

LAKE COUNTY PLANNING AND ZONING ANALYSIS VARIANCE REQUEST



Board of Adjustment

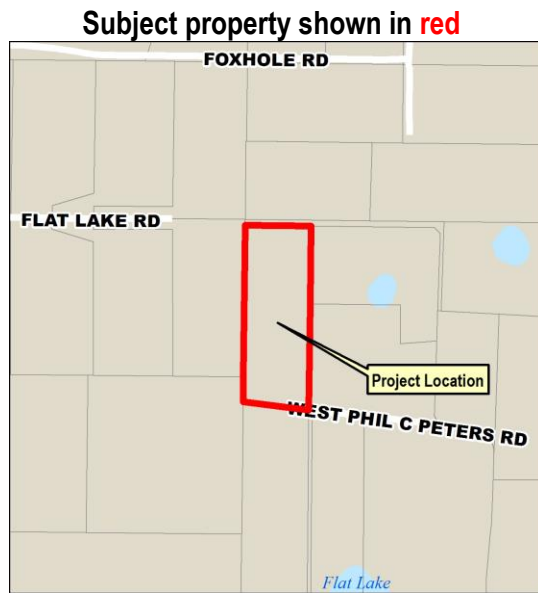
**LAKE COUNTY
FLORIDA**

November 12, 2015

VAR-15-10-2	Case Manager: Michele Janiszewski, Planner	Agenda Item #4
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REQUESTED ACTION: The applicant is requesting a variance from **Lake County Land Development Regulations 3.13.09 (B) (1) and 15.02.04 (J)** to allow an off-centered, tower exceeding 140 feet located within the Clermont JPA.

- Site Location and Information -



Property Posted: October 22, 2015

Owners	Daniel Z. Legg and Melissa Legg
Applicant	Skyway Towers, LLC
Address of Property	10738 Foxhole Road, Clermont
General Location	South of Flat Lake Road between the City of Clermont and Orange County
Size	4.86 acres
Alternate Key	1593972
Future Land Use (FLU)	Rural
Zoning District	Agriculture (A)
Overlay Districts	NA
Joint Planning Area	Clermont
ISBA	Clermont
Flood Zone / FIRM Panel	X / 12069C0675E
Commissioner's District	2; Parks

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Rural	Agriculture (A)	Single Family Residences
South	Rural	Agriculture (A)	Single Family Residences
East	Rural	Agriculture (A)	Single Family Residences
West	Rural	Agriculture (A)	Single Family Residence and Timber Lands

-ANALYSIS-

The subject property is +/- 4.86 acres and is located south of Flat Lake Road between the City of Clermont and Orange County. The property abuts a canal which connects to Lake Eustis. The Lake County Geographic Information Services (GIS) wetland map indicate that there are not wetlands on the property and according to the 2012 Federal Emergency Management Agency (FEMA) maps none of the lot lies within the hundred year flood zone. The property is zoned Agriculture (A) and is part of the Rural Future Land Use Category.

In May the applicant came in for a pre-submittal meeting with our Development Review Staff for a 195 foot camouflaged, monopole tower on the subject property. LDR Section 3.13.09 (B) (1) requires towers to be centered on the parent parcel. As proposed, the tower is not centered on the subject property, therefore, the applicant is requesting a variance to this section of the code (proposed tower location depicted in Exhibit A).

The subject property is within the Clermont Joint Planning Area (JPA) thus the additional development standards in Chapter XV *Land Development Regulations for Joint Planning Areas of Lake County* apply to this project. LDR Section 15.02.04 (J) requires new towers located within the Clermont JPA to be a maximum of 140 feet, to be camouflaged, and to be a minimum of 3,000 feet from an existing tower. The applicant has requested a variance to this section to exceed the height requirement by fifty-five (55) feet to allow a 195 foot monopine tower (with the top of the lightning rod reaching 199 feet). The Clermont City Council reviewed the request at their October 13, 2015 City Council meeting and recommended approval of the request to allow a 199 foot communications on the subject property (Attachment A).

The **intent of the Code, LDR Section 3.13.01**, 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; protect existing Land Uses from potential adverse visual impacts through sound planning, careful review of applications, proper permitting and adherence to appropriate Regulations; and preserve and enhance radio communications throughout Lake County in times of emergencies that threaten the life, safety and welfare of Lake County residents, businesses and properties to include the establishment of easements, covenants and agreements necessary to address issues, such as fiber-optic cabling, associated with the provisions of emergency communication(s). Our regulations are intended to accomplish these goals through careful design, siting, landscape screening and the encouragement of innovative camouflaging techniques.

The **intent of the Code, LDR Section 15.00.00.A**, is to foster cooperation per the Intergovernmental Cooperation Element of the Lake County Comprehensive Plan and 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.

The applicants submitted the following reasons as proof of **meeting the intent of the Code** (see also Attachment B):

The proposed tower location is centered between the landowners existing home and their eastern property line. At this location, the tower still meets and/or exceeds the setbacks required from property lines, from existing residential units, and from other existing towers. The proposed cellular tower will be a camouflaged monopole tower and the antennas will be screened from view. Although fencing is not required for a camouflaged tower, Skyway is proposing to add chain link fence around the proposed compound.

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** (see also Attachment B):

Centering the proposed cellular tower and compound would put the tower close to the landowners existing home and closer to the existing home to the north. The proposed location is only slightly off-center and keeps the tower more centrally located amongst the existing surrounding residences.

The height limitation of 140' makes it difficult for Skyway and their carrier (Verizon) to achieve the cellular and/or data coverage that they are looking for. The enclosed RF propagation maps show the cell phone coverage that Verizon can achieve with a tower at a height of 195'. In general, the higher the tower, the more area it can cover. Also a higher tower offers more opportunities for other carriers such as T-Mobile, Sprint, etc. to co-locate on the tower, which in turn creates less need for additional new towers.

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

1. This request is consistent with LDR 15.00.00, which is evidenced by the letter from the City of Clermont recommending approval; and
2. The request is consistent with LDR 3.13.00, which attempts to respond to the changing telecommunications industry; and
3. The request is consistent with LDR 3.13.00, which attempts to protect existing land uses; and
4. With the tower height increased to 195 feet, the tower will be able to offer more opportunities for other carriers to co-locate thus reducing the need for additional new towers which is consistent with LDR Section 3.13.11.B. which encourages the use of existing towers for the location of additional antennas.

Should the Board of Adjustment (the "Board") recommend approval of this request to allow an off-centered, tower exceeding 140 feet located within the Clermont JPA, staff recommends that the following condition be added to the development order:

- The tower and all associated appendances shall not exceed one hundred, ninety nine (199) feet high.

Should the Board recommend approval of all or part of the request, The Board has the ability to supplement the development order with additional conditions, as the Board sees fit. The following optional conditions have been provided by staff, should the Board wish to supplement the development order with an additional condition:

1. The tower shall not be camouflaged as a flagpole.
2. The tower shall be camouflaged but not camouflaged as a flagpole.
3. The tower shall not be camouflaged.

If the Board recommends approval, staff will revise the development order in accordance with the Board's motion.



FOXHOLE RD

SKILLET RD

FLAT LAKE RD

JUNGLE HUT TRL

**SUBJECT
PROPERTY**

WEST PHIL C PETERS RD

CLERMONT

Lake Buddy

Flat Lake

Attachment A (2 Pages).



DEVELOPMENT SERVICES
352-394-4083

October 14, 2015

Chris Schmidt, Manager
Division of Planning and Zoning
Lake County Department of Economic Growth
P.O. Box 7800
Tavares, Florida 32778-7800

RE: Skyway Towers – Request for 199-foot Communications Tower
Lake County Project Number: 2015040010, AR# 2697

Dear Mr. Schmidt:

On October 13, 2015, the Clermont City Council reviewed the request by Skyway Towers to increase the height of their proposed communications tower from 140 feet to 199 feet. The Council voted to recommend approval to Lake County, with the recommendation that the tower be a single mono-pole design without a flag, and that there be a back-up generator on site.

We appreciate the opportunity to review and comment on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Curt Henschel".

Curt Henschel
Development Services Manager

Janiszewski, Michele

From: Curt Henschel <CHenschel@clermontfl.org>
Sent: Wednesday, October 28, 2015 1:49 PM
To: Janiszewski, Michele
Subject: RE: Skyway Towers

Hi Michele,

The recommendation was for a monopole tower that would not look like a tree, just the pole with the antennas inside hidden from view.

Let me know if this helps.

Thanks,



**Curt Henschel, Planning Manager
Development Services**

685 W. Montrose St., Clermont, FL 34711

Tel 352-241-7308

chenschel@clermontfl.org

www.cityofclermontfl.com

*Our mission: To preserve and enhance the quality of life for the
Clermont community by providing exceptional services.*

From: Janiszewski, Michele [mailto:mjaniszewski@lakecountyfl.gov]
Sent: Wednesday, October 28, 2015 12:51 PM
To: Curt Henschel
Cc: McClendon, Tim
Subject: RE: Skyway Towers

Hey Curt,

Is it possible that you could provide us with something in writing stating that the City Council's recommendation was either for the tower not to be camouflaged at all OR not to be camouflaged as a flagpole? You could just send an email with the clarification if you do not want to revise the letter.

Thanks,

Michele Janiszewski, Planner

Planning and Zoning Division

Department of Economic Growth

Lake County Board of County Commissioners

315 West Main Street, Room 515

Tavares, FL 32778-7800

(352) 343-9641

www.lakecountyfl.gov

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

Attachment B (3 Pages).

Verizon Wireless
3503 Technological Avenue
Orlando, FL. 32817



July 17, 2015

RE: Search Ring location - 80690 South Lake

To Whom It May Concern:


Verizon Wireless transmits voice service over the 700 MHz "C" block frequencies. The southwest area of Johns Lake is expanding and we are in need to provide voice service to the communities in the area.

The location of this search ring is based on the existing coverage footprint of our network, and the ability to maintain contiguous service for our customers as we expand our coverage area on the southwest of Johns Lake. There are no existing structures within a mile of the proposed location; the closest structure is located 3 miles away. If we were to utilize the closest tower 3 miles from the proposed tower, it would create coverage holes or weak coverage areas within our newly expanded footprint, in the very areas where we are trying to bring service to current and potential customers.

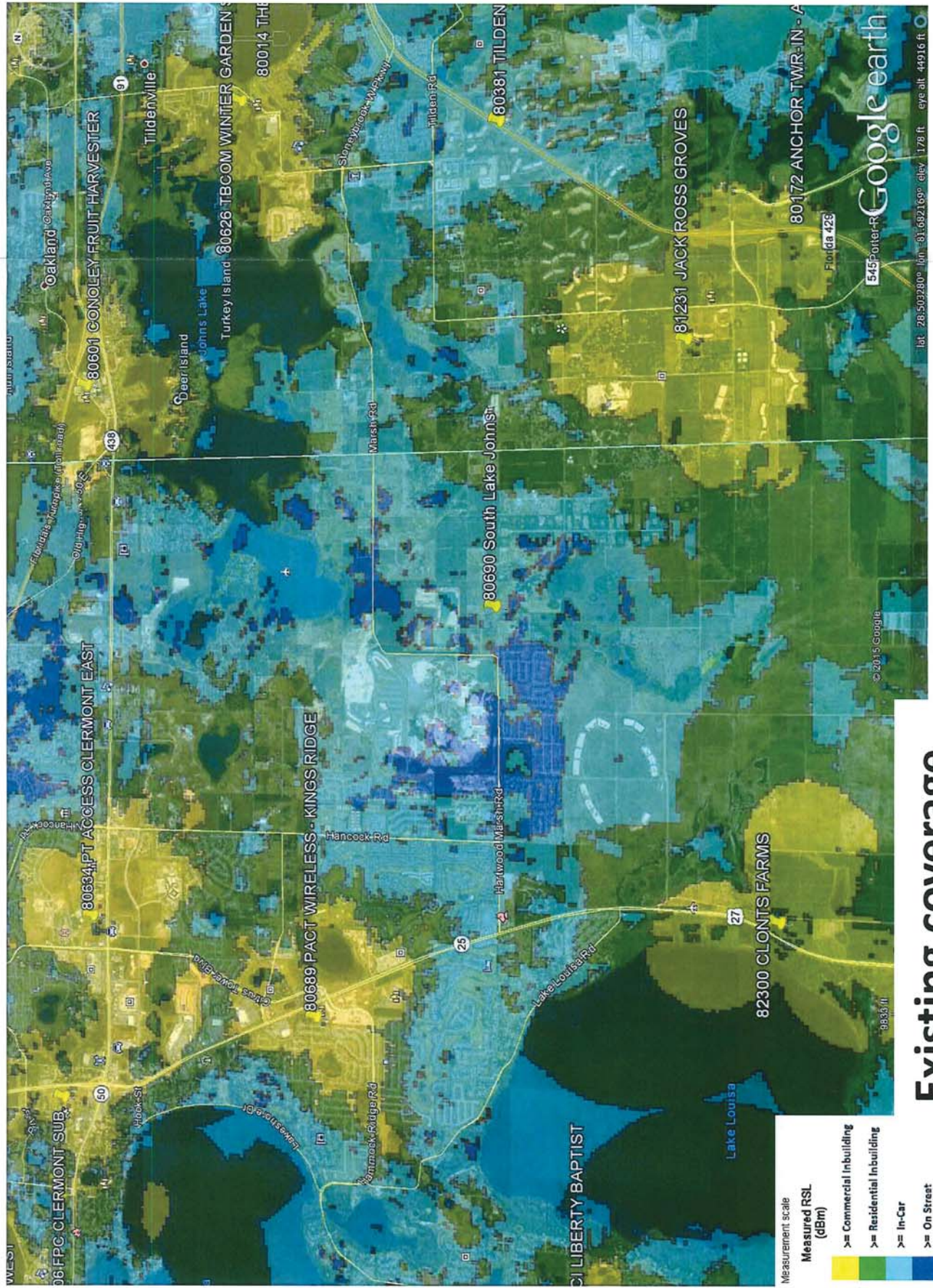
In summary the existing towers are too distant to be a good fit for our network.

Please feel free to call me with any questions or concerns at 914-714-6178.

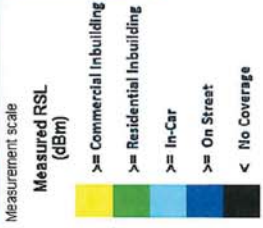
Sincerely,



Jorge Castaneda
RF Design Engineer (Orlando)
Verizon Wireless

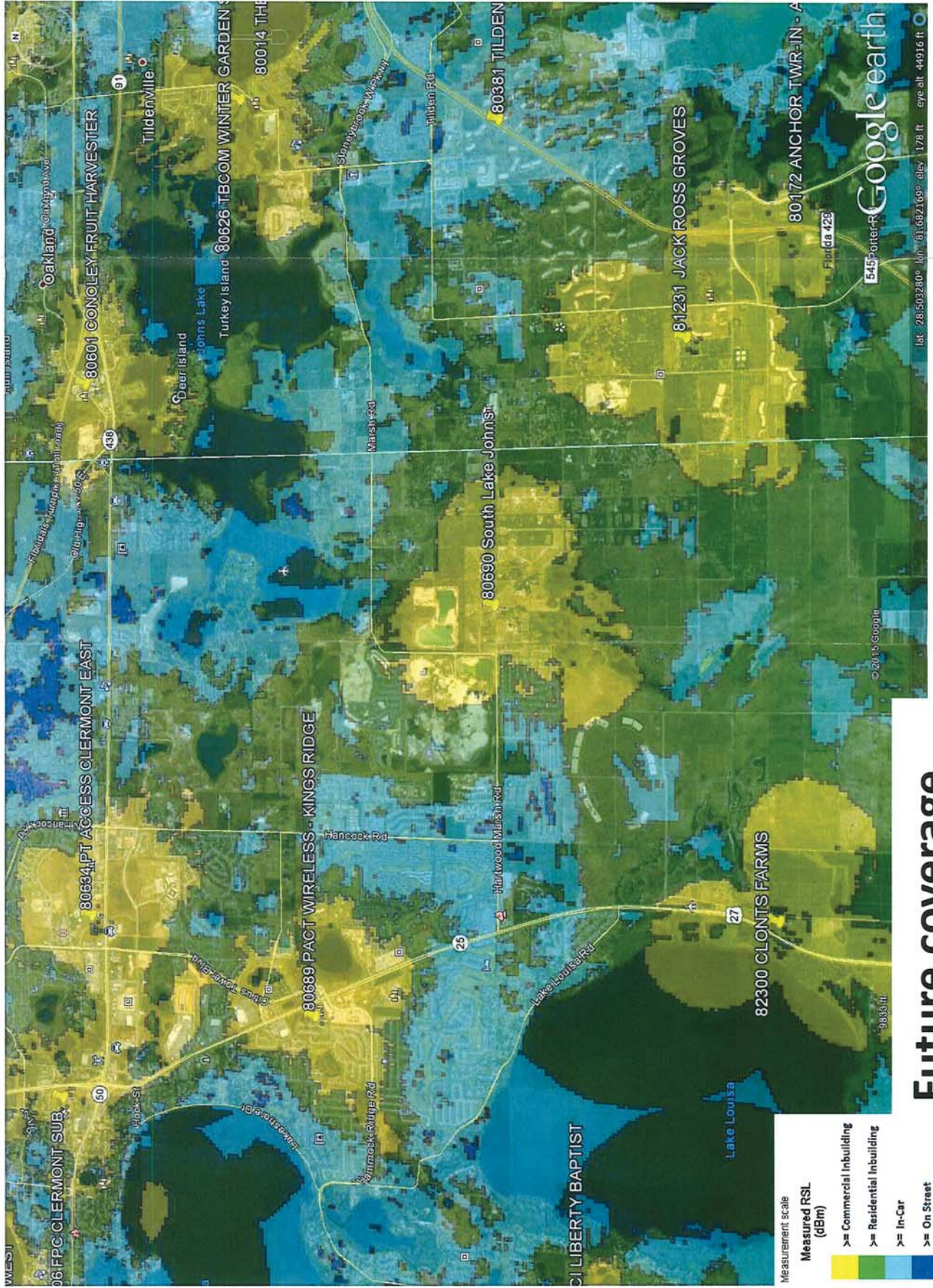


Existing coverage

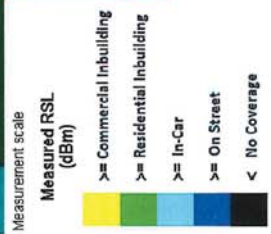


Google earth

lat: 28.503280° lon: -81.692169° elev: 178 ft eye alt: 4491.6 ft



Future coverage



Google earth

lat: 28.503280° lon: -81.682169° elev: 178 ft eye alt: 4491.6 ft

**Final Development Order
Legg/Skyway Tower
VAR-15-10-2**

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

WHEREAS, Skyways Towers, LLC (the “Applicant”) on behalf of Daniel Z. Legg and Melissa Legg (the “Owners”), requested a variance to Land Development Regulation (LDR) Section Regulations 3.13.09.B.1 and 15.02.04.J. to allow an off-centered, tower exceeding 140 feet located within the Clermont JPA; and

WHEREAS, the subject property consists of 4.86 +/- acres and is located south of Flat Lake Road between the City of Clermont and Orange County, in Section 11, Township 23 South, Range 26 East, Alternate Key Number 1593972 and is more particularly described below (hereinafter referred to as the “Property”):

That part of the East 1/2 of the Southeast 1/4 of Section 11, Township 23 South, Range 26 East in Lake County, Florida, bounded and described as follows: Begin at the Northwest corner of the East 1/2 of the Southeast 1/4 of said Section 11, and run South 1°19' West along the West line of the East 1/2 of the Southeast 1/4 of the said Section 11, a distance of 769.88 feet; thence South 83°00'30" East 279.47 feet; thence North 1°19' East 796.63 feet to the North line of the Southeast 1/4 of said Section 11; thence North 88°30' West 278.10 feet to the point of beginning. Less the North 25 feet thereof.

WHEREAS, 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 November 12, 2015; 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 November 12, 2015, the Lake County Board of Adjustment approved the variance for the above property.

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. Recitals: The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-15-10-2 to allow an off-centered, tower exceeding 140 feet located within the Clermont JPA, on the property described above in accordance with the Concept Plan depicted in Exhibit A, attached hereto and made a part of hereof by this reference, on the subject Property in accordance with the following conditions:

1. The tower and all associated appendances shall not exceed one hundred, ninety nine (199) feet high.

Section 3. 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 4. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this 12th day of November, 2015.

EFFECTIVE November 12, 2015.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this November 12, 2015 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

Exhibit A.

