides the LDR shall provide zoning districts to implement the FLUM categories and that the A-5 zoning district implements the Rural/Agricultural category. Since the A-5 zoning district allows communication transmitting and receiving facilities, then it is consistent with the Comprehensive

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Plan. Attorney Solik disputed the finding of nonconformance with the compatibility factor by noting that the LDR addresses compatibility by requiring the tower to have a setback equal to its height and not to the general setback standard for principal uses within the A-5 zoning district. Since the tower will meet the tower height setbacks, then it must be compatible. Attorney Solik attached nonconformance with factors ten on public utilities and eleven on detrimental visual intrusion by arguing the Director was requiring a line of sight and other analysis and the LDR imposes no such requirement on communication towers.

Commissioner Masters inquired about the visibility of the tower and questioned why it could not be camouflaged. Attorney Solik stated that it would be hard to hide a 250 foot tall structure. Commissioner Masters suggested a shorter tower or other options. Attorney Solik explained that the goal is to expand the coverage and the height is needed to match up with other towers in the area. The tower will have a three to five mile range of coverage.

Commissioner Provau asked if Attorney Solik had any objections to the condition being imposed by the Development Director and she affirmed she had no objections.

There being no further questions from the Planning Commission, Chairperson Martin opened the floor to the public. There being no further questions, he requested the Commissioners begin their deliberations. Each Commissioner then expressed their opinion and concerns about the application. When making their motion on the application, Director Hahn requested that the motion identify the number of factors used to approve or deny the application. Subsequently, Commissioner Kirkpatrick moved to approve the motion based upon conformance with eight of the twelve factors identified in the staff report, which motion was seconded by Commissioner Provau, and approved unanimously.

- B. *A Resolution of the Desoto County Planning Commission adopting Planning Commission Bylaws.*H*

Director Hahn explained the bylaws to the commissioners and stated that they had an option to make any changes or stay the same.

Chairperson Martin asked if the Commissioners had any questions for staff. There being no further questions, he asked for a motion to approve the bylaws.

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Commissioner Stewart moved to approve the bylaws, which was seconded by Commissioner Provau, and approved unanimously.

C. *Approve 2018 Regular Planning Commission Schedule @*H*

Director Hahn explained to the commissioners the reasons for a date change in January. With further discussion on the January date, the first meeting in January was scheduled for January 11, 2018. The remaining 2018 meeting dates will be approved during the next meeting.

X. **DISCUSSION ITEMS - NONE**

XI. **INFORMATIONAL ITEMS**

County Attorney Don Conn discussed the quasi-judicial ordinance. He explained that the feedback that he received was that the Planning Commission and Board of Adjustment will keep the current process. The Board modified the ordinance for the Board hearings.

XII. **NEW BUSINESS – NONE**

XIII. **OLD BUSINESS – NONE**

XIV. **PLANNING COMMISSION MEMBER REMARKS - NONE**

XV. **ADJOURNMENT**

The meeting was adjourned at 6:26 p.m.

PLANNING COMMISSION
DESOTO COUNTY, FLORIDA

William "Bill" Martin, Chairperson

Date