AGENDA
REGULAR MEETING OF THE CITY PLANNING AND ZONING BOARD
THURSDAY, JANUARY 10, 2019, AT 1:30 PM
COUNCIL CHAMBERS, CITY HALL, VERO BEACH, FLORIDA

I. PRELIMINARY MATTERS

Agenda Additions and/or Deletions

II. PUBLIC COMMENT

III. PUBLIC HEARINGS

[Quasi-judicial]
A. Site Plan Application Submitted by Crown Castle USA for the
   Construction of a 195 Foot Monopole Wireless Communication Tower
   Located Between 17th Street and 18th Street West of Indian River
   Boulevard (#SP18-000007)

[Legislative]
B. An Ordinance of the City of Vero Beach, Florida, Relating to the Tree
   Replacement Fund; Amending Title VII, Land Development, Chapter 72,
   Landscaping and Tree Protection, Section 72.43(i)(1) of the Code of the
   City of Vero Beach; Providing for Codification; Providing for Conflict
   and Severability; and Providing for an Effective Date.

   This item was tabled from the December 20, 2018, meeting.

IV. PLANNING DEPARTMENT MATTERS

V. BOARD MEMBERS’ MATTERS

VI. ADJOURNMENT

ANY PERSON AGGRIEVED BY A DECISION OF THE PLANNING AND ZONING BOARD RELATIVE TO SITE PLAN APPROVAL MAY
WITHIN TEN DAYS AND IN ACCORDANCE WITH SECTION 64.08(j) FILE AN APPEAL WITH THE PLANNING DIRECTOR OF THE
CITY OF VERO BEACH. ANYONE WHO MAY WISH TO APPEAL ANY DECISION THAT MAY BE MADE AT THIS HEARING WOULD
NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE THAT INCLUDES THE TESTIMONY AND
EVIDENCE UPON WHICH THE APPEAL WILL BE BASED.

ANYONE IN NEED OF SPECIAL ACCOMMODATIONS FOR THIS MEETING MAY CONTACT THE CITY’S AMERICANS WITH
DISABILITIES ACT (ADA) COORDINATOR AT 978-4920 AT LEAST 48 HOURS IN ADVANCE OF THE MEETING.

PUBLIC INVITED TO ATTEND
DEPARTMENTAL CORRESPONDENCE

TO: Chairman Lauffer and Members of the Planning and Zoning Board

THROUGH: Jason H. Jeffries, Planning & Development Director

FROM: Gayle A. Lafferty, Senior Planner

DATE: January 2, 2019

SUBJECT: Site Plan Application #SP18-000007 Crown Castle USA – Conditional Use Proposed for a 195-foot new non-stealth facility.

OVERVIEW

Location: South side of 18th Street (Between Indian River Blvd. and 5th Av.)

Tax ID Number: 33 39 01 00027 0020 00000.9

Proposed Use/Conditional Use: A new 195-foot non-stealth facility

BACKGROUND

The applicant is proposing to construct a 195-foot replacement non-stealth facility for the existing wireless communication facility located within the City’s power plant property. The current tower location will be decommissioned as part of infrastructure changes at the current location. There are no other structures of sufficient height in the area that will provide sufficient elevation to replace the current tower. The loss of this facility will create significant gap in service due to the distance to other towers. The subject property is located north of 17th Street and south of 18th Street, it is approximately 500 feet west of Indian River Boulevard and 1300 feet south of State Road 60.

The proposed site is designated “RM – Residential Medium” in the Comprehensive Land Use Plan and the Zoning classification is “POI – Professional, Office & Institution”. A new non-stealth facility up to 199 feet is an allowable conditional use in the POI Zoning District.

The proposed project requires both major, and conditional site plan approval by the Planning and Zoning Board. On March 26, 2018 the applicant conducted a Neighborhood Meeting (attached) for the proposed project. The meeting was attended by the applicant and those involved with the project.
SITE PLAN EVALUATION

Section 64.10 requires that all approved site plans and amendments to site plans shall meet certain general review, performance, and development standards. The staff finds that the proposed site plan meets all these standards. Of these standards, the two most relevant to this project are the performance standards for the proposed use, design, and layout of the development and the project's compliance with all pertinent provisions of the Land Development Regulations. The staff's specific analysis and findings regarding these two standards are discussed below:

- **Compliance with all pertinent provisions of part III, land development and other pertinent provisions of this Code (Sec. 64.10(a)(2))**

  **Analysis.** The site plan's compliance with all development regulations was reviewed by the Airport, Planning and Development Department, Public Works Department, Water and Sewer Department. The FAA conducted an aeronautical study concerning this project and determined that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities, provided that the structure is to be marked/lighted in accordance with FAA Advisory circular 70/7460-1 L Change 1, Obstruction Marking and Lighting, a med-dual system – Chapters 4, 8 (M-Dual), & 12. The site will be secured with protective anti-climb fencing eight feet tall. The structure also meets Code requirement to carry three wireless communication service providers. Attachment A provides information on how the project meets development regulations.

  **Finding.** The staff finds that the site plan is compliant with all pertinent provisions of part III, land development and other pertinent provisions of this Code.

- **Site design performance standards (Sec. 64.10(b))**

  **Analysis.** The layout of the proposed access drive creates no safety hazards and will not have any adverse impact on adjacent properties.

  **Finding.** The staff finds that the site plan is compliant with the performance standards of Sec. 64.10(b).
• Development standards (Sec.64.10(c))
  Analysis. The lighting will be shielded from adjacent properties by trees on site.

  Finding. The staff finds that the site plan is compliant with the development standards of Sec. 64.10 (5).

• Conditional use standards (Sec.64.10(d))
  Analysis.

Sec. 69.12 Conditional use criteria for certain non-stealth antenna-supporting structures in specific zoning districts.

(a) A 199 feet allowable in M and POI zoning district.

  • Height proposed – 195 feet

(b) Criteria for conditional use approval. Following conditions shall be met:
  (1) The new non-stealth antenna-supporting structure shall be designed, located, and proposed to be operated so that the public health, safety and welfare are protected.

  • The proposed location which is adjacent to commercial property yet buffered sufficiently from residential uses. The location provides continued coverage to the barrier island when the existing tower is removed upon demolition of the city’s power plant.

  (2) The proposed structure, if greater than 100 feet in height, shall be set back from rights-of-way as follows:
   a. If located within a POI zoning district, the antenna-supporting structure shall be setback by no less than 1,275 feet from the rights-of-way of State Road 60, Royal Palm Blvd, Beachland Blvd, and SR A1A.

  • Complies with all setbacks

(3) The new antenna-supporting structure is set back from residentially zoned lands by a minimum distance of 100% of the antenna-supporting structures height. If the applicant provides a written and sealed stated by a Florida licensed professional engineer certifying that the proposed antenna-supporting structure will employ breakpoint technology and identifying the proposed "fall zone radius", said residential separation may be reduced to the grater of the antenna-supporting structure’s fall zone radius or the setback requirements of the zoning district in which the antenna-supporting structure is located. The proposed antenna-supporting structure’s support equipment shall meet all setback requirements of the zoning district in which it is located.
• The fall zone radius letter indicates that a 46.0 feet zone would be the maximum fall radius in the event there was a failure of the structure. The proposed setback exceeds this requirement.

**Finding.** The staff finds that the site plan is compliant with the conditional use standards of Sec. 64.10(d)

**Recommendation:**

Staff recommends approval of the site plan and conditional use subject to the following conditions:

1. During construction and after final grading, no surface water run-off shall be directed to adjacent properties, and all surface water runoff shall be routed to approved drainage facilities as shown on the site plan.

2. All run-off from the site, both during and after construction, shall be free of pollutants, including sediment, prior to discharge. The site is subject to random inspections by the Public Works Department to ensure compliance with the provisions of the City’s erosion and sediment control requirements in Section 73.33 of the City Code.

3. The applicant shall also provide the Department of Public Works with a copy of the Notice of Commencement and shall be subject to random inspection for compliance with Section 73.33.

4. Please provide on signed original copy of the Right-of-Way permit application.

5. A swale is required to be maintained within the right-of-way through the driveway. The swale design (existing and proposed topography) should be included on the plan. The adjacent stormwater inlet should be shown on the plan with survey information.

GAL
Atts
ATTACHMENT A
CROWN CASTLE MONOPOLE
PROJECT FACT SHEET

Project Description

Proposed 195-foot new non-stealth facility to replace existing tower located on City Property.

General Information

Location: South of 18th Street (Between Indian River Blvd. and 5th Ave.)
Owner: Shiva 17th Street LLC
Applicant: Crown Castle USA c/o Hill Ward Henderson
Engineer: P. Marshall & Associates
Tax ID Number: 33 39 01 00027 0020 00000.9

Site Information

Future Land Use Designation: POI – Professional, Office & Institutional
Zoning Designation: RM – Residential Medium
Proposed Use: New non-stealth facility is a permitted conditional use in the POI Zoning District
Area of Development: 0.20 acres (8,674 sf)

Surrounding Zoning

North: RM-10
East: POI
South: POI
West: RM-10

Surrounding Existing Land Uses

North: Vacant
East: Medical/Office
South: Vacant
West: Multi-Family Residential
## Development Specifications

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<th>Specification/Code Citation</th>
<th>Required/Allowed</th>
<th>Proposed</th>
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<tr>
<td>Height [Sec. 69.12 (a)]</td>
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<td>195</td>
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<td>Setback [Sec. 69.12(b)(3)]</td>
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<td>50</td>
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<td>Following Items [Sec. 69.06 (A) (a)]</td>
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Zoning

*Subject Site*
FLUM

Subject Site
Search Ring which evaluated Candidate potential Candidate sites:

City of Vero Beach:

Two separate parcels:

(A) **North Parcel**: Includes City of Vero Beach power plant. Florida Power & Light and City to develop into Multi-Use. **South Parcel**: City of Vero Beach water treatment Facility.

(B) **Raw Land Candidate Relocation Site** - Shiva

The Foundation for a Wireless World.
Neighborhood Meeting

Proposed Relocation of Wireless Communication Tower to the Vacant Property located between 18th Street and 17th Street to the west of Indian River Blvd.

Vero Beach City Hall, Council Chambers, 1053 20th Place, Vero Beach, FL
March 26, 2018 / 6:00 p.m. – 7:00 p.m.

<table>
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<tr>
<th>NAME</th>
<th>MAILING ADDRESS</th>
<th>EMAIL</th>
<th>TELEPHONE</th>
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<tbody>
<tr>
<td>Katie Cole, HWH</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Donna Carroll</td>
<td></td>
<td><a href="mailto:donna.carroll@crowncastle.com">donna.carroll@crowncastle.com</a></td>
<td>813.343.3852</td>
</tr>
<tr>
<td>Heather Wasnuck</td>
<td></td>
<td><a href="mailto:heather.wasnuck@crowncastle.com">heather.wasnuck@crowncastle.com</a></td>
<td>918.852.0673</td>
</tr>
</tbody>
</table>
March 9, 2018

Dear Neighbor:

Crown Castle USA, Inc., is hosting a Neighborhood Workshop pursuant to the City of Vero Beach Land Development Code sec. 64.08 to present information regarding the proposed relocation of a wireless communication tower to the property located at 465 18th Street, Vero Beach, FL 32960.

The meeting will be held in the Council Chambers at City Hall, 1053 20th Place, Vero Beach, FL on:

Monday, March 26, 2018

6:00 p.m. - 7:00 p.m.

For questions or information, please feel free to call Katie Cole, Applicant’s representative, at 727-724-3900 or katie.cole@hwhlaw.com

Very Respectfully,

Heather Wasnick
Real Estate Manager – South Area
March 16, 2018

Dear Neighbor:

Last week, you received a letter inviting you to a Neighborhood Workshop regarding a proposed wireless communication tower in the City of Vero Beach. Unfortunately, the specific address was inaccurate as the proposed site does not have an actual street address assigned. This is to confirm that there will be a Neighborhood Workshop on behalf of Crown Castle USA, Inc., pursuant to the City of Vero Beach Land Development Code sec. 64.08 to present information regarding the proposed relocation of a wireless communication tower to the vacant property located generally between 18th Street and 17th Street, to the west of Indian River Blvd. as depicted on the map below.

The meeting will be held in the Council Chambers at City Hall, 1053 20th Place, Vero Beach, FL on Monday, March 26, 2018, 6:00 p.m. - 7:00 p.m.

For questions or information, please feel free to call Katie Cole, Applicant's representative, at 727-724-3900 or katie.cole@hwhlaw.com

Very Respectfully,

Heather Wasnick
Real Estate Manager – South Area
STATE OF FLORIDA
COUNTY OF INDIAN RIVER

Before the undersigned authority personally appeared, Natalie Zollar, who on oath says that she is Classified Inside Sales Manager of the Indian River Press Journal, a daily newspaper published at Vero Beach in Indian River County, Florida; that the attached copy of advertisement was published in the Indian River Press Journal in the following issues below. Affiant further says that the said Indian River Press Journal is a newspaper published in Vero Beach in said Indian River County, Florida, and that said newspaper has heretofore been continuously published in said Indian River County, Florida, daily and distributed in Indian River County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The Indian River Press Journal has been entered as Periodical Matter at the Post Offices in Vero Beach, Indian River County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

<table>
<thead>
<tr>
<th>Customer</th>
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<th>Copyline</th>
<th>PO #</th>
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<td>956884 - HILL WARD HENDERSON</td>
<td>2951213</td>
<td>Notice of Neighborhood Workshop Crow</td>
<td></td>
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Pub Dates
March 10, 2018

Sworn to and subscribed before me this day of, March 12, 2018, by

[Signature]
Natalie Zollar

[X] personally known to me or
( ) who has produced ____________ as identification.

[Signature]
Karol Kangas
Notary Public

Notary Public - State of Florida
Commission Exp. July 28, 2021
SITE PLAN APPLICATION (MAJOR)
City of Vero Beach Planning & Development Department
1053 20th Place – P.O. Box 1389
Vero Beach, Florida 32961-1389
Phone (772) 978-4550 / Fax (772) 778-3856

APPLICANT: Crown Castle USA c/o Hill Ward Henderson
Telephone: 727-259-6791
Fax or Email: katie.cole@hwhlaw.com

MAILING ADDRESS: 600 Cleveland Street, Suite 800, Clearwater, FL 33755

PROPERTY OWNER: Shiva 17th Street LLC

OWNER ADDRESS: 8100 SW 178th Street, Miami, FL 33157

SITE ADDRESS: no address/18th Street Vero Beach

PARCEL I.D. NUMBER: 3320010027002000000.9

ZONING DISTRICT: PON

FLOOD ZONE: AE-5

CONDITIONAL USE? yes

PLANNED DEVELOPMENT? no

Floor Area Square Footage: Existing 0 Proposed 0

Number of Dwelling Units: Existing 0 Proposed 0

Number of Hotel/Motel Units: Existing 0 Proposed 0

Provide a brief description of specific modifications, as shown on the attached plans, and other development approval(s) being requested as part of this application: Proposed 195 ft. monopole wireless communication tower to replace existing tower located on City property.

This application is limited only to the specifically requested development approval. No permanent structure shall be located on City easements. In separate sheets, plans or documents attached to this application provide the specific information required by Pages 2 through 4 of this application, as applicable.

Any false statement, concealment, or misrepresentation in this application or plans, intentional or unintentional, shall be grounds for revocation of approval.

Applicant Signature Date
Katherine E. Cole 7/15/18

*Property Owner Signature Date
Katherine E. Cole

Application Fee: $1620.00 + $260.00

*N:Applications\Site Plan Application (Major) WITH Requirements
August 6, 2018

Tim McGarry, Director
City of Vero Beach Planning & Development
1053 20th Place
PO Box 1389
Vero Beach, FL 32961-1389

Re: Wireless Communications Tower
18th Street, Vero Beach, Florida
(Parcel ID 333901000270020000009)

Dear Mr. McGarry:

Enclosed herein please find original Owner’s Affidavits from Shiva 17th Street LLC (Property Owner) to Crown Castle USA (Crown Castle) and from Crown Castle to Katherine E. Cole, Esq. and the firm of Hill Ward Henderson to act as the agent to seek the necessary approvals related to the above referenced property application for Conditional Use Approval to construct a 195 ft. monopole communications tower (“Tower”).

If you have any questions, please do not hesitate to contact me directly at (727) 259-6791 or via e-mail at katie.cole@hwhlaw.com.

Sincerely,

HILL WARD HENDERSON

Katherine E. Cole, Esq.
Crown Castle USA, Inc., as the applicant for development of a wireless communication tower, hereby authorize Katherine E. Cole, Esq. and the firm of Hill Ward Henderson to act as the agent to seek necessary approvals related to the property generally located at:

18th Street, Vero Beach, Florida (Parcel ID 333901000270020000009)

and as further described on Exhibit “A” attached hereto and made part hereof.

Such authorization shall include representation for any application, conditional use, zoning, land use, special exception, site plan, building permit or other development approval that may be required from time to time.

Crown Castle USA, Inc.

By: ____________________________
Heather Wasnick
Its: Real Estate Manager

State of Georgia
County of Fulton

The foregoing instrument was acknowledged before me this 31st day of July, 2018 by Heather Wasnick, as Real Estate Manager of Crown Castle USA, Inc., a Pennsylvania corporation, on behalf of said corporation. She is personally known to me or has produced ______________________________ (type of ID) as identification.

______________________________
Notary Public

______________________________
(Print, Type or Stamp Name)

My Commission Expires: 3/4/2022
Exhibit A

Legal Description

The East 250 feet of Lot 1, Block 2, DR. RICHARD BULLINGTON’S SUBDIVISION, according to the Plat thereof, recorded in Plat Book 2, Page 5, St. Lucie County, now Indian River County, Florida, Public Records. Subject to easements and rights-of-way.

Parcel ID No. 333901000270020000009
Shiva 17th Street LLC, Owner of the property listed below, hereby authorize Heather Wasnick and the firm of Crown Castle USA, Inc. to act as the agent to seek necessary approvals related to the property generally located at:

18th Street, Vero Beach, Florida (Parcel ID 333901000270020000009)

and as further described on Exhibit “A” attached hereto and made part hereof.

Such authorization shall include representation for any application, conditional use, zoning, land use, special exception, site plan, building permit or other development approval that may be required from time to time.

Shiva 17th Street LLC

By: ____________________________

Print Name: Andrew Siew

Its: Manager

State of Florida
County of Broward

The foregoing instrument was acknowledged before me this 2nd day of August, 2018 by Andrew Siew as Manager of Shiva 17th LLC, a Florida limited liability company, on behalf of said company. He/She is personally known to me or has produced N/A (type of ID) as identification.

My Commission Expires:
Exhibit A

Legal Description

The East 250 feet of Lot 1, Block 2, DR. RICHARD BULLINGTON'S SUBDIVISION, according to the Plat thereof, recorded in Plat Book 2, Page 5, St. Lucie County, now Indian River County, Florida, Public Records. Subject to easements and rights-of-way.

Parcel ID No. 333901000270020000009
OVERALL PROPERTY LINE

SCALE: 1:75

GRAFIC SCALES

SCALE 1" = 50'

THE LEE FAMILY LLC.

PROPERTY LINES SHOWN FOR REFERENCE, CONTENTS OF SURVEY PROVIDED BY GEOLINE
NO TRESPASSING
VIOLATORS WILL BE PROSECUTED

Site Signage
Not to Scale

Standard Fence Elevation Details
Not to Scale

H-Frame Elevation
Not to Scale

Key Notes:
1. Corner, end or roll post 3" nominal, Schedule 40 pipe.
2. Line post, 2 1/2" Schedule 40 pipe, per ASTM-A53. Line posts shall be equally spaced at maximum 8'-0" OC.
3. Top rail 4" GRACE rail, 1/2" pipe per ASTM-F719.
4. Fabric, 6 oz. core, 1/4" mesh, conforming to ASTM-A921. All posts to be galvanized.
5. Te rail, minimum 1/2" of galvanized steel at posts and rails as a single wrap of fabric. Te and at tension hire by No. 3 ring spaced maximum 24" intervals.
6. Tension hire, 4 oz. of galvanized steel.
7. Barred rail, double strand 0.42" OD. Twisted hire to match ASH Fabrics 44A, 4 ft. Barred spaced on approximately 5" centers.
8. Finisher bar.
9. 3/8" diagonal rod with galvanized steel turnbuckles or diagonal threaded rods.
10. Fence corner post brace, 1-3/8" diameter each corner each party.
11. 1-1/4" minimum clearance front grade.
12. Finished grade.
13. Material sub-grade.
14. Finished grade shall be uniform and level.
15. Gate post, Schedule 40 pipe, for gate posts, 1" OD, 14" on 14" for double span gates per A570 pipe.
16. Gate frame, 1-1/2" pipe, per ASTM-F719.
17. Gate frame, 1-5/8" diameter pipe, per ASTM-F719.
18. Gate diagonal, galvanized steel, 1-1/2" pipe.
19. Deck rail, open gate holder, verify location in field prior to installation.
22. Corner post, concrete foundation (2000 psi)
23. Gate post, concrete foundation (2000 psi)

General Notes:
A. Install fence per ASTM F-561
B. Install Shan gate per ASTM F-600
C. Local ordinance of barrier fence permit requirements shall be complied if required.
D. Gate post & frame sizes are industry standards.
E. All pipes to be 1/2" galvanized not dry. ASTM A53 Grade "A" steel.
F. All gate frames shall be welded.
G. All hinges shall be coated with 10 coats of cold galvanized steel, or equivalent.
H. All open posts shall have end-caps.
I. Use galvanized No. 3 ring hire to fasten all signs.
J. Barbs may be permitted on wire of fence fabric.
K. Contractor shall provide and install synthetic locking mechanism on 24" gate coordinate an PM for final combination code.

P & M, MARSHALL & ASSOCIATES
STATE OF FLORIDA #053573

F. MARSH, PE
REGISTERED ENGINEER
2000 LF
Tinley Park, Illinois, USA 60477
(708) 312-3999

PATRICK W. MARSHALL, PE
REGISTERED ENGINEER
STATE OF FLORIDA #053573
2000 LF
Tinley Park, Illinois, USA 60477
(708) 312-3999
PROPOSED T-MOBILE ERICSSON RRUS-12 AT POSITION 2 (1 PER SECTOR, TOTAL OF 3)

PROPOSED T-MOBILE ERICSSON RRUS-32 AT POSITION 3 (1 PER SECTOR, TOTAL OF 3)

PROPOSED T-MOBILE RRUS-11 AT POSITION 1 (1 PER SECTOR, TOTAL OF 3)

PROPOSED T-MOBILE ERICSSON RRUS-32 AT POSITION 1 (1 PER SECTOR, TOTAL OF 3)

PROPOSED ATH TMA EISZOIPl3 AT POSITION 1 (4 PER SECTOR, TOTAL OF 12)

PROPOSED ATH ERICSSON RRUS-A2 AT POSITION 2 (2 PER SECTOR, TOTAL OF 6)

PROPOSED ATH ERICSSON RRUS-32 AT POSITION 3 (2 PER SECTOR, TOTAL OF 6)

PROPOSED T-MOBILE COMMSCOPE SBNHH-ID6565G ANTENNAS AT POSITION 2 (1 PER SECTOR, TOTAL OF 3)

PROPOSED T-MOBILE COMMSCOPE SBNHH-ID6565G ANTENNAS AT POSITION 3 (1 PER SECTOR, TOTAL OF 3)

PROPOSED ANTENNA ORIENTATION DETAIL @ 145' AGL.

PROPOSED PLATFORM TYP.
TO: Chairman Lawrence Lauffer and Planning and Zoning Board Members

FROM: Jason H. Jeffries, AICP Director of Planning and Development

DATE: January 3, 2019

SUBJECT: Public Hearing on an Ordinance to Amend Chapter 72, Article IV, Tree and Palm Protection

The public hearing for this item had been tabled from the December 20, 2018, meeting to January 10, 2019. Attached is the staff analysis included in the board packet for December 20, 2018 meeting. In addition, for the Board’s reference, Section 72.43 [Tree and Palm Protection – Mitigation required; tree replacement fund; mitigation exceptions] is also included. For the entire Tree and Palm Protection regulations, please refer to Article IV [Tree and Palm Protection] (Sections 72.41 through 72.48) in the City’s Land Development Code.

JHJ/tf
TO: Chairman Lawrence Lauffer and Planning and Zoning Board Members

FROM: Jason H. Jeffries, AICP
Director of Planning and Development

DATE: December 11, 2018

SUBJECT: Public Hearing on an Ordinance to Amend Chapter 72, Article IV, Tree and Palm Protection

Overview

The Tree and Beautification Commission is proposing text amendment to Chapter 72, Article IV, Tree and Palm Protection to expand the use of the tree replacement funds for installation and planting costs.

Background

The City of Vero Beach participates in the Tree City USA program. As a Tree City USA participant, the City of Vero Beach meets the following four core standards of sound urban forestry management: maintaining a tree board, having a community tree ordinance, spending at least $2 per capita on urban forestry and celebrating Arbor Day. The Tree Protection regulations in Chapter 72 of the Land Development Code (LDC) were adopted to comply with the Tree City USA program requirements for the community tree ordinance.

On November 15, 2018, the Tree and Beautification Commission proposed the following text amendment:

Chapter 72. Landscaping and Tree Protection
Article IV. Tree and Palm Protection
Section 72.43. Mitigation Required; Tree Replacement Fund; Mitigation Exceptions
(i) Tree replacement fund; alternative mitigation.

(1) There is hereby established a city tree replacement fund for the purpose and intent of providing applicants with an alternative means for mitigating the removal of specimen trees, protected trees, and protected palms by allowing payment by the applicant into such fund the amount that it would cost for purchase and installation of the required replacement trees and palms. The amount of such costs shall be as determined or approved by the city engineer. All amounts paid into the fund shall be reserved solely for the removal of invasive plants, purchase,
Chairman Lauffer & Planning Board Members  
Tree Protection Text Amendments  
December 11, 2018

relocation, planting, or maintenance or costs associated with planting, such as stump grinding, irrigation system installation and all required permitting for of trees and palms on public property and rights-of-way within the city. With the approval of city council, such funds may be used to purchase vacant property for the preservation of existing trees or palms of significant public interest.

The Tree and Beautification Commission is recommending the ordinance changes in order to expand their use of the tree replacement funds for installation or planting costs related to trees. Chapter 72 Landscape and Tree Protection is considered part of the City’s Land Development Regulations in Part III of the City of Vero Beach Code. Any amendments to the City’s Land Development Regulations are required to follow the process outline in Chapter 65 Planning and Zoning Authorities, which includes a review, recommendation, and finding by the Planning and Zoning Board that the proposed amendment is consistent with the goals, objectives and policies of the City’s Comprehensive Plan. Staff’s analysis and recommendations regarding the text amendment and its compliance with Tree City USA program guidelines is provided below.

Staff Review and Analysis

The staff reviewed the proposed text amendments to the Land Development Regulations based on the standards outlined in Section 65.22(i)(1) and (3) of the City of Vero Beach Code. The staff’s analysis and findings are as follows:

Justification for the Amendment. The Tree and Beautification Commission, within its duties under the Tree City USA program, has recommended the change to the Tree Replacement Fund established in the LDC. The Commission proposed the text amendments to expand the use of the tree replacement fund for installation and planting costs related to trees.

Based on staff analysis, the proposed language recommended by the Tree and Beautification Commission is too broad and may allow the use of the funds beyond tree preservation costs. Staff reviewed the Tree City USA guidelines, National Arbor Day Foundation model tree ordinance, and Tree Preservation Codes in other Cities.

Staff proposes the text amendment in the attached proposed ordinance to expand the use of the funds for costs related to planting trees, as recommended by the Tree and Beautification Commission, but ensure the funds continue to be used only for tree planting and preservation, as required by Tree City USA guidelines.

The staff finds the text amendment in the attached proposed ordinance to be justified and warranted pursuant to Section 65.22(i)(1) based upon the above facts.
Chairman Lauffer & Planning Board Members
Tree Protection Text Amendments
December 11, 2018

Consistency with the Comprehensive Plan. The staff finds the text amendment, as proposed by staff, to be consistent with the following objective and policies of the Conservation Element of the City's Comprehensive Plan:

Conservation Objective 5. Native Vegetation. The City should conserve, appropriately use, and protect native vegetative communities in Vero Beach by regulating land clearing and landscaping practices within the City.

Policy 5.1 The City shall enforce the provisions of its landscaping, tree protection, and land clearing regulations and continue to evaluate the effectiveness of these regulations in terms of their protection of native vegetative communities balanced with the rights of property owners.

Policy 5.3 The City should promote the use of native vegetation through its Land Development Regulations and within six (6) months of the effective date of this Comprehensive Plan shall adopt regulations that will require in most instances the removal of invasive species, listed as a Category I invasive plant by the Florida Exotic Pest Plant Council for all new development applications necessitating the removal of any healthy, protected trees or palms to allow construction of on-site improvements.

Expanding the allowable use of the tree preservation funds for any cost related to planting new trees is consistent with Policy 5.1 of the Conservation Objective 5, so long as the funds are only used for tree preservation. The text amendment proposed in the attached proposed ordinance continues the use of the funds for removal of invasive species is consistent with Policy 5.3.

Consistency with Land Development Regulations. The staff finds the text amendment, as proposed by staff, to be consistent with adopted City land development regulations.

Recommendation

The staff recommends the Planning and Zoning Board approval of the attached draft ordinance for transmittal to the City Council for favorable consideration.

JHJ
Attachment
ORDINANCE NO. 2019 -

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, RELATING TO THE TREE REPLACEMENT FUND; AMENDING TITLE VII, LAND DEVELOPMENT, CHAPTER 72, LANDSCAPING AND TREE PROTECTION, SEC. 72.43(i)(1) OF THE CODE OF THE CITY OF VERO BEACH; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Vero Beach ("City") established a City tree replacement fund for the purpose and intent of providing an alternative means for mitigating the removal of specimen trees, protected trees, and protected palms by allowing payment into such fund the amount that it would cost for purchase and installation of the required replacement trees and palms ("Tree Replacement Fund"); and

WHEREAS, the City’s Tree and Beautification Committee has recommended certain amendments to the City’s code related to the use of the Tree Replacement Funds in order to broaden or expand the scope of the use of the funds for tree planting projects, specifically to expend the funds for maintenance and installation costs, including but not limited to the costs associated with boring, installing irrigation, and to prepare the area for planting; and

WHEREAS, the Planning and Zoning Board, serving as the local planning agency under Florida Statute 163.3174, finds that the Code amendments provided in this Ordinance are consistent with relevant goals, objectives and policies contained within the City’s Comprehensive Plan; and

WHEREAS, the City Council of the City of Vero Beach ("City Council") finds that the Code amendments provided in this Ordinance serve a municipal purpose and promote and protect the public health, safety, and welfare,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA THAT:

Section 1 – Adoption of “Whereas” clauses.
The foregoing “Whereas” clauses are hereby adopted and incorporated herein as forming the legislative findings, purpose, and intent of this Ordinance.

Section 2 – Amendment of Section 72.43(i)(1), Tree Replacement Fund; Alternative Mitigation.
Section 72.43(i)(1) is hereby amended to read as follows:

Page 1 of 3
CODING: Words strieken are deletions; words underlined are additions.
(i) Tree replacement fund; alternative mitigation.

(1) There is hereby established a city tree replacement fund for the purpose and intent of providing applicants with an alternative means for mitigating the removal of specimen trees, protected trees, and protected palms by allowing payment by the applicant into such fund the amount that it would cost for purchase and installation of the required replacement trees and palms. The amount of such costs shall be as determined or approved by the city engineer. All amounts paid into the fund shall be reserved solely for the removal of invasive plants, purchase, relocation, costs directly related to tree planting, installation of tree-related irrigation systems, or maintenance of trees and palms on public property and rights-of-way within the city. With the approval of city council, such funds may be used to purchase vacant property for the preservation of existing trees or palms of significant public interest.

Section 3 – Codification.

The provisions of this Ordinance shall be codified in the Code of Ordinances of the City of Vero Beach, Florida.

Section 4 – Conflict and Severability.

In the event any provision of this Ordinance conflicts with any other provision of the Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this Ordinance, the more strict provision shall apply and supersede. If any provision of this Ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 5 – Effective Date.

This Ordinance shall become effective upon final adoption by the City Council.

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This Ordinance was read by title for the first time on the ____ day of _______________ 2019, and was advertised on the ____ day of _______________ 2018, for a public hearing to be held on the ____ day of _______________ 2019, at the conclusion of which hearing it was moved for adoption by Councilmember ________________, seconded by Councilmember ________________, and adopted by the following vote of the City Council:
Mayor Harry Howle III
Vice Mayor Lange Sykes
Councilmember Laura Moss
Councilmember Anthony W. Young
Councilmember Val Zudans

ATTEST:

CITY OF VERO BEACH, FLORIDA

__________________________
Tammy K. Bursick
City Clerk

__________________________
Harry Howle III
Mayor

ADMINISTRATIVE REVIEW
(For Internal Use Only—Sec. 2-77 COVB Code)

Approved as to form and
legal sufficiency:

__________________________
Wayne R. Coment
City Attorney

Approved as conforming to
municipal policy:

__________________________
James R. O'Connor
City Manager

Approved as to technical requirements:

__________________________
Cynthia D. Lawson
Finance Director

Approved as to technical requirements:

__________________________
Monte K. Falls
Public Works Director

Approved as to technical requirements:

__________________________
Jason H. Jeffries, AICP
Planning and Development Director

CODING: Words strieken are deletions; words underlined are additions.
Sec. 72.43. - Mitigation required; tree replacement fund; mitigation exceptions.

(a) **Applicability.** Except as otherwise provided in this section, the removal of any specimen tree, protected tree, or protected palm, or tree or palm required by an approved site plan or other development approval shall be mitigated by meeting or exceeding the total DBH required to be replaced either by the installation of replacement trees and palms and/or payment into the city tree fund pursuant to the requirements this section. Mitigation is not required for the removal of any trees and palms successfully relocated on site or off site in accordance with subsection (l) below.

(b) **Mitigation requirements.** The mitigation required for trees and palms to be removed and not relocated on site or off site shall be determined in accordance with the following procedures:

1. Within the front, side, and rear yard setbacks for principal buildings, the total DBH of each specimen tree removed, one-half the DBH of each protected tree removed, and one-half the DBH of each protected palm removed shall be calculated and summed for each of the three categories.

2. Outside the front, side, and rear yard setbacks for principal buildings, the total DBH of each specimen tree removed, one-half the DBH of each protected tree removed, and one-half the DBH of each protected palm removed shall be calculated and summed for each of the three categories.

3. The resulting total DBH calculated for each category in subsection (b)(2) shall then be multiplied by a DBH reduction factor of five percent.

4. The total DBH for each category in subsection (b)(1) above shall then be added to the resulting adjusted DBH values calculated in subsection (b)(3) above for each category as applicable. The resulting DBH sum for each category is the required mitigation for tree and palm removal.

(c) **Mitigation options.** Mitigation requirements of this section shall be met by the installation of replacement trees and palms pursuant to subsections (d) and (e) below, payment into the tree replacement fund pursuant to subsection (i) below, or a combination of replacement and payment into the tree replacement fund. Any of the required mitigation that is not met by replacement trees and palms shall be met through payment into the tree replacement fund.

(d) **Replacement specimen and protected trees.** Replacement trees for a specimen or
protected tree shall meet or exceed the following requirements:

(1) Replacement trees shall be of a species on a list recommended by the Florida Urban Forestry Council for Central Florida similar to the tree removed in terms of height and canopy spread at maturity. A replacement tree not on the aforementioned recommended list may be substituted with the approval of the planning director in consultation with the public works director.

(2) Multiple approved replacement trees meeting the requirements of this section may be installed to satisfy the DBH replacement requirement subject to the approval of their spacing and location by the planning director in consultation with the public works director.

(3) Each replacement tree shall be a minimum of three inches DBH at the time of installation.

(4) At the time of installation, each replacement tree shall meet the minimum height standards for the particular tree species in Matrices Numbers 1—5 in the latest edition of "Grades and Standards for Nursery Plants" published by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry.

(5) Replacement trees shall be Florida Grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.

(e) Replacement protected palms. Replacement palms for a protected palm shall meet or exceed the following requirements:

(1) Replacement palms shall be of a species on a list recommended by the Florida Urban Forestry Council for Central Florida similar to the palm removed in terms of height and canopy spread at maturity. A replacement palm not on the aforementioned recommended list may be substituted with the approval of the planning director in consultation with the public works director.

(2) Multiple approved replacement palms meeting the requirements of this section may be installed to satisfy the DBH replacement requirement subject to the approval of their spacing and location by the planning director in consultation with the public works director.

(3) Replacement palms shall be a minimum overall height of ten feet at the time
of installation.

(4) Replacement palms shall be Florida Grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.

(f) **Trees and palms required by an approved site plan or other development approval.** Mitigation for removal of any tree or palm required by an approved site plan or other development approval to meet the landscape or landscape buffer requirements of this Code or conditions placed on-site plan approval shall meet or exceed the following requirements:

(1) Removal of any tree or palm meeting the classification of a specimen tree, protected tree, or protected palm at the time of removal shall be mitigated pursuant to the requirements of this section for such classification of tree or palm with the condition that all or part of the mitigation requirement shall be met by replacement of the removed tree or palm in accordance with subsections (d) and (e) above.

(2) Removal of any tree or palm, other than a tree or palm meeting the classification of a specimen tree, protected tree or protected palm shall be mitigated by replacement with a species on a list recommended by the Florida Urban Forestry Council for Central Florida having the same or greater DBH and height. A replacement tree or palm not on the aforementioned recommended list may be substituted with the approval of the planning director in consultation with the public works director.

(3) Removal of any tree or palm meeting the classification of an invasive tree or invasive palm at the time of removal shall be mitigated by replacement with non-invasive species on a list recommended by the Florida Urban Forestry Council for Central Florida. A replacement tree or palm not on the aforementioned recommended list may be substituted with the approval of the planning director in consultation with the public works director.

(4) Replacement trees and palms shall be Florida Grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.

(5) Each replacement tree or palm shall meet the requirements and be installed on the site in accordance with sections 72.12 and 72.13.
**Time for mitigation.** The installation of replacement trees or palms and the relocation of trees and palms onsite, shall be completed within 30 days after removal of the tree or palm or if required in conjunction with a site plan or other development approval, all relocated trees and palms and the mitigation by installation of replacement trees or palms shall be completed prior to the final landscaping inspection or issuance of a certificate of occupancy. Such time may be extended by the planning director for good cause shown upon written request of the permit holder.

(h) **Inspection required.** The permit holder shall notify the planning and development department within five days after installation of the replacement and relocated trees and palms provided to meet the requirements of this section. Upon notification, the planning director shall make an inspection of the site and shall either approve the mitigation or notify the permit holder or his agent by electronic and regular mail of any violations which must be corrected in order to comply with the permit conditions and requirements of this chapter. In any instance requiring re-inspection, the permit holder shall pay the assessed re-inspection fee before compliance may be certified.

(i) **Tree replacement fund; alternative mitigation.**

(1) There is hereby established a city tree replacement fund for the purpose and intent of providing applicants with an alternative means for mitigating the removal of specimen trees, protected trees, and protected palms by allowing payment by the applicant into such fund the amount that it would cost for purchase and installation of the required replacement trees and palms. The amount of such costs shall be as determined or approved by the city engineer. All amounts paid into the fund shall be reserved solely for the removal of invasive plants, purchase, relocation, planting, or maintenance of trees and palms on public property and rights-of-way within the city. With the approval of city council, such funds may be used to purchase vacant property for the preservation of existing trees or palms of significant public interest.

(2) The applicant for a tree removal permit may mitigate the removal by payment into the city tree replacement fund the amount that it would cost for purchase and installation of the required replacement trees and palms in lieu of installing some or all of the required replacement trees or palms on the site. The removal of any tree or palm required by an approved site plan or
other development approval shall be mitigated by replacement pursuant to subsection (f) and, if any remaining mitigation is required due to the size of the removed tree or palm, it shall be mitigated pursuant to this section.

(3) The tree or palm removal permit shall not be issued until the applicant electing to mitigate tree or palm removal pursuant to this section has paid the amount approved for mitigation into the city tree replacement fund.

(j) **Exception to mitigation requirements.** Except for a tree or palm required by an approved site plan or other development approval, mitigation shall not be required for removal of a specimen tree or protected tree or palm that is dead or beyond recovery due to natural causes or that is in a weakened and unsafe condition due to age, storm, fire, insects, disease, or other natural causes.

(k) **Replacement trees and palms.** Any replacement tree or palm installed to meet mitigation requirements of this section or replacement of a tree or palm required by an approved site plan or other development approval that does not survive or is not thriving one year after installation shall be replaced with another tree or palm of a species on a list recommended by the Florida Urban Forestry Council for Central Florida similar to the tree or palm replaced in terms of height and canopy spread at maturity that meets or exceeds the minimum requirements for replacement trees or palms of this section. A replacement tree or palm not on the aforementioned recommended list may be substituted with the approval of the planning director in consultation with the public works director.

(l) **Relocated trees and palms.** Any specimen tree, protected tree, or protected palm may be relocated on site or off site onto public lands in the city. The following provisions shall apply to trees and palms to be relocated on site and off site as applicable:

(1) Any on-site relocation of a tree or palm is subject to approval by the planning director in consultation with the public works director.

(2) Any tree or palm relocated on site that does not survive or is not thriving one year after installation shall require mitigation pursuant to this section.

(3) No off-site relocation of a tree or palm shall be approved unless the applicant obtains written permission from the public works director to implement the necessary removal, transfer, and replanting of the tree and palm. Any costs associated with the relocation shall be entirely borne by the applicant unless otherwise agreed to in writing by the public works director.