

Substandard Road Guidelines, Resolution No. 04-203, as amended. A payment of a substandard road fee may still be required.

7. In accordance with the Pasco County Land Development Code, Section 616.8, Personal Wireless Service Facilities, Submittal Requirements, the applicants have submitted all the required documentation for a Tier Three, 180-foot, monopole Personal Wireless Service Facility including, but not limited to, the following:

a. Narrative Information

Break Free Wireless, LLC, is a wireless internet provider. Ridan Industries, LLC, proposes to construct a 180-foot, above ground level, unipole-type (monopole) telecommunications tower designed to accommodate up to five additional tenants.

b. An executed maintenance agreement stating that Ridan Industries, LLC, shall be the sole party responsible for the maintenance of the access easement, including a bridge which is located in the easement.

c. A copy of the Federal Aviation Administration Aeronautical Study No. 2007-ASO-512-OE determination which states:

(1) This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s) are met:

(a) Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with *Federal Aviation Administration Advisory Circular 70/7460-1 K, Change 2*.

(2) This determination is based, in part, on the foregoing description, which includes specific coordinates, heights, frequencies, and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the Federal Aviation Administration.

(3) This determination does not include temporary construction equipment, such as cranes, derricks, etc., which may be used during actual construction of the structure; however, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the Federal Aviation Administration.

(4) This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft, and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

d. Documentation of location and site selection process, including search ring, location and siting criteria, opportunity sites in the area, and location and site selection methodology. The applicant has provided the following information:

"After review of their existing network, the cell phone companies that provide service in Pasco County determined that a new Personal Wireless Service Facility was needed within a specific area to provide their network coverage and capacity. The cell phone companies issue what is known as a "search ring." Upon receipt of the search ring, Ridan Industries, LLC, reviewed various governmental and private databases for existing towers in the search ring. Upon finding no existing Personal Wireless Service Facility, Ridan Industries, LLC, representatives then drove the search ring to determine whether any existing structures (other than existing personal wireless service facilities) could accommodate the needs of the cell phone companies. Ridan Industries, LLC, was unable to locate any existing structures of sufficient height. Ridan Industries, LLC, then reviewed the area and its existing land uses.

"Ridan Industries, LLC, spoke with landowners in the area who were not interested in entering into an agreement with Ridan Industries, LLC, for the placement of a Personal Wireless Service Facility on their property. Of those landowners interested in entering into an agreement, Ridan Industries, LLC, selected the parcel that best meets the requirements of the Land Development Code. Ridan Industries, LLC, selected the parcel on which a Personal Wireless Service Facility may be built without endangering wetlands or wildlife and is most compatible with the surrounding land uses."

- e. A letter from the Florida Department of Transportation's Aviation Office citing no objection to the proposed monopole Personal Wireless Service Facility.
- f. Alternatives, Analysis, and Comparison

Alternative No. 1 is to co-locate on the American Towers, Inc., tower along S.R. 54, northwest of the proposed Personal Wireless Service Facility. This process would comply with Tier Two Standards. This existing tower is approximately 2.5 miles from the geographic search ring. Utilizing this site will not meet the level of service requirements for the carrier. An additional tower would be needed in the area to meet the level of service needs.

Alternative No. 2 is to construct a lattice-type Personal Wireless Service Facility in the same location and to the same height as the proposed Personal Wireless Service Facility. This process would comply with Tier Three Standards. Ridan Industries, LLC, is willing to use this design if requested to do so; however, Ridan Industries, LLC, believes that the unipole type is more aesthetically pleasing and is a more appropriate design based on surrounding areas.

- g. Technical Information

- (1) Area served by the proposed Personal Wireless Service Facility

within Pasco County:

The Personal Wireless Service Facility will provide service for a distance of approximately 1.5 miles in all directions. The area to be served by the proposed Personal Wireless Service Facility includes the New River Ranchettes Subdivision and the Morris Bridge Road corridor.

outside Pasco County:

A small portion of northern Hillsborough County will be served by the proposed Personal Wireless Service Facility.

- (2) Relationship to other Personal Wireless Service Facilities and opportunity sites.

- (a) Three nearest existing Personal Wireless Service Facility sites for the same carrier.

The carrier has no existing sites in Pasco County.

- (b) Any proposed Personal Wireless Service Facility sites for the same carrier in the same service area as the proposed Personal Wireless Service Facility.

Other than the proposed Ridan Industries, LLC/Break Free Wireless, LLC, Personal Wireless Service Facility, there is no proposed Personal Wireless Service Facility by Break Free Wireless, LLC, in the same service area as the proposed Personal Wireless Service Facility. The carrier is proposing other Personal Wireless Service Facilities in Pasco County.

- (c) Existing Personal Wireless Service Facility sites for other carriers or other opportunity sites that can accommodate the proposed Personal Wireless Service Facility in the same service area as the proposed Personal Wireless Service Facility.

There are no existing Personal Wireless Service Facility for other carriers or other existing structures that can accommodate the needs of Break Free Wireless, LLC, in the same service area.

- (d) Any sites proposed by other carriers in the same service area as the proposed Personal Wireless Service Facility.

Vertex Development is proposing a 190-foot, monopole-type Personal Wireless Service Facility in the area. The Vertex site is approximately .84 mile away.

- 8. According to the Pasco County Geographic Information Systems' tower layer, there are no other existing Personal Wireless Service Facilities in Pasco County within one mile of the subject request.
- 9. Staff has noted that there is a proposed 190-foot, monopole Tier Three, Personal Wireless Service Facility in for review for another carrier within less than one mile of the subject request.
- 10. Staff has noted that both the Federal Aviation Administration and the Florida Department of Transportation applications are for a 199-foot, above ground level, monopole tower; however, the Tier Three application is for a 180-foot, above ground level, monopole tower. The applicant has provided the following justification:

"There are a couple of reasons why we run our air studies and receive determination for no hazard from the Federal Aviation Administration for higher heights than the actual structure height we apply for. The first is to provide an extra buffer of safety, filing at a higher height confirms that our crane heights at the time of construction will not create a hazard and gives aircraft on a day-to-day basis the extra buffer. Secondly, if we ever need to extend a tower, filing at a higher height, let us know if it is even possible.

"A Federal Aviation Administration determination of no hazard of 199 feet above ground level means that all structures built lower than that height are safe, refiling at 180 feet would be redundant. In no way does this give us the authority to build to that height, the local jurisdiction still has to approve the height, and in our case that is 180 feet above ground level."

- 11. The applicant has also provided the following information:

Ridan Industries, LLC, has requested a height of 180 feet to maximize coverage capabilities as well as maximize collocation potential of the tower. Carriers depend on unobstructed line-of-site conditions between their base stations and customers. Increasing the height of antennas above the tree line allows for the signal to travel farther before becoming obstructed; therefore, increasing the coverage capabilities of the site and reducing the need for additional towers in the area.

Also, this tower is designed to be co-located on. By providing enough levels where additional antennas can be placed, with adequate height to provide necessary coverage, this tower will have more appeal to potential customers which will in turn reduce the number of towers needed in the area.

- 12. Staff has noted that this request falls within ten nautical miles of two public-use airports: Zephyrhills Municipal Airport and Tampa North Aero Park. Both airports have received notice of the proposed Personal Wireless Service Facility.
- 13. Staff has received review comments from Mr. Charles W. Brammer, General Manager of the Tampa North Aero Park, providing the following:
 - a. This proposed site is within the vicinity of Tampa North Aero Park and Zephyrhills Municipal Airport, licensed, public-use airports that require compliance with the Federal Aviation Administration's notice of any proposed construction requirement pursuant to 14 CFR, Part 77, SS 77.13; the results of a valid aeronautical study of their proposal issued by the Federal Aviation Administration; and compliance with the Florida Department of Transportation's permitting of proposed construction pursuant to the provisions of Chapter 333.025, Florida Statutes.
 - b. The height of any structure should conform to and not exceed the minimum standards set forth in the Federal Aviation Regulations, Part 77, specifically, FAR 77.23 and FAR 77.25.

- c. The owner/developer should notify and obtain all required permits from the Federal Aviation Administration and Florida Department of Transportation prior to site plan approval or Building Permit issuance.
 - d. Prior to permitting for any structure, the applicant should provide a copy of the completed Federal Aviation Administration's Aeronautical Study and the Florida Department of Transportation's determination to the County.
 - e. Without the completion of the Federal Aviation Administration's Aeronautical Study and Florida Department of Transportation's determination, the County would be making a decision without knowing if the proposed structure would exceed the minimum standards set forth in the Federal Aviation Requirements, Part 77, specifically, FAR 77.23 and FAR 77.25, and/or be defined as an airport hazard, in accordance with Section 333.01, Florida Statutes.
 - f. Structures in the vicinity of the airport should not exceed, but should comply with, the standards set forth in FAR 77 in order to maintain the highest level of safety. Structures that exceed the standards set forth in FAR 77 encroach into the airport's airspace. Such an encroachment is a hazard to safe air navigation, endangering the lives and property of users of the airport and of occupants of land in its vicinity, and also reduces the size of the area available for the landing of aircraft; thus, tending to destroy or impair the utility of the airport and the public investment therein.
 - g. Furthermore, Florida Statutes, Section 333.01, Definitions, specifically Paragraph (3), defines "Airport Hazards" to mean any structure or tree or use of land which would exceed the Federal obstruction standards as set forth in Federal Aviation Requirements 77.21, 77.23, 77.25, 77.28, and 77.29 and which obstructs air space required for the flight of aircraft in taking off, maneuvering, or landing, or is otherwise hazardous to such taking off, maneuvering, or landing aircraft.
 - h. Florida Statutes, Section 333.02, Airport Hazards and Uses of Land in Airport Vicinities Contrary to Public Interest, specifically Paragraph (1), provides that, "it is hereby found that an airport hazard endangers the lives and property of uses of the airport and of occupants of land in its vicinity and also, if of the obstruction type, in effect reduces the size of the area available for the taking off, maneuvering, or landing of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Florida Statutes, Section 333.02, specifically Paragraph (1)(a), further provides that, "the creation or establishment of an airport hazard and the incompatible use of land in airport vicinities are public nuisances and injure the community serviced by the airport in question."
 - i. Our main concern is maintaining our airport for public use with the highest level of safety for not only its aviators, but for those who live in the vicinity of the airport.
14. Staff has also notified the Hillsborough County Aviation Authority. Per their response comments, this project will not require further coordination with the Hillsborough County Aviation Authority.
15. Staff received a letter dated April 8, 2008, from Arthur K. Peters, Pasco County's Tier Three Personal Wireless Service Facility consulting engineer, with the following technical review recommendations:
- a. It should be noted that Break Free Wireless, LLC, is authorized to operate by the Federal Communications Commission. My analysis considered compliance with the technical requirements of the Land Development Code, Section 616. Additionally, studies of the Federal Aviation Administration, Federal Communications Commission, and Maximum Permissible Radiation Exposure standards were performed.
 - b. The application was found to be in compliance with the following caveats. Break Free Wireless, LLC's, claim of coverage is approximately six to 20 miles. Its service depends upon unobstructed line-of-sight conditions between its base station and each customer. Those customer locations with local obstructions, such as trees, may require antennas above the tree level for adequate service. Therefore, there is, at most, a tower height justification for tree clearance. This application is well in excess of that requirement. Collocation on this tower by licensed Personal Wireless Service Facility carriers may justify a greater tower height.

- c. A review of potential alternative sites showed that there is a tower less than one mile from the proposed tower that has received the Federal Communications Commission's approval. This tower application was granted by the Federal Communications Commission more than a year ago, but has not yet been constructed.
- 16. Staff has received concerns from the property owners adjacent to the south regarding flooding and ponding on the southeastern portion of the property.
- 17. It is staff's opinion that an alternate location, on the northeastern portion of the property directly west of the tree line, would be more suitable, particularly from an access standpoint, providing direct access and not necessitating access through a bridge.
- 18. Staff has reviewed the proposed request in accordance with the Land Development Code, Article 300, Subsection 303.3.A.6, Standards for Approval of Conditional Uses, and with the applicable provisions of the Pasco County Comprehensive Plan and finds it consistent, as conditioned.
- 19. On June 2, 2008, the applicant requested a continuance to the July 24, 2008, 1:30 p.m., Development Review Committee meeting in Dade City in order to coordinate an alternate location for the proposed Personal Wireless Service Facility with the property owners. The applicant has been advised that the continuance request will also change the corresponding Planning Commission and Board of County Commissioners hearing dates.
- 20. At the June 12, 2008, Development Review Committee meeting, staff inadvertently requested a continuance to the July 10, 2008, Development Review Committee meeting.

STAFF RECOMMENDATION TO THE DEVELOPMENT REVIEW COMMITTEE:

Approval with Conditions

CONDITIONS:

- 1. The tower shall be placed on the northeast portion of the parcel near the tree line directly west, as close to the tree line as regulations allow. A revised site plan, including lease parcel and access easement legal description and agreement, will be required and must be submitted to Zoning/Code Compliance Department staff to show the revised location within 30 calendar days of the Board of County Commissioners hearing.
- 2. The subject tower will be restricted to 180 feet above ground level in height, must meet all required setbacks, and shall conform to and not exceed the minimum standards set forth in the Federal Aviation Requirements, Part 77, specifically, Federal Aviation Requirements 77.23 and 77.25.
- 3. The owners/developers shall obtain all required permits, if applicable, from the Federal Aviation Administration, the Florida Department of Transportation Aviation Office, and the Federal Communications Commission prior to site plan approval or Building Permit issuance.
- 4. At the time of site plan review, the owners/developers shall be required to comply with the Pasco County Comprehensive Plan, Conservation Element, Policy CON. 1.1.2, as follows:
 - 1.1.2 Impacts to Listed Species

Pasco County shall require the evaluation and management and/or mitigation of impact to animals listed as endangered, threatened, or species of special concern by requiring that proposed development sites be examined for the presence of plant and animal species listed as threatened, endangered, or of special concern by the Florida Fish and Wildlife Conservation Commission, or the U.S. Fish and Wildlife Service.

Confirmation of an adequate review of potential habitat for listed species shall be provided during the development review process.
- 5. The owners/applicants acknowledge that any provisions of Pasco County ordinances not specifically waived shall be in full force and effect.
- 6. The owners/developers shall submit a preliminary/site plan for review and approval in accordance with all requirements of Article 300, Section 306, Development Review Procedures, of the Land Development Code prior to use of the property for a communications tower.

7. In addition to complying with the above conditions, no activity shall commence on site until such time as the acknowledgment portion of this document is completed (including notarization) and received by the Zoning/Code Compliance Department.

OWNERS'/APPLICANTS' ACKNOWLEDGMENT:

The owners/applicants acknowledge that they have read, understood, and accepted the above-listed conditions of approval. **Do not sign until you receive a copy of this petition with the Board of County Commissioners results.**

(Date)

I hereby certify on this _____ day of _____, _____, A.D., before me personally appeared the owners/applicants, to me known to be the persons described in and who executed the foregoing document and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein expressed.

Witness my hand and seal at _____, _____ County, Florida, the day and year aforesaid.

My commission expires:

Notary Public, State of _____ at Large

DEVELOPMENT REVIEW COMMITTEE ACTION:

STAFF RECOMMENDATION TO THE PLANNING COMMISSION:

PLANNING COMMISSION ACTION:

Approval of Staff Recommendation: _____ Ayes; _____ Nays
Denial of Staff Recommendation: _____ Ayes; _____ Nays

STAFF RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS:

BOARD OF COUNTY COMMISSIONERS ACTION: