

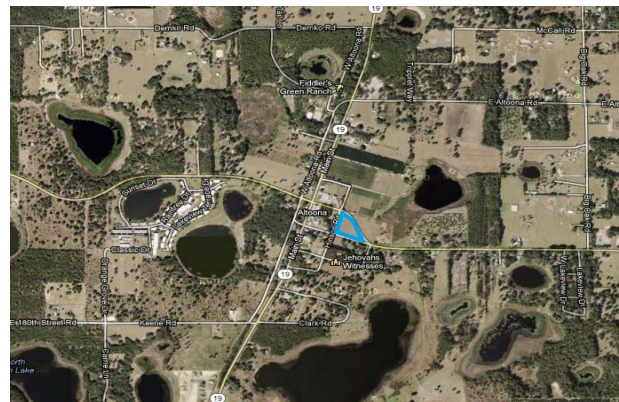
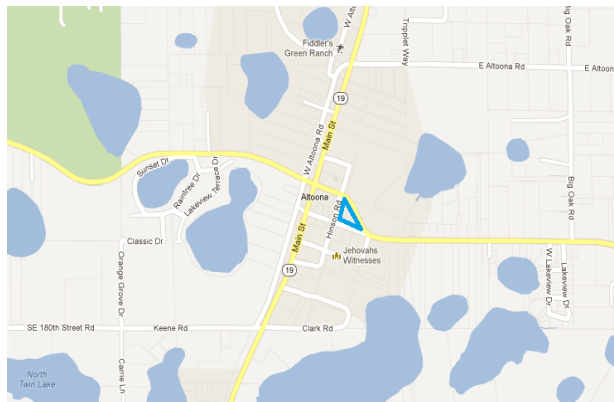


VARIANCE REQUEST
 Presented to
BOARD OF ADJUSTMENT
 September 13, 2012

CASE NO.: BOA# 25-12-5	AGENDA ITEM #: 2
OWNER: Board of County Commissioners	APPLICANT: Public Safety Department

REQUESTED ACTION: The owner is requesting a variance from the Lake County Land Development Regulations, 3.13.07 Wireless Antennas, Towers, and Equipment Setbacks to allow a telecommunications tower to be located closer than 100 feet from property lines, not centered on the parent parcel, closer than 1,320 feet from existing dwelling units, and closer than 1,320 feet from lands zoned Rural Residential (R-1), Estate Residential (R-2), Medium Residential District (R-3) and Urban Residential District (R-6) in an area that was formerly designated as Rural Village future land use (+/- 2 acres).

GENERAL LOCATION: Altoona area - North on SR 19 to CR 42, east on CR 42 to site on right, AK# 3272862 & 1786312 (Sec. 31, Twp. 17, Rng. 27).



FUTURE LAND USE DESIGNATION: Rural Transition (Formerly Rural Village)
EXISTING ZONING: Agriculture (A)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Rural Transition (1 du / 5 ac base density) (1 du / 3 ac 35% open space) (1 du / 1 ac 50% open space)	Agriculture (1 du / 5 ac)	Agriculture
South	Rural Transition (1 du / 5 ac base density) (1 du / 3 ac 35% open space) (1 du / 1 ac 50% open space)	R-3 (3 du / ac)	Single-Family Dwelling Unit
East	Rural Transition (1 du / 5 ac base density) (1 du / 3 ac 35% open space) (1 du / 1 ac 50% open space)	Agriculture (1 du / 5 ac)	Agriculture/ Retention Area
West	Rural Transition (1 du / 5 ac base density) (1 du / 3 ac 35% open space) (1 du / 1 ac 50% open space)	Agriculture (1 du / 5 ac)	Single-Family Dwelling Unit
POSTED:	August 22, 2012 at Hinson Road and CR 42, Altoona		

14.15.02 Granting Variances and Appeals

Variances shall be granted when the person subject to the Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness.

For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For the purposes of this section "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation.

Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

ANALYSIS: The owner is requesting a variance to allow a 300-foot tall communication tower (self-supporting lattice tower) to be located closer than 100 feet from the north and east property lines, to not be centered on the parent parcel and to allow the tower to be located closer than 1,320 feet from existing dwelling units. The Code (3.13.07) requires towers to be centered within the boundaries of the property recognized as the parent parcel on the zoning map by the Department of Growth Management, to maintain a minimum setback of 100 feet from the property lines and to be measured using Global Position System coordinates for the center of the tower. The Code also requires lattice towers to be located at least 1,320 feet from any single-family or duplex residential unit and lands zoned Rural Residential (R-1), Estate Residential (R-2), Medium Residential District (R-3) and Urban Residential District (R-6) in an area that was formerly designated as Rural Village future land use.

The owner has submitted an application to rezone the parcel to Community Facility District (CFD) to allow a fire station and ancillary uses. The conceptual site plan shows the proposed location of the tower and fire station; a copy is attached (Exhibit #1). In order to maximize the buildable area for the fire station, the tower cannot be centered on the parcel and will be shifted off center to the northwest corner. This configuration will allow the fire station and the equipment building for the tower to meet the minimum setback from right-of-ways and allow for unrestricted access for the fire station.

The subject parcel fronts on CR 42 and is located near the intersection of SR 19 and CR 42; the site is triangular in shape and is bordered on all the sides by roads. A Lake County fire station is proposed near the center of the parcel. The proposed 100' X 100' tower compound will be located in the northwest corner along the edge of the retention area. The tower would be located 70 feet from the western property line, more than 120 feet from the northern and eastern property lines, and more than 190 feet from the southern property line. The equipment (generator and fuel tank) and equipment building will meet the Code required setbacks of 50 feet from right-of-ways.

This tower will be located within the restricted airspace associated with the Pinycastle Military Operations Area (MOA). The U.S. Navy Pinycastle Range Complex is the special use airspace designated by the

Federal Aviation Administration utilized by the U.S. Military for training and exercises overlying parts of northern Lake County and administered by the United States Navy. A representative from the Navy has reviewed the request and does not object to the proposal for the tower.

The closest dwelling unit is located approximately 155 feet from the proposed tower site; there are approximately 41 dwelling units within the 1,320-foot buffer around the proposed tower site. The majority of the dwelling units are located south and west of the tower site. A copy of an aerial map with a 1,320-foot red circular buffer around the proposed tower location is attached (Exhibit #2).

The County has a public safety telecommunication system; the system is a Countywide radio system for first responders and is utilized by the County agencies and the municipalities, but is primarily utilized by the Lake County Fire Rescue Departments and the Lake County Sheriff's Department. The proposed tower is needed to allow first responders (firefighters, deputies, paramedics and ambulance drivers) communicate with each other and dispatch.

The tower that the County uses to provide coverage for this area is an older non-conforming tower. This is a leased tower that does not adequately meet the needs of the County. The County is in immediate need of replacing the leased tower for the health, safety and welfare of the citizens of Lake County and the first responders in the field.

The **intent** of the Code is to adapt to the growing need for wireless communication antennas and towers by being able to act upon requests to place, construct and modify any wireless communications antenna and/or tower within a reasonable amount of time; to reasonably accommodate amateur communications; and to represent the minimum practicable regulation thereof. The intent of the Code is also to protect existing land uses from potential adverse visual impacts through sound planning, careful review of applications, proper permitting, and adherence to appropriate regulations, and to allow for wireless communications competition following the adoption of the Federal Telecommunications Act of 1996. The regulations are intended to accomplish this goal through careful design, siting, landscape screening and the encouragement of innovative camouflaging techniques.

The applicant submitted the following reasons as proof of meeting the **intent of the Code**: "*The purpose and intent of the establishment a communications tower on the identified parcel is to provide Law Enforcement and Public Safety emergency and non-emergency communications to protect and serve the citizens in Lake County. The proposed tower will allow for and foster wireless co-location opportunities in the area. The site will continue to foster the Intergovernmental Cooperation Element of the Lake County Comprehensive Plan by providing communications interoperability to any first responders from within and outside of Lake County. The County-wide Radio system goal is to achieve intergovernmental coordination to foster improved governmental efficiency and effectiveness and resolve incompatibilities or conflicts through mechanisms which encourage cooperation, communication and coordination between Lake County and its municipalities, adjacent governments, regional, State and Federal government and quasi-governmental entities in order to establish improved growth management, development activities and natural resource conservation. This site will allow for this coordination and cooperation to continue while returning and providing the element of safety to our responders*".

The applicant submitted the following as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**: *"The County currently leases a tower in the area which costs the county \$\$ per month and that amount increases annually. The current leased tower is a non-conforming older guyed tower in which the county is the only tenant and requires access through a citizens private property to access the site.*

The new site will be a self supporting lattice style tower that will support co-location and multiple tenants. The new tower will be co-located with a new county fire station and will provide communications support for Lake County's first responders, the USFS that protects the Ocala National Forest, as well as the State Forestry Dept and Marion County.

The proposed tower cannot be centrally located on the parcel due to CR42 running thru the middle of the parcel, and the proposed location allows for the fire station to be more centrally located reducing any obstructions that would slow the firemen's response time."

FINDINGS OF FACT: Staff has reviewed the application for this variance request and found:

1. This request is consistent with LDR 3.13.01, which allows for flexibility to adapt to the needs of the Wireless Communications community.
2. The functionality of the proposed fire station is reduced if the tower is centered on the parcel.

The owner has submitted proof of meeting the intent of the Code and has shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis, Staff recommends **approval** of the variance request.

LAND DEVELOPMENT REGULATION:

3.13.00 Wireless Antennas, Towers, and Equipment Facilities.

3.13.01 Purpose and Intent. The purpose and intent of these regulations is to:

- A. Adapt to the growing need for wireless communication antennas and towers by being able to act upon requests to place, construct and modify any Wireless Communications Antenna and/or Tower within a reasonable amount of time.
- B. Reasonably accommodate amateur Communications, and to represent the minimum practicable Regulation thereof.
- C. Protect existing Land Uses from potential adverse visual impacts through sound planning, careful review of applications, proper permitting and adherence to appropriate Regulations.
- D. Allow for Wireless Communications competition following the adoption of the Federal Telecommunications Act of 1996.

These Regulations are intended to accomplish this goal through careful design, Siting, Landscape Screening and the encouragement of innovative camouflaging techniques.

3.13.02 Compliance with Other Laws and Regulations. All Communications Towers, Antennas, and Equipment Shall comply with:

- A. The Lake County Comprehensive Plan and Land Development Regulations.
- B. All applicable fire safety codes, building codes, and technical codes adopted by Lake County.

C. All applicable Federal and State Regulations.

D. Evidence of compliance with FAA requirements shall be submitted where applicable. This evidence shall include a copy of the submitted FAA Form 7460-1, attachments submitted with the form, and a copy of any FAA responses.

3.13.03 Structural Design.

A. All Communications Towers must be designed so that in the event a Communications Tower falls; it shall collapse only within the property lines of the Lot on which the Communications Tower is located. No Building Permit Shall be issued unless the applicant provides verification of compliance from an engineer registered by the State of Florida.

B. To ensure the structural integrity of Wireless Communications Towers, the owner of a Wireless Communications Antenna and/or Tower Shall ensure that it is constructed and maintained according to TIA/EIA-Standard 222, as amended from time to time, ASCE-7, as amended from time to time, and all County adopted construction/ building codes. No building permit shall be issued unless the applicant submits site plans sealed and verified by an engineer licensed in the State of Florida that proves compliance with the adopted structural codes in effect at the time of said improvement or addition.

C. Camouflaged Wireless Communications Structures.

1. Camouflaged Wireless Communications Structures designed to blend in with the existing built or Natural Environment are exempt from the requirements of 3.13.10 Fencing, and 3.13.11 Landscaping.

2. Camouflaged Wireless Communications Structures shall comply with all other Regulations and standards. In making the determination that a Wireless Communications Structure is considered to be camouflaged, the County Manager or designee shall consider:

- a. Logic of design.
- b. Height in relationship to the height of nearby Structures.
- c. Scale in relationship to the size and proportions of nearby Structures.
- d. Structure materials and color selection.
- e. Compatibility with surrounding Uses.

3.13.04 Radiation Emission Standards. The Communications Tower and Communication Antennae must meet the radiation emission standards set by the FCC. The applicant shall provide evidence that the Communications Tower and Communication Antennae meet the FCC standards where applicable.

3.13.05 Amateur Radio Station Operators/Receive Only Antennas.

A. Wireless Communications Towers, Antennas and Equipment Facilities owned and operated by a federally-licensed amateur radio station operator or which are used exclusively for receive only antennas up to one hundred (100) feet in height Shall be permitted in all Zoning Districts. Theses Towers and Antennas up to two hundred (200) feet in height shall be permitted on lots containing a minimum of five (5) acres in the A, RA, A-1-20, A-1-40 Zoning Districts and in the Green Swamp Area of Critical State Concern Rural Conservation and Core Conservation Land Use classifications. The maximum height permitted in all cases is subject to FAA review and approval.

B. Setbacks shall be measured from the base of the Wireless Communications Tower to the property line of the parcel on which it is located. Normal Zoning District setbacks shall apply.

C. Anti-climbing devices shall be installed on each tower.

D. No other provisions of 3.13 Shall apply to Amateur Radio Station operators/receive only antennas with the exception of 3.13.02, Compliance with Other Laws and Regulations and 3.13.04, Radiation Emission Standards, where applicable/

3.13.06 Measurement and Lot Size.

A. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to Facilities located in Lake County irrespective of Municipal and County jurisdictional boundaries.

B. Lot Size. For purposes of determining whether the installation of a Tower or Antenna complies with district development regulations, including but not limited to Setback Requirements, lot-coverage Requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

3.13.07 Setbacks.

A. Equipment facility and guyed support structures have to meet a setback of twenty-five (25) feet or the Zoning District setback, whichever is greater.

B. Towers Shall be centered within the boundaries of the Property recognized as the parent parcel on the zoning map by the Department of Growth Management, maintain a minimum setback of one hundred (100) feet from the Property Line and be measured using Global Position System coordinates for the center of the Tower, and if applicable, Shall meet both the requirements below:

	From R1, R2, R3, R4, R6, R7, R10, RP, RMRP, RM, PUD Zoned Lands (or similar municipal zonings) in Urban, Urban Expansion, Rural Village, Mount Plymouth-Sorrento Urban Compact Node, Ridge, Transitional	From any Single Family or Duplex Residential Unit
Lattice	1320 feet	1320 feet
Guyed	1320 feet	1320 feet
Monopole	330 feet	400% of the tower height
Camouflage	100 feet	100 feet

If the Owner of the Property where the Tower is to be located owns Residential units thereon or on surrounding properties (or if such properties are owned by his or her parents or children and they have consented in writing), those units shall not be taken into consideration when calculating the Setback requirements of this section.

Policy I-6.4.5 Cell Towers

Within the Pinecastle MOA, cell towers shall be limited to self-supporting towers. Applications for cell tower approval shall include written evidence from the Range that the location, height and operation of the tower do not adversely affect the operations and mission of the Range prior to application to Lake County. A cell tower shall not be approved by the County if the Range certifies that the tower would constitute an unacceptable encroachment and interference with safe operations related to the mission of the facility.

14.15.00 Variances and Appeals.

14.15.01 Purpose of Variances. Strict application of uniformly applicable Land Development Regulations can lead to unreasonable, unfair, and unintended results in particular instances. The Board of County Commissioners finds that it is appropriate in such cases to adopt a procedure to provide relief to persons subject to the Land Development Regulations. The Board of Adjustment is authorized to grant variances to requirements of the Land Development Regulations consistent with the rules contained in these regulations. This Section does not authorize the Board of Adjustment to grant variances inconsistent with the Comprehensive Plan nor to grant a variance to permit uses not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the Land Development Regulations in the zoning district. In addition, the existence of nonconforming use of neighboring lands or un-permitted use of neighboring lands shall not be considered grounds for authorization of a variance.

14.15.02 Generally. Variances shall be granted when the person subject to a Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For purposes of this Section, "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation. Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as, contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

ENVIRONMENTAL ISSUE: N/A

FLOODPLAIN: N/A

JOINT PLANNING AGREEMENT: N/A

LAKE APOPKA BASIN: N/A

WEKIVA RIVER PROTECTION AREA: N/A

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

BOA# 25-12-5
Photo Evidence



Views of the site



Views of the postings

**Final Development Order
Lake County Board of County Commissioners
BOA # 25-12-5**

A VARIANCE OF THE LAKE COUNTY BOARD OF ADJUSTMENT AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Lake County Board of County Commissioners (the "Owner") made a request to allow a telecommunications tower to be located closer than 100 feet from property lines, not centered on the parent parcel and closer than 1,320 feet from existing dwelling units and from lands zoned Rural Residential (R-1), Estate Residential (R-2), Medium Residential District (R-3) and Urban Residential District (R-6) in an area that was formerly designated as Rural Village future land use; and

WHEREAS, the subject property consists of 2 acres +/- and is generally located east of Altoona in Section 31, Township 17 South, Range 27 East, being composed of Alternate Key Number 3272862 & 1786312 and is more particularly described as:

F J HINSON'S PLAN OF THE TOWN OF ALTOONA BEG AT MOST N'LY
COR OF LOT 39, RUN SE'LY ALONG LOT LINE 150 FT, SW'LY
PARALLEL WITH NW'LY LINE OF LOT 39 A DIST OF 150 FT, NW'LY
PARALLEL WITH NE'LY LINE OF LOT 39 A DIST OF 150 FT, NE'LY
ALONG LOT LINE 150 FT TO POB PB 1 PGS 28-29

AND, after giving Notice of Hearing on petition for a variance to the Lake County Land Development Regulations, including notice that said variance would be presented to the Board of Adjustment of Lake County, Florida, on September 13, 2012; and

WHEREAS, the Board of Adjustment reviewed said petition, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

WHEREAS, on September 13, 2012, the Lake County Board of Adjustment approved the variance for the above property; and

NOW THEREFORE, BE IT ORDAINED by the Board of Adjustment of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property subject to the following terms:

Section 1. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of BOA# 25-12-5 to allow a telecommunications tower to be located 70 feet from the western property line, not centered on the parent parcel and closer than 1,320 feet from existing dwelling units and from lands zoned Rural Residential (R-1), Estate Residential (R-2), Medium Residential District (R-3) and Urban Residential District (R-6) in an area that was formerly designated as Rural Village future land use;

Section 2. Severability: If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this 13th day of September, 2012.

EFFECTIVE September 13, 2012.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

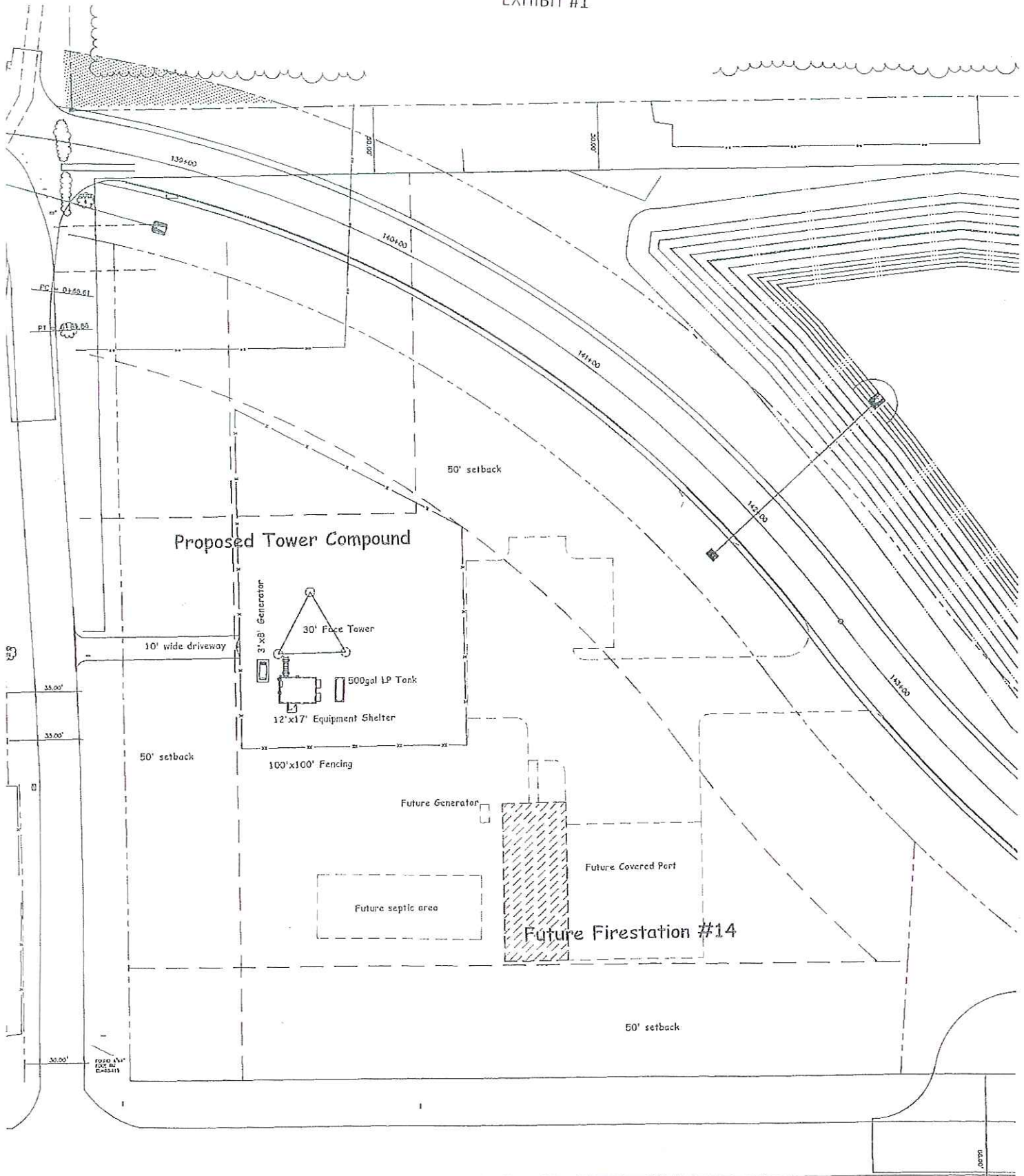
The foregoing instrument was acknowledged before me this September 13, 2012 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____



ALTOONA FIRESTATION 14 PROPOSED TOWER LOCATION

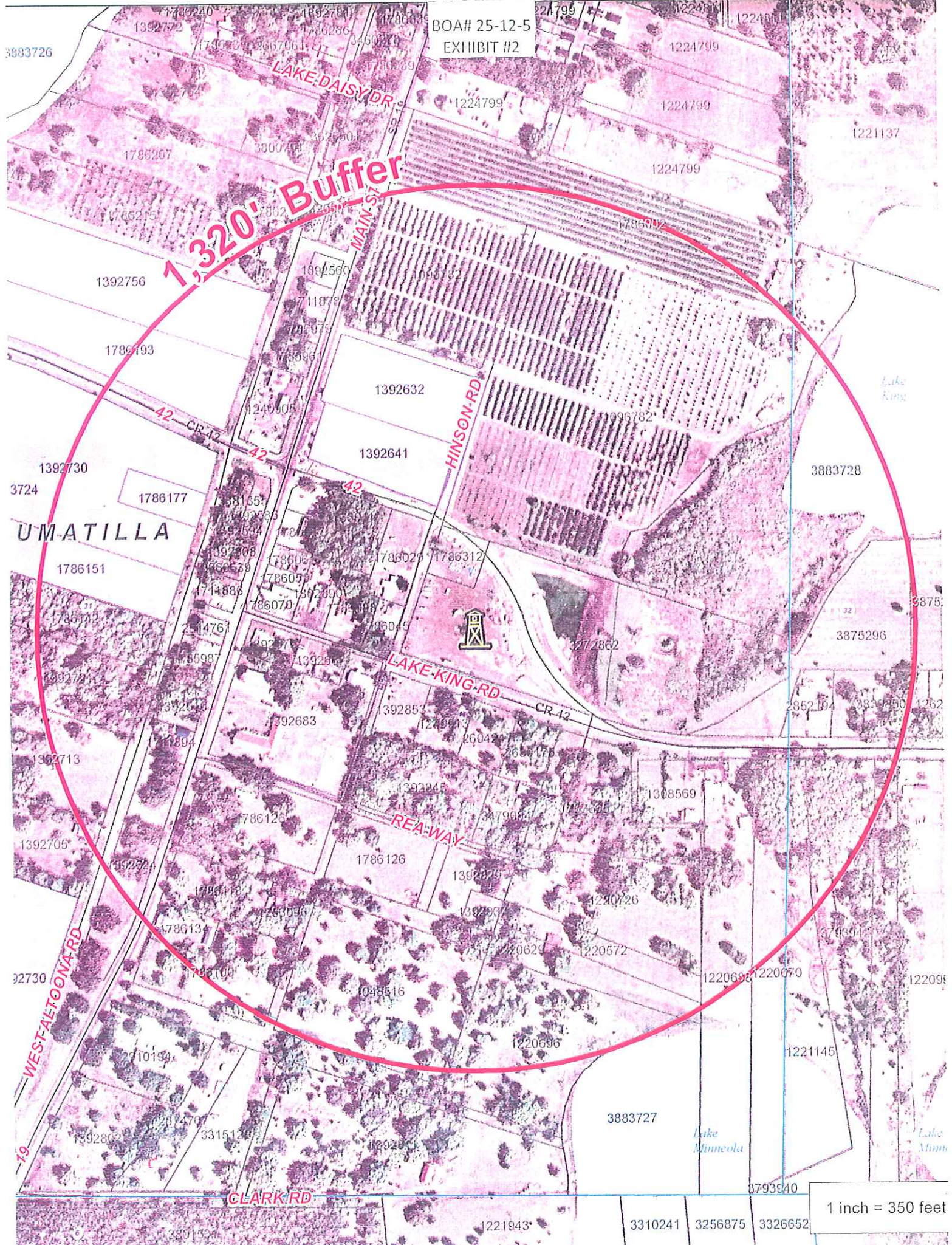
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8.16.2012

drawn by: RLeBlanc

BOA# 25-12-5
EXHIBIT #2

1,320' Buffer



1 inch = 350 feet