



DESOTO COUNTY DEVELOPMENT DEPARTMENT STAFF REPORT

CASE #: USE 0188-2024

REQUEST: Special Exception: Telecommunications Tower

PROPERTY OWNER: Bernardo Hernandez-Villanueva and Isaias Hernandez
1712 SE Peach Drive
Arcadia, Florida 34266

PROPERTY ID: 12-38-24-0000-0096-0000

PROPERTY ADDRESS: 1316 SW Martha St., Arcadia, FL 34266

TOTAL PARCEL SIZE: +/- 17.026 acres

ZONING DISTRICT: A-5 (Agricultural- 5)

FUTURE LAND USE DESIGNATION: Neighborhood Mixed Use

OVERLAY DISTRICTS: Conservation Overlay District

DEVELOPMENT REVIEW REPORT

The applicant has applied for a Special Exception use application (USE 0188—2024) to allow a 200' telecommunications tower on a 17.026-acre property located on SW Martha Street. The property is zoned Agricultural- 5 (A-5) and located in the Neighborhood Mixed Use Future Land Use Category.

LDR Article XI, Division 5 requires the Planning Commission/Local Planning Agency to hold at least one public hearing with due public notice on the Special Exception use application and to provide a recommendation on the application to the Board of County Commissioners.

OVERVIEW OF REQUEST

The subject parcel is located at 1316 SW Martha Street (See Exhibit A) and is owned by Bernardo Hernandez-Villanueva and Isaias Hernandez. The owner is requesting a Special Exception to allow a telecommunications tower on site. The property is currently pastureland with an existing barn.

The 2040 Future Land Use Map shows the property is located within the Neighborhood Mixed Use Future Land Use Category (See Exhibit B) and the Official Zoning District Atlas shows the property is zoned Agricultural- 5 (A-5) (See Exhibit C).

A portion of the parcel is located within the Conservation Overlay District in the northwest corner of the site, which means there is the potential for jurisdictional wetlands. The lease area for the proposed telecommunications tower is located outside the limits of wetlands (to be field verified) on the survey.

Land Development Regulations (LDR) Section 20-127(1)c3, relating the Agriculture 5 District (A-5) provides for "Communication transmitting and receiving facilities, non-occupied" as a special exception use in A-5 provided the criteria for special exception uses in LDR Article XI, Division 5, are met. Additionally, Section 365.172(13)(b), Florida Statutes generally limits local government (including counties) review of applications for placement, construction, or modifications to a wireless communications facility to address aesthetics, landscaping, land-use-based location priorities, structural design, and setbacks. Here, the proposed site exceeds the required minimum lot size of 5 acres and is 17.026 acres.

An application for a Special Exception was received in the Development Department on July 12, 2024.

PROPOSED RESOLUTION

A RESOLUTION OF THE DESOTO COUNTY BOARD OF COUNTY COMMISSIONERS GRANTING A SPECIAL EXCEPTION USE DEVELOPMENT ORDER (USE-0188-2024) WITH CONDITIONS, TO AUTHORIZE A TELECOMMUNICATIONS TOWER ON A +/- 17.026 ACRE PARCE ZONED AGRICULTURAL-5 (A-5) AND LOCATED AT 1316 SW MARTHA STREET, AND IDENTIFIED WITH PROPERTY IDENTIFICATION NUMBER 12-38-24-0000-0096-0000; INCORPORATING THE WHEREAS CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

DATA & ANALYSIS

In all quasi-judicial proceedings, the applicant shall bear the burden of demonstrating with competent and substantial evidence that the application satisfies the applicable requirements of the LDR and Comprehensive Plan.

A. **Application requirements.** LDR Section 20-1431 requires that a Special Exception Use Application be submitted indicating the LDR basis on which the Special Exception use is sought and stating the grounds upon which it is requested, with reference to the types of findings which the Planning Commission must make, as described below. The application must demonstrate that approval of the Special Exception will be in harmony with the LDRs general intent and purpose, not be injurious to the neighborhood or to adjoining properties, or otherwise detrimental to the public's welfare. Evidence to support such includes, but is not limited to the following, where applicable:

1. Plans at an appropriate scale showing proposed placement of structures on the property, provisions for ingress and egress, off-street parking, and off-street loading areas, refuse and services areas, and required yards and other open spaces.

a. Placement of structures. *The request is for a 200' telecommunications tower as a Special Exception Use on private property zoned Agricultural-5. A barn is the only structure that exists on site. The applicant has submitted a site plan showing a proposed 100' x 100' lease area, with the proposed non-occupied tower located in a 60' x 60' chain link fenced compound in the center of the lease area. The tower will be a stand-alone lattice design, allowing for three antenna sets for co-location opportunities. Installation of the tower includes a 12' x 9'6" concrete pad, three steel equipment cabinets, and a 20 kilo-watt diesel generator and ancillary equipment.*

The A-5 zoning district allows non-occupied communication transmitting and receiving facilities with approval of a Special Exception. The LDR requires a minimum setback from any property boundary line equal to 100 percent of proposed tower height. The site plan shows the distance from property lines ranges from 266'-537', which is greater than the proposed tower height.

The proposed telecommunications tower is in Neighborhood Mixed Use future land use category and there are single family residences on adjacent properties. The site plan indicates the tower is planned a minimum of 500' from these adjacent residences.

*No additional structures or commercial activities are proposed. Based upon the above, the application can be found in **conformance** with this factor.*

- b. Provisions for ingress and egress. The proposed use is a non-occupied telecommunications tower. SW Martha Street dead ends at the subject property. The applicant proposes a 50' wide ingress/egress and utility easement from where SW Martha Street ends at the property boundary to the proposed 60' x 60' fenced compound for the telecommunications tower. A private 20' wide gravel road is proposed with a cattle guard at the entrance to the property. A 12' wide double swing access gate is also proposed at the entrance to the fenced compound. The Special Exception application states that access will not be available to the public. Based upon the above, the application can be found in **conformance** with this factor.*
- c. Off-street parking. The proposed use is a non-occupied telecommunications tower. The LDR does not have specific requirements for parking for this type of utility use. It will have occasional service vehicles visiting the site for maintenance but can be considered like a utility sewer lift station in terms of visitors/parking. The site plan does show a 20' x 100' parking and turnaround area at the entrance of the fenced compound, which should adequately accommodate parking needs for the site. Based upon the above, the application can be found in **conformance** with this factor.*
- d. Off-street loading. The proposed use is a non-occupied telecommunications tower. Loading is not required for this use, and therefore, this factor is not applicable.*
- e. Refuse and service areas. The proposed use is a non-occupied telecommunications tower. A solid waste collection plan has not been shown on the concept plan. If solid waste service is required for the use, it will be the applicant's responsibility to engage in a solid waste contract with the County's provider. Based upon the above, the application can be found in **conformance** with this factor with **conditions**.*
- f. Required yards and open space. LDR 20-127(2)(c) requires a minimum front yard setback of 50', a minimum side yard setback of 30', and a minimum rear yard setback of 50' in the A-5 zoning district. The A-5 district does not limit the amount of impervious site coverage. LDR 20-127(1)(c)3 requires a minimum setback from any property boundary line equal to 100 percent of proposed tower height and the site plan demonstrates that the minimum required setbacks will be*

*met, as the distance from property lines ranges from 266'-537'. Based upon the above, the application can be found in **conformance** with this factor.*

2. Plans showing proposed locations for utilities hook-up.

*Consistency analysis: The proposed use is a non-occupied telecommunications tower. The site plan does not show any plans for water and sewer. Electric service and fiber optics will be coordinated with local utility providers. No additional utilities are proposed. Based upon the above, the application can be found in **conformance** with this factor.*

3. Plans for screening and buffering with reference as to type, dimensions and characters.

*Consistency analysis: The proposed use is a non-occupied telecommunications tower on private property zoned Agricultural-5. While the buffer matrix in Section 20-600 does not expressly require a buffer for telecommunication towers adjacent to single family residential, the applicant has proposed 24 "Green Giants" planted at 10' on center outside the perimeter of the fenced compound to the north, east, and west on the Landscape Plan. Based upon the above, the application can be found in **conformance** with this factor.*

4. Plans for proposed landscaping and provisions for trees.

*Consistency analysis: The proposed use is a non-occupied telecommunications tower on private property zoned Agricultural-5. While the buffer matrix in Section 20-600 does not expressly require a buffer for telecommunication towers adjacent to single family residential, the applicant has proposed 24 "Green Giants" planted at 10' on center outside the perimeter of the fenced compound to the north, east, and west on the Landscape Plan. Based upon the above, the application can be found in **conformance** with this factor.*

5. Plans for proposed signs and lighting, including type, dimensions and character. All signs and lighting must follow the DeSoto County Land Development Regulations.

Consistency analysis: The proposed use is a non-occupied telecommunications tower. The applicant states that a site notification sign will be located at the property entrance. Warning and hazard signs will be

*located on the south face of the fenced compound. To meet FAA requirements, the tower is proposed to have a medium-intensity, white flashing beacon light to be used during the daytime and twilight hours. During the night, the light will change to a red flashing beacon per FAA requirements. The ground equipment area will have standard lighting to comply with County requirements. Based upon the above, the application can be found in **conformance** with this factor.*

The Special Exception application and proposed site plan were considered in applying the standards for the proposed telecommunications tower.

Based upon the findings and conclusions above, with conditions, it can be concluded that the applicant has demonstrated that approval of the Special Exception will be in harmony with the LDRs general intent and purpose, not be injurious to the neighborhood or to adjoining properties, or otherwise detrimental to the public welfare, if approved with the recommended conditions.

- C. **Planning Commission findings.** LDR Section 20-1433 provides that before any Special Exception use is recommended for approval to the Board of County Commissioners, the Planning Commission shall make a written finding that the granting of the Special Exception Use will not adversely affect the public interest, that the specific requirements governing the individual Special Exception Use, if any, have been met by the applicant, and that satisfactory provisions and arrangements have been made concerning twelve (12) matters, where applicable. These 12 matters and staff's evaluation of conformance with these matters is addressed below.

1. Compliance with all elements of the Comprehensive Plan.

*Consistency analysis: The 2040 Future Land Use Map shows the subject property is located within the Neighborhood Mixed Use Land Use (See Attachment B). The Neighborhood Mixed Use Future Land Use category consists primarily of residential uses in progressive degrees of urban intensity with higher density in areas adjacent to the Urban Center and less density/intensity in areas adjacent to the Low and Medium Density Residential and Rural/Agricultural categories. A portion of the property is within the Conservation Overlay District, but no development is proposed in that area. The applicant provided a letter from FDEP indicating the project is exempt from regulatory review, but a permit or authorization from the Army Corps of Engineers will be required. This application can be found in **conformance** with **conditions** with all elements of the Comprehensive Plan.*

2. Ingress and egress to property and proposed structures thereon with reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

a. Automotive safety and convenience.

*Consistency analysis: The proposed Special Exception is a request to allow a 200' telecommunications tower on private property zoned A-5. SW Martha Street dead ends at the subject property. The applicant proposes a 50' wide ingress/egress and utility easement from where SW Martha Street ends at the property boundary to the proposed 60' x 60' fenced compound for the telecommunications tower. A private 20' wide gravel road is proposed with a cattle guard at the entrance to the property. A 12' wide double swing access gate is also proposed at the entrance to the fenced compound. The use is a utility use and does not have regular visitors via automobile, just occasional maintenance vehicles. The Special Exception application states that access will not be available to the public. Further review of the proposed access will be addressed with the Improvement Plan application. Based upon the above, it is concluded that the application can be found to be in **conformance**.*

b. Pedestrian safety and convenience.

*Consistency analysis: The proposed Special Exception is a request to allow a 200' telecommunications tower on private property zoned A-5. No pedestrian facilities are proposed as the use does not lend itself to walkability. Based upon the above, it is concluded that the application can be found to be in **conformance**.*

c. Traffic flow and control.

*Consistency analysis: The proposed Special Exception is a request to allow a 200' telecommunications tower on private property zoned A-5. SW Martha Street dead ends at the subject property. The applicant proposes a 50' wide ingress/egress and utility easement from where SW Martha Street ends at the property boundary to the proposed 60' x 60' fenced compound for the telecommunications tower. A private 20' wide gravel road is proposed with a cattle guard at the entrance to the property. A 12' wide double swing access gate is also proposed at the entrance to the fenced compound. The Special Exception application states that access will not be available to the public. Further review of the proposed access will be addressed with the Improvement Plan application. Based upon the above, it is concluded that the application can be found to be in **conformance**.*

d. Access in case of fire or catastrophe.

*Consistency analysis: The proposed Special Exception is a request to allow a 200' telecommunications tower on private property zoned A-5. SW Martha Street dead ends at the subject property. The applicant proposes a 50' wide ingress/egress and utility easement from where SW Martha Street ends at the property boundary to the proposed 60' x 60' fenced compound for the telecommunications tower. A private 20' wide gravel road is proposed with a cattle guard at the entrance to the property. A 12' wide double swing access gate is also proposed at the entrance to the fenced compound. The Special Exception application states that access will not be available to the public. Further review of the proposed access will be addressed with the Improvement Plan application. Based upon the above, it is concluded that the application can be found to be in **conformance**.*

3. Off-street parking and loading areas, where required, and economic, noise, vibration, dust, glare or odor effects of the Special Exception on adjoining properties and properties generally in the district. Issues generally related to off-street parking and loading have been addressed elsewhere in this report.

a. Economic impacts.

*Consistency analysis: The application states that the proposed use will result in more efficient wireless phone service. The applicant has indicated that cell service signal strength will improve for homes and businesses in the area south of downtown Arcadia and along Highway 17. Based on the above, it is concluded the application can be found in **conformance** with this factor.*

b. Noise impacts.

*Consistency analysis: The proposed Special Exception is a request to allow a 200' telecommunications tower on private property zoned A-5. The Special Exception application states that the proposed telecommunications tower will not emit any noise or contribute to noise pollution in the area. Based on the above, it is concluded the application can be found in **conformance** with this factor.*

c. Vibration impacts.

*Consistency analysis: The proposed Special Exception is a request to allow a 200' telecommunications tower on private property zoned A-5. The Special Exception application states that the proposed telecommunications tower will not produce any vibration effects on the adjoining properties or properties in the district. Based on the above, it is concluded the application can be found in **conformance** with this factor.*

d. Dust impacts.

*Consistency analysis: The proposed Special Exception is a request to allow a 200' telecommunications tower on private property zoned A-5. The Special Exception application states that the proposed telecommunications tower will not produce any dust effects on the adjoining properties or properties in the district. Based on the above, it is concluded the application can be found in **conformance** with this factor.*

e. Glare impacts.

*Consistency analysis: The proposed Special Exception is a request to allow a 200' telecommunications tower on private property zoned A-5. The Special Exception application states that the proposed telecommunications tower will be constructed of galvanized steel and will not have a glare effect on adjoining properties or properties in the district. Based on the above, it is concluded the application can be found in **conformance** with this factor.*

f. Odor impacts.

*Consistency analysis: The proposed Special Exception is a request to allow a 200' telecommunications tower on private property zoned A-5. The Special Exception application states that the proposed telecommunications tower will not emit any odors that will affect the adjoining properties or properties in the district. Based on the above, it is concluded the application can be found in **conformance** with this factor.*

4. Utilities, with reference to locations, availability and compatibility.

Consistency analysis: Utilities were addressed elsewhere in this report.

5. Screening and buffering with reference to type, dimensions and character.

Consistency analysis: Screening and buffering were addressed elsewhere in this report.

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district.

Consistency analysis: Signs and lighting were addressed elsewhere in this report.

7. Required yards and other open space.

Consistency analysis: Required yards and other open space were addressed elsewhere in this report.

8. General compatibility with adjacent properties and other property in the district.

Consistency analysis: Table 1, below shows the subject property is located within an Agricultural- 5 (A-5) zoning district and the zoning of adjacent properties.

**TABLE 1
LAND USE AND ZONING**

DIRECTION	EXISTING USE	LAND USE	ZONING
SITE	PASTURELAND	NEIGHBORHOOD MIXED USE	A-5
NORTH	VACANT, SINGLE FAMILY	NEIGHBORHOOD MIXED USE	CG, RMF-6
SOUTH	VACANT, MOBILE HOME, PASTURELAND	NEIGHBORHOOD MIXED USE	A-5
EAST	SINGLE FAMILY	NEIGHBORHOOD MIXED USE	RMF-M
WEST	PASTURELAND, SINGLE FAMILY	NEIGHBORHOOD MIXED USE	CG

Sources: DeSoto County Property Appraiser (2022); DeSoto County Geographic Information System maps.

*The subject property is in an area of primarily agricultural and residential uses to the north, east, and south, with commercial located to the north and west and along nearby Highway 17. The existing/proposed driveway for the subject property is in the southeastern corner of the property where SW Martha Street dead ends. Landscape screening is proposed on the north, west, and east sides of the proposed 60' x 60' fenced compound. Based on the above, it is concluded the application can be found in **conformance** with this factor.*

9. Any special requirements set out in the zoning district regulations for the particular use involved.

*Consistency analysis: The A-5 zoning district has standards regarding telecommunication towers, in addition to the Special Exception criteria. LDR Section 20-127(1)(c)3 requires a minimum setback from any property boundary line equal to 100 percent of proposed tower height. The site plan demonstrates that the minimum required setbacks have been met the distance with the distance from property lines ranging from 266'-537'. Based on the above, it is concluded the application can be found in **conformance** with this factor.*

10. Public and private utilities, structures, or uses required for public or private utilities, including but not limited to wastewater, gas, electric, and telephone utilities, sanitary landfills, and radio and television stations and towers may be permitted only as a Special Exception use unless determined by the Board to be essential service. In addition to items 1 through 9 above, the review of the request for a Special Exception Use shall include consideration of a plan showing all improvements or alterations that are proposed for the utilities or facilities. The proposed location of such utilities or facilities shall be such as not to be injurious to the health, safety, and welfare of the public or surrounding property owners, and shall protect the character of the surrounding property and maintain the stability of residential, commercial, manufacturing, agricultural, educational, cultural, and recreational areas within the County. The public benefit to be derived, the need for the proposed facilities, the existence of suitable alternative locations, potential impacts to surface or ground water drinking supplies, and whether the facility can properly be located on the site and in the development which it is to service shall also be taken into consideration where appropriate. Conditions in the form of screening, landscaping, or other site development restrictions may be imposed to protect the health, safety and welfare of the public or surrounding property owners.

Consistency analysis: The Special Exception use application is a request to allow a 200' telecommunications tower on private property zoned A-5. The review of the application request included consideration of a site plan

that shows all proposed improvements. Further review of the proposed use will take place with the Improvement Plan application. The proposed location of the telecommunications tower is in an area of primarily agricultural and residential uses to the north, east, and south, with commercial located to the north and west and along nearby Highway 17. The 2040 Future Land Use Map shows the subject property is located within the Neighborhood Mixed Use Land Use (See Attachment B). The Neighborhood Mixed Use Future Land Use category consists primarily of residential uses in progressive degrees of urban intensity with higher density in areas adjacent to the Urban Center and less density/intensity in areas adjacent to the Low and Medium Density Residential and Rural/Agricultural categories. The project is in the A-5 zoning district which allows by special exception non-occupied communication transmitting and receiving facilities with a minimum setback from any property boundary line equal to 100 percent of proposed tower height. The site plan shows the distance from property lines ranges from 266'-537'.

The proposed telecommunications tower exceeds the setbacks required by Code, protecting the public and surrounding property owners. The proposed tower includes multiple layers of security which includes locked access gates, compound perimeter fencing, security lighting, regulation lighting, and secured security cabinets. The project is not expected to emit noise, air or ground pollution that may negatively affect the surrounding area.

The applicant provided RF prediction maps showing the expected network improvement from low signal strength to a dominant signal level that would serve the residents and businesses south of downtown Arcadia, along Highway 17. The applicant states that the proposed special exception will provide enhanced wireless telephone service for increased call stability, faster wireless internet service and extended range of coverage.

The proposed telecommunications tower is located approximately 1.5 miles west of the City of Arcadia Airport. The applicant provided a letter from the FAA, issued March 7, 2024, noting a determination of no hazard to air navigation after conducting an aeronautical study for the proposed 200' telecommunications tower. Lighting of the tower is to be in accordance with the FAA.

DeSoto County Engineering stated that at the Improvement Plan stage, the applicant will have to demonstrate that the construction of the proposed improvements will not result in adverse stormwater impacts to neighboring properties. The applicant provided correspondence from FDEP indicating the proposed telecommunications tower would be considered exempt from stormwater permitting given the disturbed area is

less than 1 acre. A drainage report was provided by the applicant stating that Based on drainage calculation of the existing property before and after development, the proposed development has no adverse impact on adjacent properties and existing water storage, etc. and follows the governing criteria regarding stormwater quantity and quality per LDR by Desoto County, SWFWMD Handbook and Drainage Manual 2025 by FDOT.

While the buffer matrix in Section 20-600 does not expressly require a buffer for telecommunication towers adjacent to single family residential, the applicant has proposed 24 “Green Giants” planted at 10’ on center outside the perimeter of the fenced compound to the north, east, and west on the Landscape Plan.

*Based on the above, it is concluded the application can be found in **conformance** with this factor.*

11. The proposed use shall not act as a detrimental intrusion into the surrounding area.

*Consistency analysis: The application states that the use will meet the minimum zoning requirements and is listed as a permitted use by special exception in the A-5 zoning district. Chapter 365.172(13) b.3 of the Florida Statutes generally limits local government review to aesthetics, landscaping, land use-based location priorities, structural design, and setbacks. Based on the above, it is concluded the application can be found in **conformance** with this factor.*

12. The proposed use shall meet the performance standards of the district in which the proposed use is permitted.

*Consistency analysis: The project is in the A-5 zoning district which allows by Special Exception non-occupied communication transmitting and receiving facilities with a minimum setback from any property boundary line equal to 100 percent of proposed tower height. The site plan shows the distance of the proposed 200’ telecommunications tower from property lines ranges from 266’-537’, which meets the requirements of the A-5 zoning district. Based on the above, it is concluded the application can be found in **conformance** with this factor.*

In conclusion, based upon the totality of the circumstances as documented herein, the application includes material necessary to demonstrate, with competent substantial evidence, that granting of the Special Exception use will not adversely affect the public interest, that the specific requirements governing the individual Special Exception use application have been met by the applicant, and that

satisfactory provisions, arrangements or conditions have been made concerning the above factors.

- D. **Public notice requirements.** LDR Section 20-1439(c) requires notice of the date, time and place of the public hearings by the Planning Commission and Board of County Commissioners shall:

1. Be sent at least 10 days in advance of the hearings by mail to ten surrounding property owners or all owners of property within 1,000 feet of the property line of the land subject to the Special Exception use application; and
2. Have at least one sign posted on each road frontage; and
3. Be advertised in a newspaper of general circulation in DeSoto County at least 10 days prior to each public hearing.

The Development Department staff has provided written notice of the hearings which were mailed to all property owners, and such notice is on file with the Development Department and incorporated herein by reference.

ATTACHMENTS

Exhibit A: General Location Map

Exhibit B: Interim 2040 Future Land Use Map, Excerpt

Exhibit C: Official Zoning District Atlas, Excerpt

Exhibit D: Concept Plan Sketch

ALTERNATIVE ACTIONS FOR THE PLANNING COMMISSION

- A. Enter into the record the Development Review Report, and all other competent substantial evidence presented at the hearing, adopt the findings and conclusions contained herein, and make a recommendation to the Board of County Commissioners to adopt the proposed Resolution.
- B. Enter into the record the Development Review Report and all other competent substantial evidence presented at the hearing, adopt the findings and conclusions contained herein and make a recommendation to the Board of County Commissioners to deny the proposed Resolution.

RECOMMENDED CONDITIONS

1. The uses allowed on the subject site shown on the site plan shall be limited to supporting equipment related to the proposed telecommunications tower.
 2. The site is within the Conservation Overlay District and wetlands likely exist in the northwest portion of the site. The applicant shall be responsible for securing any required permits from SWFWMD if wetland impacts are proposed.
 3. If solid waste service is required for the use, it will be the applicant's responsibility to engage in a solid waste contract with the county's provider.
 4. An Improvement Plan and Notice to Proceed shall be authorized by the Development Department prior to any construction on site.
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- A. Planning Commission: Scheduled for October 7, 2025
 - B. Board action. Scheduled for October 28, 2025