

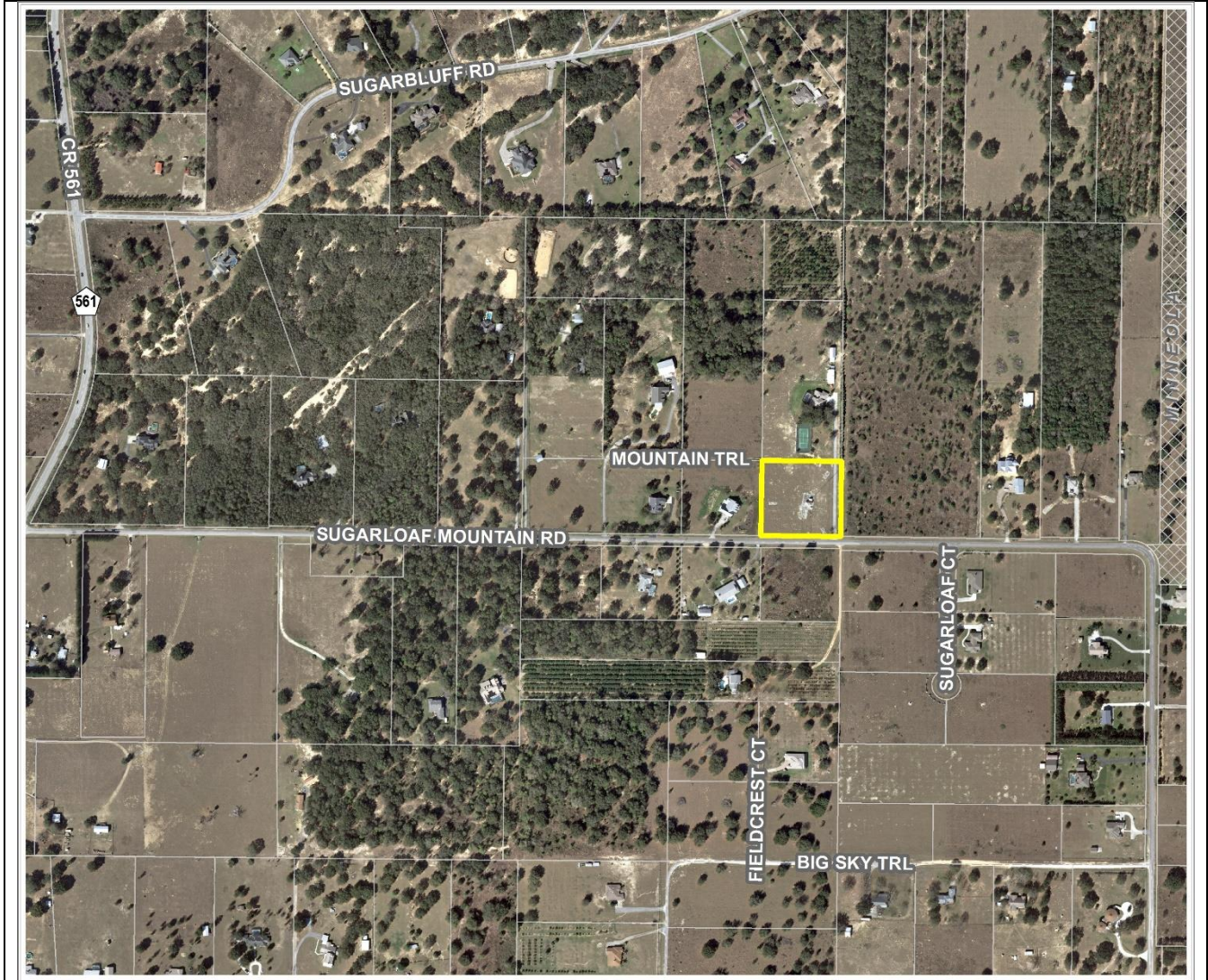
LAKE COUNTY PLANNING AND ZONING DIVISION
REZONING STAFF REPORT

PLANNING & ZONING BOARD
May 31, 2017



BOARD OF COUNTY COMMISSIONERS
June 20, 2017

<p>RZ-17-06-1 Charitable Ministry CFD Amendment</p>	<p>Commission District 1 Sullivan</p>	<p>Agenda Item #1</p>
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Requested Action: Amend Community Facility District (CFD) Ordinance #98-87 to allow construction of a new guyed radio tower with increased strength, with the potential for co-location of cellular technology, and associated setback waivers on property located at 20581 Sugarloaf Mountain Road.

Owner: Charitable Ministry Support, Inc.

Applicant: James S. Hoge

- Site Location & Information -

Size	2.37 acres
Location	20581 Sugarloaf Mountain Road, Clermont, FL 34715
Alternate Key #	2948230
Future Land Use	Rural
Existing Zoning District	Community Facility District (CFD)
Proposed Zoning District	Community Facility District (CFD)
Joint Planning Area	Minneola

- Land Use Table -

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Rural	Agriculture	Single-family residence	The property is accessed via a driveway from the tower parcel. The home was constructed in 1992, 5 years after the existing tower was constructed.
South	Rural	Agriculture	Vacant	N/A
East	Rural	Agriculture	Vacant	N/A
West	Rural	Agriculture Residential	Single-family residence	The home was constructed in 2001, 14 years after the existing tower was constructed.

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL** of the amendment to CFD Ordinance #98-87, to establish existing tower setback for the construction of a new guyed radio tower with increased strength, with the potential for co-location of cellular technology, and associated setback waivers, on property located at 20581 Sugarloaf Mountain Road.

- Analysis -

LDR Section 14.03.03 (Standards for Review)

The Applicant is requesting to amend Community Facility District (CFD) Ordinance #98-87, adopted on January 12, 1988, which permitted a radio tower and accessory structures on property located at 20581 Sugarloaf Mountain Road. The existing tower was constructed in 1987, prior to the Lake County LDR tower provisions. The proposed CFD will facilitate the replacement of an existing 180-foot tall tower (which was constructed in 1987) with a new guyed tower 20-feet to the north of where it is currently situated. According to the applicant, the new tower will be 250-feet tall with increased strength and will be capable for allowing the co-location of a cellular tenant.

The existing tower was constructed 26 years prior to the 2013 adoption of LDR Section 3.13.00, Wireless Antennas, Towers, and Equipment Facilities. In addition to the CFD rezoning ordinance, the applicant is requesting three waivers to Section 3.13.00 related to setbacks, additional setbacks, and separation between towers to allow the new tower to be constructed approximately in the same location as the existing tower. The waiver requests are outlined below.

1. **Section 3.13.09.B.1, setbacks.** This section of the LDR requires towers to be centered within the boundaries of the property recognized as the parent parcel on the official zoning map and was adopted in 2013, 26 years after the existing tower was constructed. At the time the existing tower was constructed, the LDR did not require towers to be centered on a parcel.

The existing tower and associated equipment are not located within the center of the parcel. The applicant is proposing to construct the new tower near the existing associated equipment to avoid new disturbance areas on the subject property.

2. **Section 3.13.09.B.4, setbacks.** This section of the LDR requires guyed towers to be setback at least 1320-feet, or a 1/4 of a mile from a single-family dwelling unit, and was adopted in 2013, 26 years after the existing tower was constructed. When the existing tower was built in 1987, there were no single-family dwelling units located within 1,320-feet of the subject property. Currently, there is a total of six single-family dwelling units located on the surrounding properties. These homes were built between 1992 and 2014 and are located between approximately 286-feet and 877-feet away from the existing tower. Requiring the new tower to be constructed at least 1,320-feet from the adjacent single-family dwelling units in accordance with the LDR requirement will not allow the new tower to be constructed on the subject property. In this case staff recommends allowing the new tower to satisfy a minimum setback requirement from the property lines of the adjacent dwelling units, in lieu of the exterior walls of the units as required per code. The location of the units on the adjacent properties may change in the event they are reconstructed. A reduced setback waiver permitting the new tower to be setback between 181-feet and 796-feet from the adjacent property lines with single-family uses will not pose a negative effect on the surrounding area as the existing tower was constructed prior to the adjacent dwelling units that are located within 1,320-feet from the tower. The location of the tower on the subject property did not preclude the construction of the dwelling units on the adjacent properties in the years following construction of the existing tower.
3. **Section 3.13.10.A, Separation between towers.** This section of the LDR requires a 5,000-foot separation between guyed towers, and was adopted in 2013, 26 years after the existing tower was constructed. There is an existing guyed tower located approximately 1,110-feet to the east that was constructed in 1982, 31 years prior to the adoption of LDR Section 3.13.00. The applicant is requesting to construct the new tower 1,110-feet from the tower that is located to the east. The LDR did not require a separation between towers when the existing tower was constructed. Requiring the new tower to maintain 5,000-feet of separation from the tower located to the east in accordance with the LDR requirement would prevent construction of the new tower on the subject property.

- Analysis -

Land Development Regulations Section 14.03.03 Standards for Review.

A. Whether the proposed rezoning is in conflict with any applicable provisions of the Code;

Pursuant to the Land Development Regulations, the purpose of the community facility district is to create areas where special or substantial community interest uses and activities are necessary and desirable. The proposed ordinance will benefit the community at large and be in the interest of public health, safety, and welfare as it will allow the construction of a new radio tower with increased strength, and has the potential for co-location of cellular technology. It is anticipated that the new tower will assist in enhancing radio and cellular communications throughout Lake County pursuant to the intent of the LDR's.

B. Whether the proposed rezoning is consistent with all elements of the Lake County Comprehensive Plan;

The proposed CFD rezoning ordinance is consistent with the Comprehensive Plan. Per Comprehensive Plan *Policy I-1.4.4 Rural Future Land Use Category*, civic uses are permitted within the Rural FLUC with a Conditional Use Permit. The Comprehensive Plan defines a "civic use" as County, Municipal, State or Federal Use or service, and community facility uses, excluding K-12 schools. It is Staff's interpretation that the radio tower is considered a civic use as the tower meets the definition of a community facility use.

Pursuant to the LDRs, the community facility district is intended for those areas where special or substantial community interest uses and activities are necessary and desirable.

The intent of the LDR's is to allow for Wireless Communications competition following the adoption of the Federal Telecommunications Act of 1996 and to 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).

Therefore, the amendment to CFD Ordinance #98-87 is a civic use and is in the best interest of health, welfare, and public safety of Lake County residents.

C. Whether, and the extent to which, the proposed rezoning is inconsistent with existing and proposed land uses;

The proposed rezoning amendment is not inconsistent with existing and proposed land uses as CFD Ordinance #98-87 allows towers. The existing radio tower on the subject property was constructed in 1987. The proposed CFD rezoning ordinance would allow construction of a new tower with a stronger signal and with the potential of cellular co-location. The surrounding properties that have single-family dwelling units have all been constructed after 1987, when the existing tower was constructed. There is another tower located approximately 1,110-feet to the east of the subject property. The subject property is located on Sugarloaf Mountain Road, which is characterized by single-family homes on large lots in a rural setting in excess of one (1) acre in size. Approval of the amendment to the CFD ordinance will not be inconsistent with the existing and proposed land uses in the surrounding area.

D. Whether there have been changed conditions that justify a rezoning;

The applicant is proposing to replace the existing guyed radio tower. The new tower will be a guyed radio tower with increased strength, and with the potential for co-location of cellular technology. The existing tower was constructed in 1987. Technology related to radio towers has changed in the last 30 years. The request to amend CFD Ordinance 98-87 is in response to technological improvements related to radio towers that justifies a rezoning.

E. Whether, and the extent to which, the proposed rezoning would result in demands on public facilities, and whether, or to the extent to which, the proposed rezoning would exceed the capacity of such public facilities, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools and fire and emergency medical facilities;

Water/Sewage –There are no public or private central service facilities in the area. The proposed use is not anticipated to result in a demand on public facilities.

Transportation –The Applicant may be required to submit a traffic impact analysis prior to site plan approval. The full extent of the development impacts will be evaluated as part of the site plan review process of any future development application.

Fire and Emergency Services – Lake County Fire Station #83 is the closest fire station to the subject property and is located at 15303 Ferndale Community Road, approximately 2.67 miles from the subject property.

F. Whether, and the extent to which, the proposed rezoning would result in significant adverse impacts on the natural environment;

An Environmental Assessment will be required per LDR Chapter 6 with the required Site Plan application prior to construction of the new tower.

G. Whether, and the extent to which, the proposed rezoning would affect the property values in the area;

The CFD rezoning amendment proposes the replacement of an existing guyed radio tower that was constructed in 1987, five years prior to the first home being constructed on the adjacent properties according to the Lake County Property Appraiser. There are currently six single-family dwelling units that are located less than 1,000-feet from the tower. Per the Lake County Property Appraiser, the average value of these homes is in excess of \$200,000. Therefore, it is not anticipated that the proposed CFD rezoning ordinance will have a negative effect on property values in the surrounding area.

H. Whether, and the extent to which, the proposed rezoning would result in an orderly and logical development pattern;

The proposed CFD rezoning amendment will not affect the existing orderly and logical development pattern in the area.

I. Whether the proposed rezoning would be in conflict with the public interest, and in harmony with the purpose and intent of these Regulations; and

The proposed CFD rezoning ordinance will not be in conflict with the public interest and will be in harmony with the general intent of the Comprehensive Plan and LDR. The proposed ordinance will benefit the community at large and be in the interest of public health, safety, and welfare as it will allow the construction of a new radio tower with increased strength, and with the potential for co-location of cellular technology. The new tower will assist in enhancing radio and cellular communications throughout Lake County pursuant to the intent of the LDR's.

J. Any other matters that may be deemed appropriate by the Lake County Zoning Board or the Board of County Commissioners, in review and consideration of the proposed rezoning.

N/A.

FINDINGS OF FACT: Staff has reviewed the proposed rezoning amendment and found:

1. The request is consistent with *Policy I-1.4.4 Rural Future Land Use Category* which permits civic uses.
2. The request meets the intent of the Community Facility District which is intended for uses which benefit and serve community interests.
3. The proposed amendment proposes waivers to the existing setback conditions, which if approved, would be consistent with the intent and spirit of LDR Ch. 3.13.00. The new guyed tower will not pose any additional impacts to the surrounding residential properties or to the surrounding area.

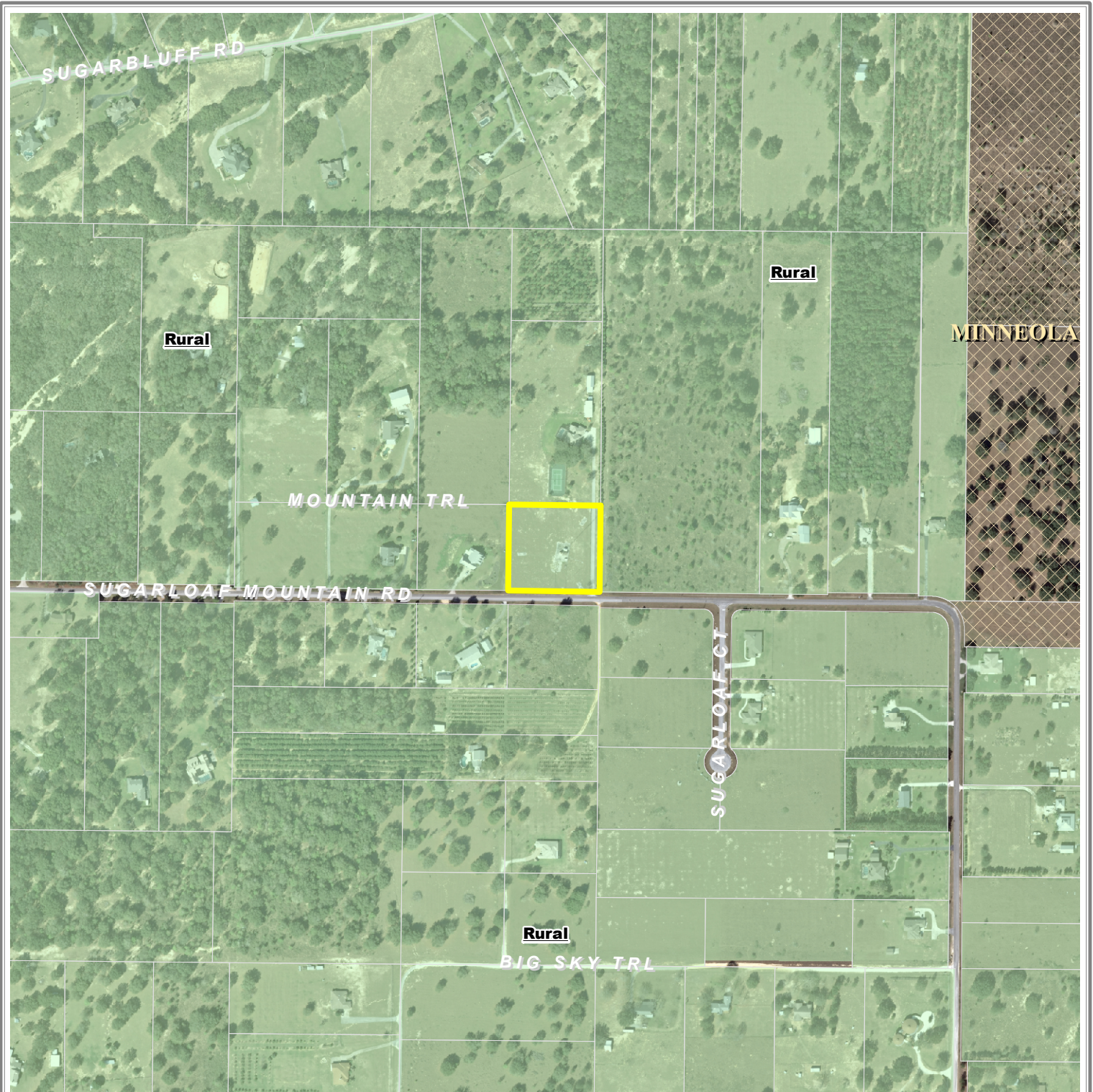
Therefore, based on these findings of fact, staff recommends **APPROVAL**, subject to the conditions as set forth in the attached Ordinance.

Case Manager: Bobby Howell, AICP, Senior Planner

WRITTEN COMMENTS FILED: Supportive: -0-

Concern: -0-

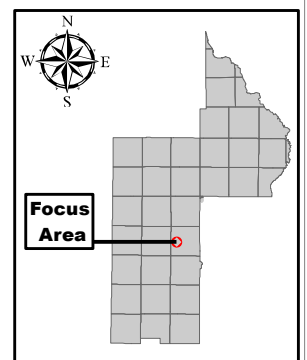
Opposition: -0-

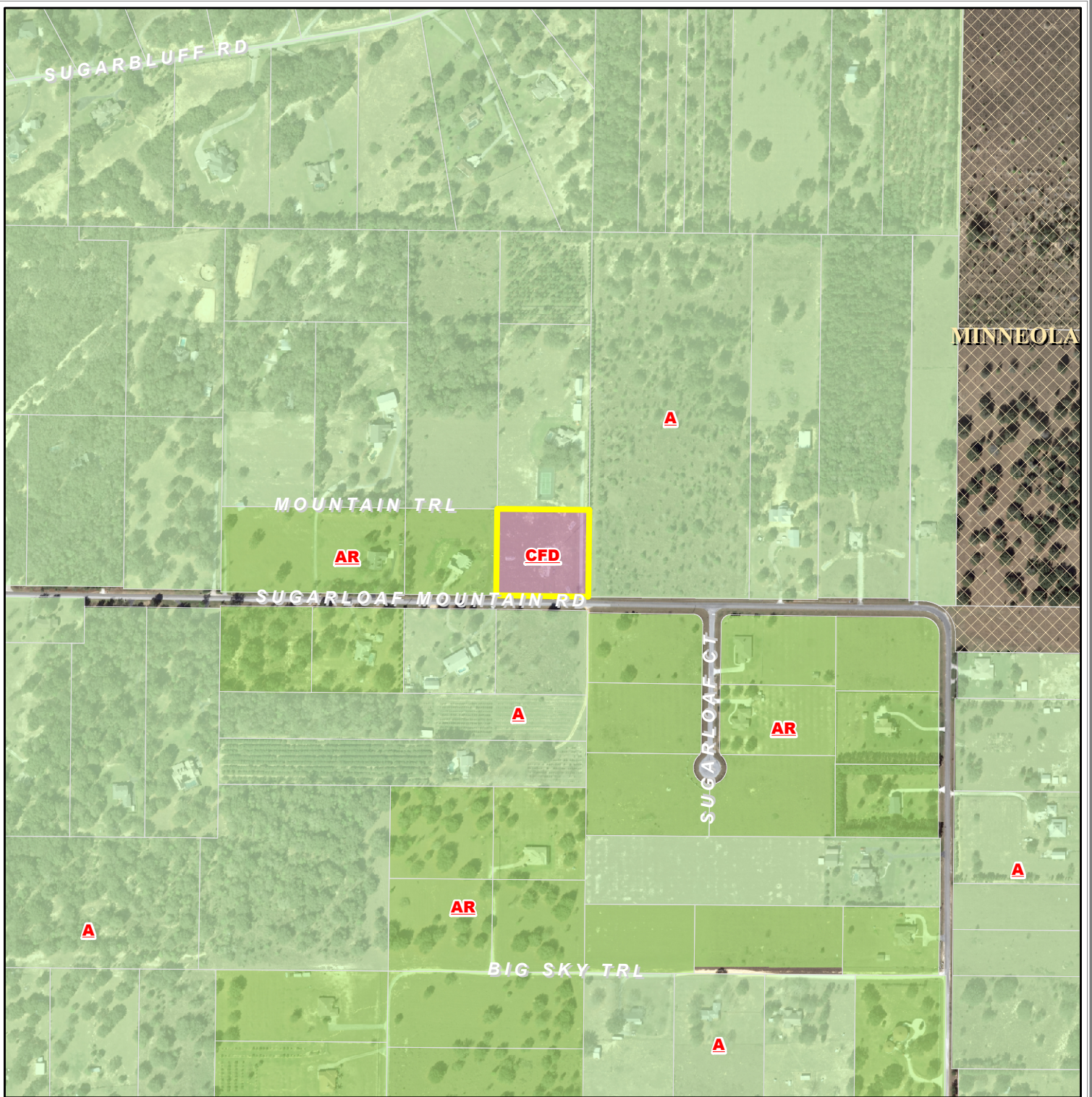


FUTURE LAND USE LEGEND

- | | | | |
|--------------------------------|--|---------------------|----------------------|
| Bella Collina | Heavy Industrial | Recreation | Urban High Density |
| Cagan Crossings | Mt Plymouth-Sorrento Main Street District | Regional Commercial | Urban Low Density |
| Conservation | Mt Plymouth-Sorrento Neighborhood | Rural | Urban Medium Density |
| Green Swamp Core Conservation | Mt Plymouth-Sorrento Receiving Area | Rural Transition | |
| Green Swamp Ridge | Regional Office | Sending Area A-1-20 | |
| Green Swamp Rural | Public Service Facility and Infrastructure | Sending Area A-1-40 | |
| Green Swamp Rural Conservation | Receiving Area A-1-20 | Summer Bay | |

NAME: CHARITABLE MINISTRY SUPPORT
CASE NUMBER: RZ-17-16-1
LOCATION (S-T-R): 20-21-26
REQUEST: AMEND CFD ORDINANCE# 98-87

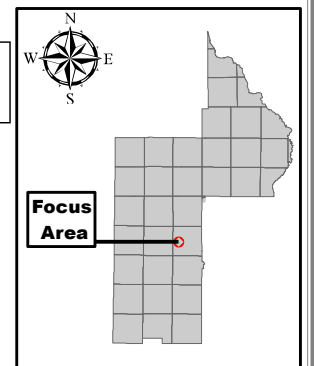




ZONING LEGEND

A	RA	R-2	R-4	R-7	RMRP	RV	C-2	LM	MP	PUD
AR	R-1	R-3	R-6	RP	RM	C-1	CP	HM	CFD	

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ORDINANCE #2017-xx
RZ-17-06-1
Charitable Ministry Support, Inc. CFD Rezoning

AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LAKE COUNTY ZONING MAPS; PROVIDING FOR SEVERABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, James Hoge has submitted an application on behalf of the Charitable Ministry Support, Inc. (Property Owner) to amend Community Facility District (CFD) Ordinance #-98-87 with a new ordinance to allow construction of a new radio/cell tower with new setback standards; and

WHEREAS, the subject property consists of approximately 2.31+/- acres located at 20570 Sugarloaf Mountain Road, Clermont, Florida, in Section 20, Township 21 East, Range 26 South, identified by Alternate Key Number 2948230, and more particularly described below:

LEGAL DESCRIPTION

The Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, Section 20, Township 21 South, Range 26 East, Lake County, Florida, less the South 25 feet for right-of-way.

WHEREAS, the property subject to the request is located within the Rural Future Land Use Category as shown on the Lake County Comprehensive Plan Future Land Use Map (FLUM); and

WHEREAS, Charitable Ministry Support, Inc. has indicated a desire to remove an existing radio tower and replace said tower in the same location with a new tower with increased signal strength that is capable of cellular co-location; and

WHEREAS, Lake County Planning and Zoning Board did review petition RZ-17-06-1 on the 31st day of May, 2017, after giving Notice of Hearing for a change in the use of land, including a notice that said petition will be presented to the Board of County Commissioners of Lake County, Florida, on the 20th day of June 2017; and

WHEREAS, the Board of County Commissioners reviewed said petition, the recommendations of the Lake County Planning and Zoning Board, the staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised, and

WHEREAS, the approval of this Ordinance shall supersede and replace existing CFD Ordinance #98-87; and

WHEREAS, upon review, certain terms pertaining to the development of the above described property have been duly approved; and

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

1 **Section 1. Terms:** The County Manager or designee shall amend the Official Lake County Zoning Map to
2 show the Community Facility District (CFD) zoning in accordance with Exhibit "A" of this
3 Ordinance. This Ordinance shall supersede and replace Ordinance #98-87. All land uses shall
4 be generally consistent with the Concept Plan as shown in Exhibit "A", of this Ordinance. To the
5 extent that there are conflicts between the Conceptual Plan and this Ordinance, this Ordinance
6 shall take precedence.
7

8 **A. Land Uses:**

- 9 1. Use of the site shall be limited to a radio or wireless communication tower.
10 2. Accessory Uses directly associated with the above principal use may be approved by the
11 County Manager or designee. Any other use of the site not specified above shall require
12 approval of an amendment to this Ordinance by the Board of County Commissioners
13

14 **B. Setbacks of proposed tower to property line as follows:**

- 15 1. North: 171-feet, minimum from the property line
16 2. South: 180-feet, minimum from the property line
17 3. East: 149-feet, minimum from the property line
18 4. West: 181-feet, minimum from the property line
19 5. A minimum separation distance of 1,110-feet shall be required between the tower and the
20 existing tower located on property identified as Alternate Key 1411319.
21

22 **C. Floor Area Ratio/Intensity, Impervious Surface (ISR), Structure Height:** Floor Area
23 Ratio/Intensity, Impervious Surface Ratio, and Structure Height shall be in accordance with the
24 Comprehensive Plan and LDR, as amended. The maximum height of the tower shall not exceed
25 250-feet.
26

27 **D. Signage:** All signage, if provided, shall be accordance with the Comprehensive Plan and Land
28 Development Regulations, as amended.
29

30 **E. Landscaping, Buffering, and Screening:** Landscaping, Buffering, and Screening shall be in
31 accordance with the Comprehensive Plan and Land Development Regulations, as amended.
32

33 **F. Transportation Improvements/Access Management:**

- 34 1. Access Management: All access management shall be in accordance with the
35 Comprehensive Plan and Land Development Regulations, as amended.
36 2. Traffic Analysis: A Traffic Impact Analysis will be required with any future site plan submittal.
37 Any transportation improvements recommended as a result of the traffic impact analysis will
38 be addressed as part of the site plan approval.
39

40 **G. Lighting:** The tower shall not be artificially lighted except to assure human safety or as required
41 by the Federal Aviation Administration.
42

43 **H. Fire Protection:** Fire Protection shall be in accordance with the all applicable federal, state,
44 and local codes and/or regulations, as amended.
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1 **I. Utilities:**

- 2 1. The provision of potable water, as applicable, shall be permitted in accordance with Florida
3 Department of Health, Florida Department of Environmental Protection, the Comprehensive
4 Plan, and Land Development Regulations, as amended.
5 2. Septic and sewage service, as applicable, shall be permitted in accordance with the Florida
6 Department of Health, Florida Department of Environmental Protection, the Comprehensive
7 Plan, and Land Development Regulations, as amended.
8 3. Development shall connect to central wastewater when available.

9
10 **J. Concurrency Management Requirements:** Any development shall comply with the Lake
11 County Concurrency Management System, as amended.

12
13 **K. Development Review and Approval:** Prior to the issuance of permits, the Applicant shall be
14 required to submit a development application for any future construction, for review and
15 approval, in accordance with the Comprehensive Plan and LDR, as amended.

16
17 **L. Future Amendments to Statutes, Code, Plans, and/or Regulations:** The specific references
18 in this Ordinance to the Florida Statutes, Florida Administrative Code, Lake County
19 Comprehensive Plan, and Lake County Land Development Regulations shall include any future
20 amendments to the Statutes, Code, Plans, and/or Regulations.

21
22 **Section 2. Conditions:** Conditions as altered and amended which pertain to the above tract of land shall
23 mean:

24 **A.** After establishment of the facilities as provided herein, the aforementioned property shall only
25 be used for the purposes named in this Ordinance. Any other proposed use must be specifically
26 authorized by the Board of County Commissioners.

27 **B.** No person, firm, or corporation shall erect, construct, enlarge, alter, repair, remove, improve,
28 move, convert, or demolish any building structure, add other uses, or alter the land in any manner
29 within the boundaries of the above described land without first obtaining the necessary approvals
30 in accordance with the Lake County Code, as amended, and obtaining the permits required from
31 the other appropriate governmental agencies.

32 **C.** This Ordinance shall inure to the benefit of, and shall constitute a covenant running with the land
33 and the terms, conditions, and provisions hereof, and shall be binding upon the present Owner
34 and any successor, and shall be subject to each and every condition herein set out.

35 **D.** Construction and operation of the proposed use shall at all times comply with the regulations of
36 this and other governmental permitting agencies.

37 **E.** The transfer of ownership or lease of any or all of the property described in this Ordinance shall
38 include in the transfer or lease agreement, a provision that the purchaser or lessee is made good
39 and aware of the conditions established by this Ordinance and agrees to be bound by these
40 conditions. The purchaser or lessee may request a change from the existing plans and conditions
41 by following procedures contained in the Land Development Regulations, as amended.

42 **F.** Action by the Lake County Code Enforcement Special Master. The Lake County Code
43 Enforcement Special Master shall have authority to enforce the terms and conditions set forth in
44 this ordinance and to recommend that the ordinance be revoked.

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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. Filing with the Department of State: The clerk shall be and is hereby directed forthwith to send a copy of this Ordinance to the Secretary of State for the State of Florida in accordance with Section 125.66, Florida Statutes.

Section 5. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this _____ day of _____, 2017.

FILED with the Secretary of State _____, 2017.

EFFECTIVE _____, 2017.

**BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA**

TIMOTHY I. SULLIVAN, CHAIRMAN

ATTEST:

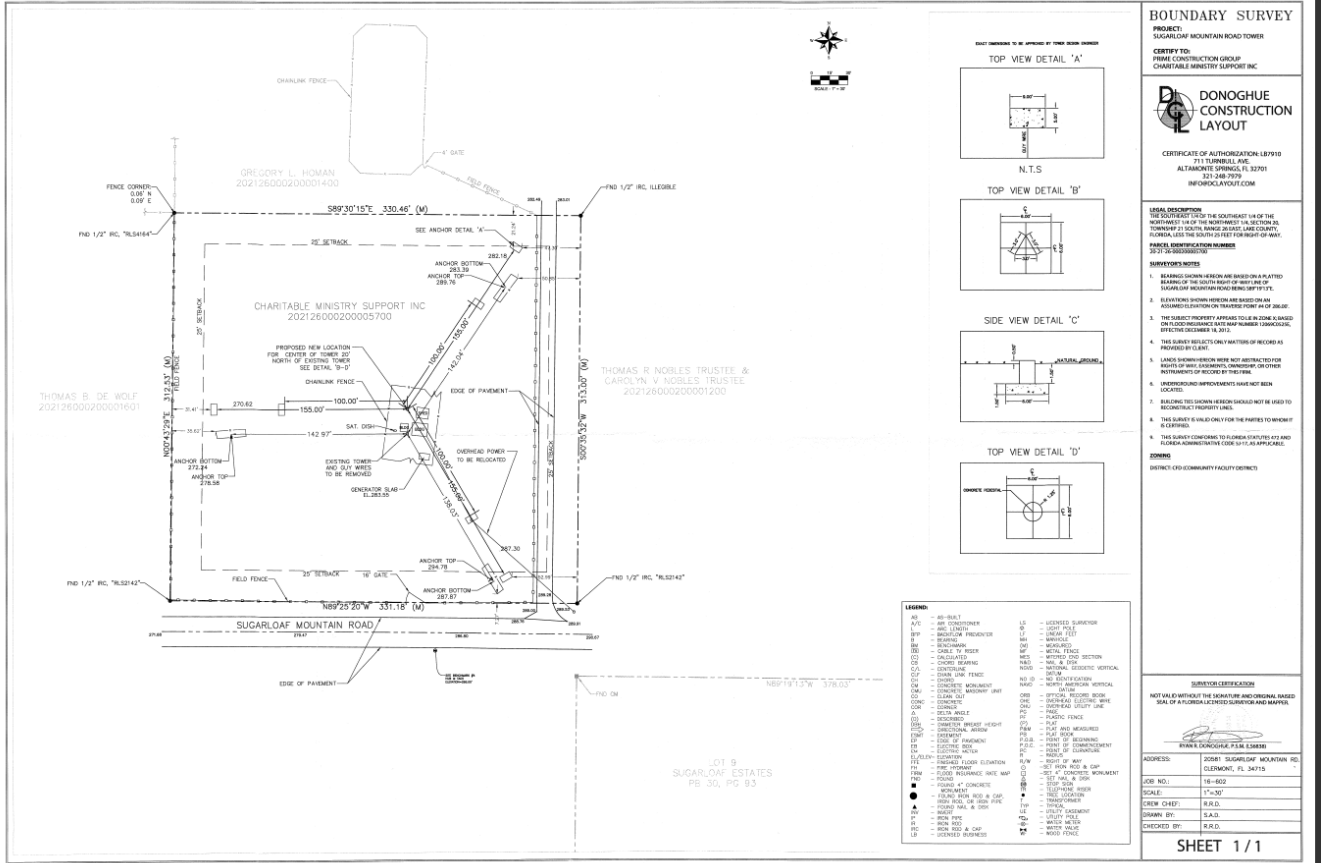
**NEIL KELLY, CLERK OF THE
BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA**

APPROVED AS TO FORM AND LEGALITY

MELANIE MARSH, COUNTY ATTORNEY

EXHIBIT "A" - CONCEPT PLAN

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Attachment 1 – Applicant justification for tower replacement

There are four primary reasons for the tower replacement:

- 1) For maintenance. The tower is getting old and needs to be replaced for safety reasons.
- 2) For strength. We have a FCC construction permit to increase the power of the station WMYZ, which is resident on that tower, but the new antenna required for this upgrade is much heavier than the current antenna. In addition, a stronger tower keeps antenna from rotating in the wind, so data links are more reliable when they don't move. Thirdly, a stronger tower would allow for a cellular co-location between 50' and 100', which is the height that cellular would want at this location.
- 3) For height. We have data links from this site going to the studio in Altamonte and to a data center in Orlando. We are right on the edge of getting over the trees and buildings along the path to these sites and we would like to improve the reliability of these data links.
- 4) For mounting space. The bottom 100' of the tower is not very usable for broadcasters because you need to get completely above the surrounding trees for most broadcast communications to work well. On a 180' tower, that only leaves 80' to mound devices. Each device wants to be 5' to 10' away from the next device above and below. Add that up and you don't have very much room to mount antennas. The additional 70' would really help that.