

**LAKE COUNTY PLANNING AND COMMUNITY DESIGN ANALYSIS**  
**APPLICATION FOR CONDITIONAL USE PERMIT**

**PLANNING & ZONING BOARD**  
 October 30, 2013



**BOARD OF COUNTY COMMISSIONERS**  
 November 19, 2013

<b>CUP #13/10/1-4</b> <b>Wekiva River West - AT&amp;T</b>	<b>Case Manager:</b> Rick Hartenstein, AICP, CPM Senior Planner	<b>Agenda Item #3</b>
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**Applicant:** Vertex Development, LLC – Jennifer Conrad Frost (the “Applicant”)

**Owner:** SR 46 Commercial Land, LLC - (the “Owner”)

**Requested Action:** The Applicant is requesting a conditional use permit (CUP) to permit the construction and operation of a 195-foot Monopole Telecommunications Tower within the Agriculture (A) Zoning District.

**- Site Location & Information -**

Approximate site location outlined in Yellow



<b>Size</b>	8.8 +/- acres	
<b>Location</b>	East of Mount Plymouth at the southeast corner of the intersection of SR 46 and Wekiva River Road (Sec. 28, Twn. 19 S, Rge. 29 E)	
<b>Alternate Key #</b>	3368533 and 3288629	
<b>Future Land Use</b>	Wekiva River Protection Area A-1-40 Sending Area	
	<b>Existing</b>	<b>Proposed</b>
<b>Zoning District</b>	A	A
<b>Density</b>	1 du/40 net ac	1 du/40 net ac
<b>Floor Area Ratio (LDR Table 3.02.06)</b>	0.10 max	0.10 max
<b>Impervious Surface Ratio (LDR Table 3.02.06)</b>	0.10 max	0.10 max
<b>Joint Planning Area</b>	N/A	
<b>Utility Area</b>	N/A	
<b>Site Utilities</b>	Unmanned site	
<b>Road Classification</b>	Wekiva River Road - Local Road SR 46 – Rural Principal Arterial	
<b>Flood Zone/ FIRM Panel</b>	Flood Zone X / 0075	
<b>Commissioner District</b>	4 (Campione)	

**Site Visit**                      October 11, 2013

**Sign Posted**                    October 11, 2013 (2 posted)

**Land Use Table**

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
<b>North</b>	Conservation	Agriculture (A)	Forest Land	N/A
<b>South</b>	A-1-40 Sending Area	Agriculture (A)	Residential	N/A
<b>East</b>	Conservation	Agriculture (A)	Wildlife Management Area	N/A
<b>West</b>	A-1-40 Sending Area	Agriculture (A)	Residential	N/A

– Summary of Staff Determination –

**STAFF RECOMMENDATION:** Staff recommends **APPROVAL** of the Conditional Use Permit request, subject to the conditions set forth in the attached Ordinance.

**PLANNING & ZONING BOARD RECOMMENDATION:**

– Summary of Analysis –

The Applicant is requesting a Conditional Use Permit (CUP) in the Agriculture (A) Zoning District to allow a 195-foot monopole communications tower and equipment. The proposed monopole communications tower and equipment is to be situated on a 4,900-square foot compound area (70 feet by 70 feet) within the subject parcel, which is approximately 8.8 acres in size. The property is located in the Wekiva River Protection Area (WRPA) east of Mount Plymouth at 32132 State Road (SR) 46. The property currently has an existing residence located approximately 265 feet east of the tower location of the property.

The Future Land Use (FLU) for the property is Wekiva River Protection Area A-1-40 Sending Area. The requested use is consistent with the Comprehensive Plan, which allows communications towers (civic uses) with the issuance of a CUP in this FLU. The requested use is also consistent with the Land Development Regulations (LDR), which allows communications towers that have not been camouflaged and do not qualify as amateur radio station operators/receive only antennas as a conditional use in the Agriculture Zoning District.

Due to the development pattern in the immediate vicinity, the proposed tower is unable to meet the setback requirement of 400% of the tower height from adjacent residential units to the east, southeast, and southwest of the proposed tower site not owned by the property owner. A variance to Land Development Regulations (LDR) Section 3.13.09.B.4 (Table 1) was applied for and heard by the Board of Adjustments (BOA) on October 10, 2013. The BOA granted the variance to the setbacks as shown in Staff Exhibit 1 below. The CUP Ordinance contains a condition for setbacks as established by the BOA.

– STANDARDS OF REVIEW & ANALYSIS –

(Per Section 14.05.03 of the Land Development Regulations)

**A. Consistency with the Comprehensive Plan and Local Code (Land Development Regulations).**

The proposed rezoning request is consistent with the Comprehensive Plan Policy I-3.2.1 *Wekiva River Protection Area A-1-40 Sending Area Future Land Use Category*, which allows communications towers (civic - community facility uses) with the issuance of a Conditional Use Permit (CUP). The request is also consistent with Comprehensive Plan Policy I-7.12.1 *Provision of Utilities*, which permits private or public utilities needed to support adopted Future Land Use and zoning in all land use designations, except as expressly prohibited or restricted.



As shown in Staff Exhibit 1, there are three (3) residential units within the 780-foot setback from the location of the communications tower.

Landscaping is not required pursuant to LDR Section 3.13.13 *Landscaping*, because the property is zoned Agriculture and exempt from landscaping requirements. In addition, the adjacent properties located at the north, south, east, and west are zoned Agriculture and require no landscape buffers in accordance with Table 1, Section 9.01.06, LDR.

**B. Effect on Adjacent Properties.**

**1. The proposed Conditional Use will not have an undue adverse effect upon nearby property.**

The property is forested along the borders towards the interior. The proposed tower site has sufficient native trees and vegetation to mitigate any visual impacts the lease/compound area may have on adjacent properties. No evidence has been submitted that would deem this request as having an adverse effect on adjacent properties. The attached CUP ordinance contains provisions to ensure the mitigation of adverse impacts on adjacent properties through the implementation of setbacks as adjusted by the BOA granting of the variance request. Existing vegetation will serve to buffer and screen the proposed use.

**2. The proposed conditional use is compatible with the existing or planned character of the neighborhood in which it would be located.**

The adjacent area is characterized by low density residential and agricultural uses, wetlands, and wooded areas. Given the nature of the proposed use, it is appropriate for a remote low density area.

**3. All reasonable steps have been taken to minimize any adverse effect of the proposed conditional use on the immediate vicinity through design, landscaping, and screening.**

As discussed above and as seen on Staff Exhibit 1, the proposed tower location on this property will be buffered and screened by the surrounding existing vegetation which contains dense wooded areas. The majority of the adjacent properties are 5 plus acre tracts with Agriculture (A) Zoning. Based on the above, the surrounding trees and native vegetation left undisturbed will provide sufficient screening.

**4. The proposed conditional use will be constructed, arranged, and operated so as not to interfere with the development of the neighboring property, in accordance with applicable district regulations.**

The CUP will not interfere with the development of neighboring properties. The proposed communications tower and equipment will be contained within the 4,900-square foot lease parcel and will be centered within the boundaries of the parent parcel as shown in the proposed ordinance (Exhibit "A" - Conceptual Plan).

**C. Adequacy of Public Facilities.**

**The proposed conditional use will be served by adequate public facilities including but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, park and recreation, schools, and fire and emergency medical facilities. Levels of service established by the Comprehensive Plan shall be considered.**

The proposed conditional use will not result in additional demands on public facilities. The property is being served by an existing well and septic system.

**D. Adequacy of Fire Protection.**

**The Applicant shall obtain from the Lake County Emergency Services Division written confirmation, or has otherwise demonstrated by substantial credible evidence, that water supply, evacuation facilities, and emergency access are satisfactory to provide adequate fire protection.**

The subject parcel is approximately 7 miles from Lake County Fire Station 39 (closest fire station), located at 31431 Walton Heath, Sorrento.

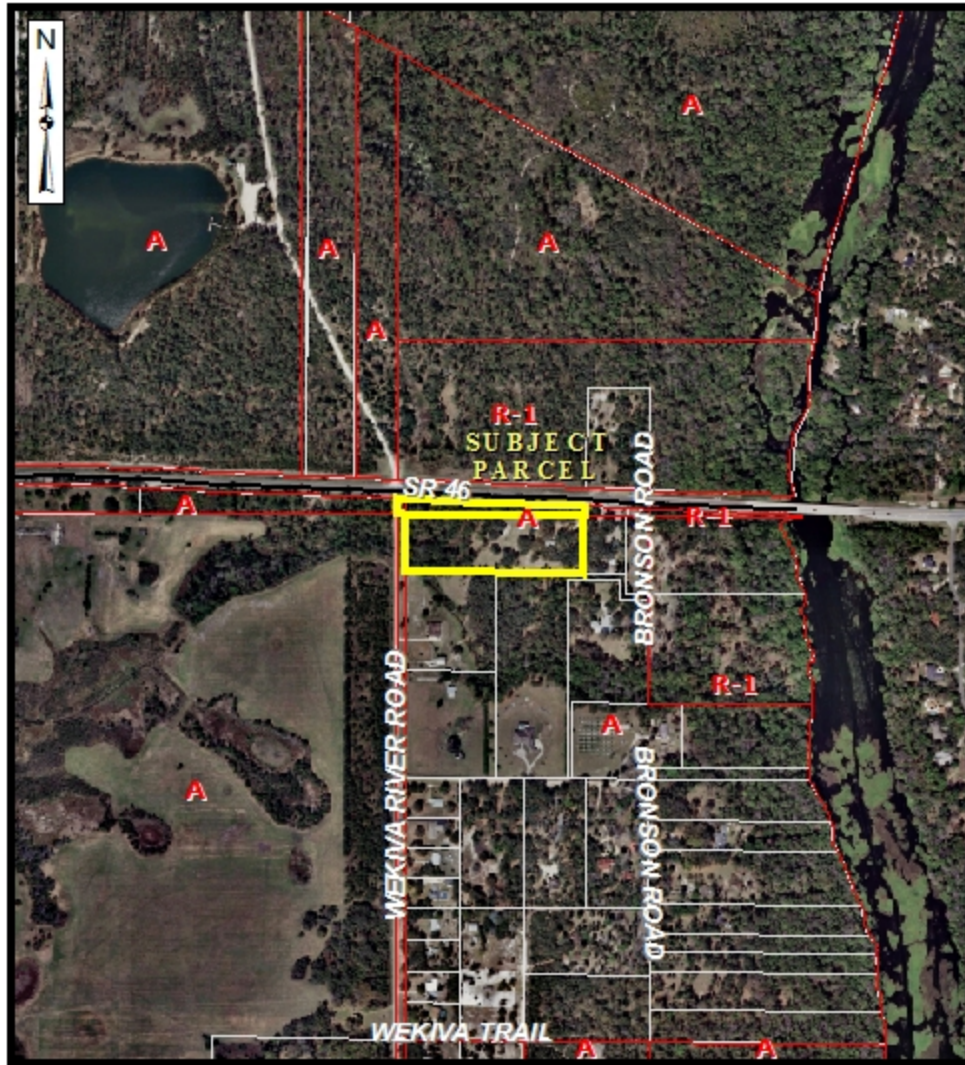
**FINDINGS OF FACT:** Staff has reviewed the application for the proposed conditional use permit and found:

1. The request is consistent with Comprehensive Plan Policy I-3.2.1, *Wekiva River Protection Area A-1-40 Sending Area Future Land Use Category*, which allows communications towers (civic uses) with the issuance of a Conditional Use Permit (CUP).
2. The request is consistent with Comprehensive Plan Policy I-7.12.1 *Provision of Utilities*, which permits private or public utilities needed to support adopted Future Land Use and zoning in all land use designations, except as expressly prohibited or restricted.
3. The application is consistent with LDR Table 3.01.03, *Schedule of Permitted and Conditional Uses*, which permits communications towers (community facility uses) that are not camouflaged, and that do not qualify as amateur radio station operators/receive only antennas, as a conditional use in the Agriculture Zoning District.
4. The application is consistent with LDR Section 3.13.00 *Wireless Antennas, Towers, and Equipment Facilities*.

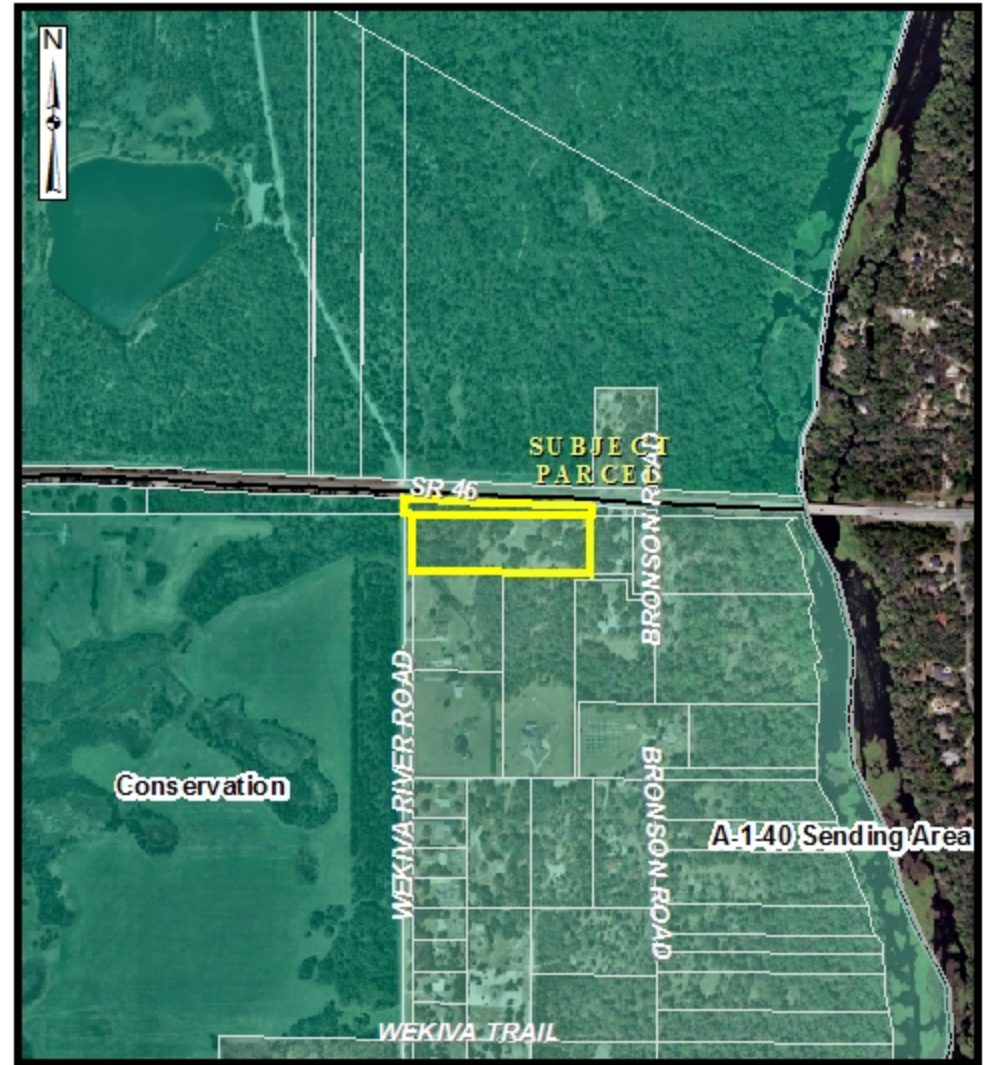
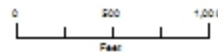
Therefore, based on these findings of fact, staff recommends **APPROVAL with conditions**, as specified in the proposed ordinance.

**WRITTEN COMMENTS FILED: Supportive: -0-                      Concern: -0-                      Opposition: -0-**

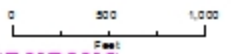




**CURRENT ZONING**  
**AGRICULTURE**



**CURRENT 2030 FUTURE LAND USE**  
**WEKIVA RIVER PROTECTION AREA A-1-40 SENDING**



**WEKIVA RIVER TOWER**  
**WEST - AT&T**

**CASE NO.**  
CUP #13/10/1-4

**CASE LOCATION:**  
28-19S-29E

**REQUESTING:**  
CUP for a 195' Monopole  
Communication Tower in Agriculture Zoning

**ZONING** (Red outline)

**LAND USE** (Magenta outline)

**SUBJECT PARCEL** (Yellow outline)

**DATASOURCES:**  
Lake County GIS Department Planimetrics, 2006 aerial image, Data Compilation and Map production compliments of the Growth Management Department, Planning and Community Design.

**MAP COMPOSITION:**  
JANUARY, 2008

This map product was prepared from a Geographic Information System established by the Lake County Board of County Commissioners, its employees, agents and personnel, make no warranty as to its accuracy and in particular its accuracy as to labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. The Lake County Board of County Commissioners, its employees, agents and personnel MAKE NO WARRANTY OF MERCHANTABILITY OR WARRANTY FOR FITNESS OF USE FOR A PARTICULAR PURPOSE EXPRESS OR IMPLIED WITH RESPECT TO THIS MAP PRODUCT. Independent verification of all data contained on this map product should be obtained by any user of this map.

**FOCUS AREA**

**LAKE COUNTY**  
FLORIDA



1           **WHEREAS**, on October 10, 2013, the Lake County Board of Adjustments heard a petition for a  
2 variance to the Lake County Land Development Regulations and approved the variance request; and

3           **WHEREAS**, this Conditional Use Permit was reviewed by the Planning & Zoning Board on October  
4 30, 2013 and by the Board of County Commissioners of Lake County, Florida on November 19, 2013; and

5           **NOW, THEREFORE, BE IT RESOLVED BY THE LAKE COUNTY BOARD OF COUNTY**  
6 **COMMISSIONERS AS FOLLOWS:**

7 **Section 1**   Permission is hereby granted for the operation of a monopole communications tower as a  
8 Conditional Use within the Agriculture (A) Zoning District.

9 **Section 2**   Terms: This Ordinance shall mean and include the total of the following uses as included  
10 herein. The County Manager or designee shall amend the Lake County Zoning Map to reflect  
11 a Conditional Use Permit (CUP), in accordance with this Ordinance. To the extent where  
12 there are conflicts between the Conceptual Plan and this Ordinance, the Ordinance shall take  
13 precedence.

14 A. Land Uses: In addition to those uses listed as permitted uses with the Agriculture (A) Zoning District,  
15 the use of the site shall also allow the use specified below, consistent with EXHIBIT "A", the  
16 Conceptual Plan:

17       1. A monopole communications tower, not to exceed 195 feet in height (including appurtenances).

18 Accessory uses directly associated with this use, including equipment shelters and generators with  
19 associated fuel tanks, may be approved by the County Manager or designee. Any other use of the site  
20 shall require an amendment to this Ordinance as approved by the Board of County Commissioners.

21 B. Specific Conditions:

22       1. The Permittee shall submit a site plan application for review and approval for the monopole  
23 communications tower and associated uses generally consistent with the concept plan depicted on  
24 Exhibit "A" prior initiating tower communications.

25       2. The communications tower shall be centered within the boundaries of the property recognized as  
26 the parent parcel.

27       3. Radiation Emission Standards: The communications tower and communication antennae must  
28 meet the radiation emission standards set by the FCC. The Applicant shall provide evidence that  
29 the communications tower and communication antennae meet the FCC standards where  
30 applicable.

31       4. Illumination: The communications tower shall not be artificially lighted except to assure human  
32 safety or as required by the Federal Aviation Administration and the Land Development  
33 Regulations, as amended.

34       5. Parking: Parking surfaces may be grass or other pervious material, except as required for disabled  
35 access.

36 C. Tower and Equipment Facility Setbacks:

37       1. The tower shall be a minimum of one hundred (100) feet from all property lines and centered on  
38 the parent parcel.

39       2. The equipment facility shall be a minimum of twenty-five (25) feet from all property lines.



1 3. The tower setback from existing residential structures on adjacent property shall be 473 +/- feet  
2 southwest of tower, 593 +/- feet east of tower, and 633 +/- feet southeast of tower as shown by  
3 Exhibit "B" – Setback Detail of this Ordinance, and as granted by the Board of Adjustment (BOA  
4 #15-13-4) on October 10, 2013 and recorded in the Public Records of Lake County, Florida (ORB  
5 4390 Page 471).

6 D. Open Space, Impervious Surface Ratio, Floor Area Ratio, and Building Height shall be in accordance  
7 with the Comprehensive Plan and LDR, as amended.

8 E. Landscaping, Buffering and Screening: Landscaping, Buffering and Screening, shall be in accordance  
9 with the LDR, as amended.

10 F. Fencing: A chain link fence or wall not less than six (6) feet from finished grade shall be provided  
11 around the communications tower and support facilities in accordance with the LDR, as amended.

12 G. Signage: Signs, if any, shall be in accordance with the LDR, as amended.

13 H. Development Review and Approval: Prior to the issuance of any permits, the Permittee shall submit a  
14 site plan generally consistent with EXHIBIT "A" – CONCEPTUAL PLAN and EXHIBIT "B" – Setback  
15 Detail, for review and approval in accordance with the Comprehensive Plan and LDR, as amended.

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

20 **Section 3.** Additional Conditions:

21 A. In the event of any breach in any of the terms or conditions of this permit or any default or failure of the  
22 Permittee or his successor to: Fulfill development in substantial accordance with the conceptual plan as  
23 submitted to the Planning & Zoning Board and the Board of County Commissioners; comply with the  
24 codes of the governmental agencies having lawful and appropriate jurisdiction thereon; or comply with  
25 any of the terms of the Conditional Use Permit; or if this CUP is found to become a nuisance or safety  
26 hazard, the permit may be revoked after due Public Hearing before the Planning & Zoning Board and  
27 the Board of County Commissioners.

28 B. This Conditional Use Permit shall inure to the benefit of, and shall constitute a covenant running with  
29 the land; and the purpose, terms, and conditions contained herein shall be binding upon the Permittee  
30 or any successor and his interest hereto.

31 C. Action by the Lake County Code Enforcement Special Master. The Lake County Code Enforcement  
32 Special Master shall have authority to enforce the terms and conditions set forth in this ordinance and  
33 to recommend that the ordinance be revoked.

34 D. Inspection. This use shall be inspected by the Code Enforcement Division annually to ensure  
35 compliance with the conditions of this Conditional Use Permit and the approved site plan. An annual  
36 inspection fee will be assessed. If an emergency inspection is necessary during non-operating hours, a  
37 fee shall also be assessed.

38 **Section 4.** Filing with the Department of State: The clerk shall be and is hereby directed forthwith to  
39 send a copy of this Ordinance to the Secretary of State for the State of Florida in accordance with Section  
40 125.66, Florida Statutes.

41

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

2  
3 **ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

4  
5 **FILED** with the Secretary of State \_\_\_\_\_, 2013.

6  
7 **EFFECTIVE** \_\_\_\_\_, 2013.

8  
9 **BOARD OF COUNTY COMMISSIONERS**  
10 **LAKE COUNTY, FLORIDA**

11  
12 \_\_\_\_\_  
**LESLIE CAMPIONE, Chairman**

13 **ATTEST:**

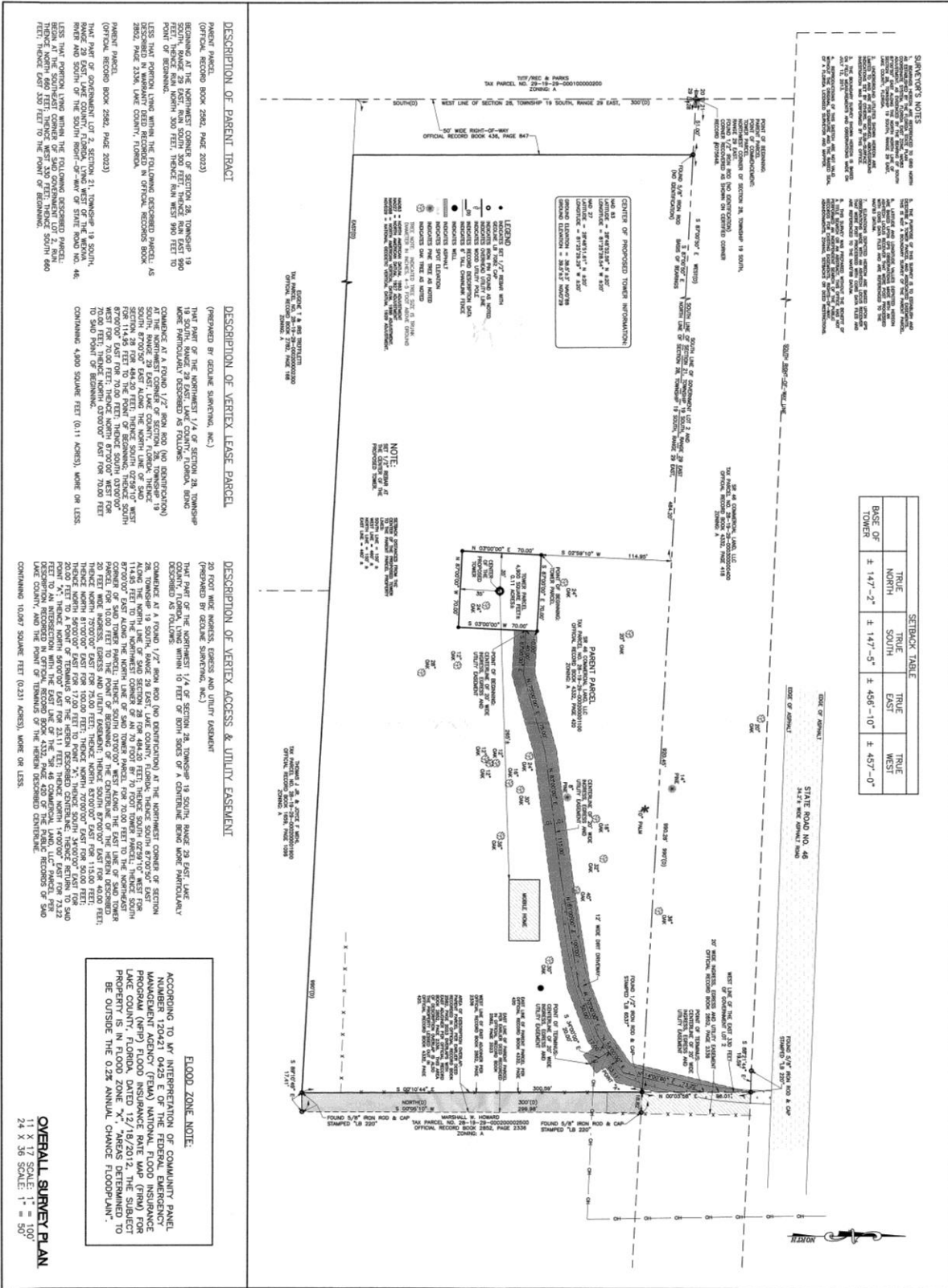
14 \_\_\_\_\_  
15 **NEIL KELLY, Clerk of the**  
16 **Board of County Commissioners**  
17 **Lake County, Florida**

18 **APPROVED AS TO FORM AND LEGALITY**

19 \_\_\_\_\_  
20 **SANFORD A. MINKOFF, County Attorney**

EXHIBIT "A" - CONCEPTUAL PLAN

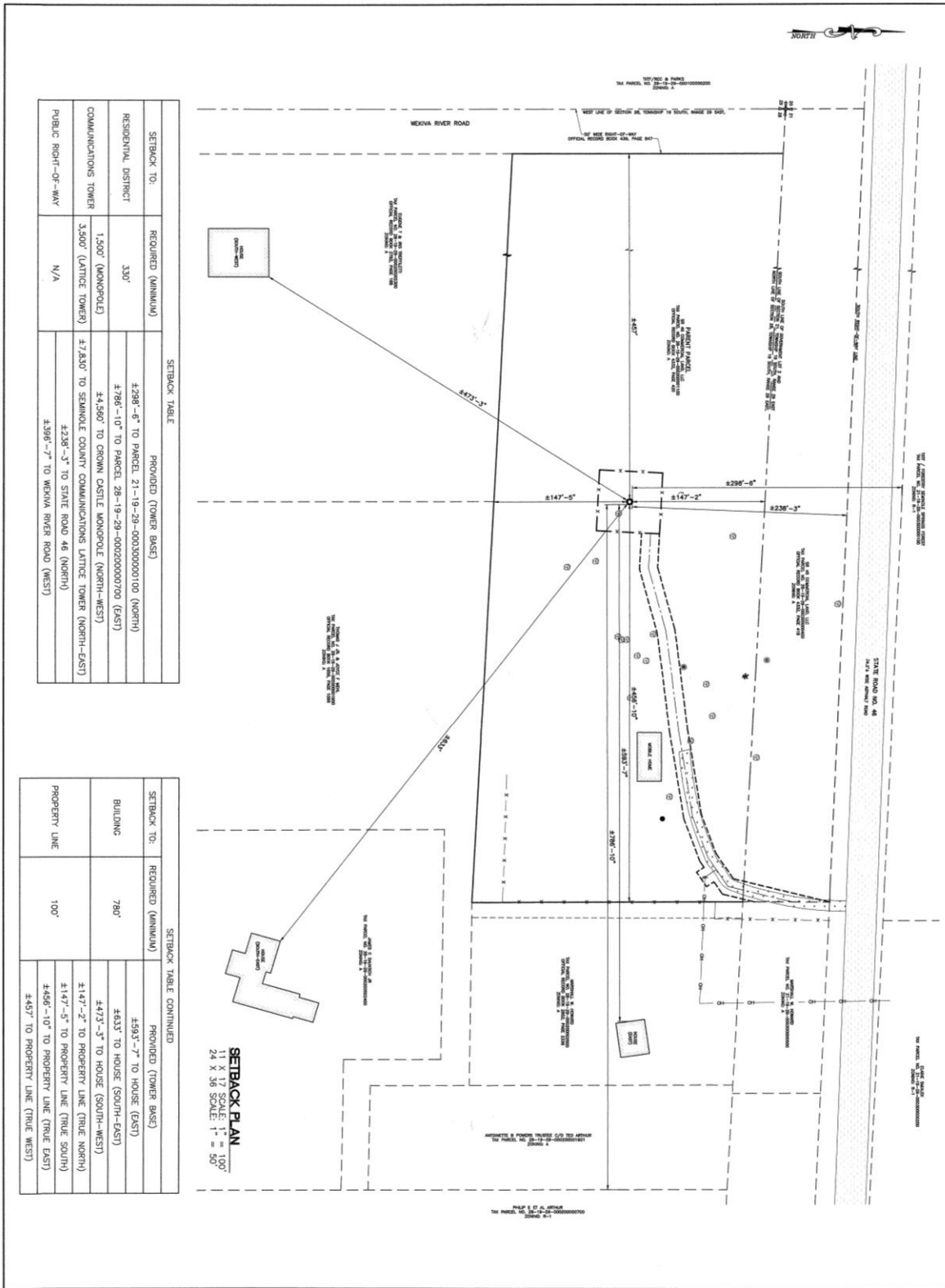
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EXHIBIT "B" - SETBACK DETAIL

1  
2



3

PLANNING AND COMMUNITY DESIGN  
315 WEST MAIN STREET  
TAVARES FL 32778

Final Development Order  
Lake County Board of County Commissioners  
BOA#15-13-4



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

**WHEREAS**, SR 46 Commercial Land, LLC (the "Owner") made a request to allow a telecommunications tower to be located closer than 400% of the height of the tower (780 feet) from single-family dwelling units; and

**WHEREAS**, the subject properties consists of 8.8 acres +/- and is generally located south of SR 46 in Sorrento, Sections 21 and 28, Township 19 South, Range 29 East, being composed of Alternate Key Numbers 3368533 and 3288629 and is more particularly described as:

W 1200 FT OF N 300 FT OF NW 1/4 OF NW 1/4--LESS W 50 FT & LESS  
E 210 FT--ORB 4332 PG 420; and

THAT PART OF GOV LOT 2 LYING S OF S'LY R/W OF SR 46--LESS E  
330 FT -- ORB 4332 PG 418.

**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 October 10, 2013; 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 October 10, 2013, 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# 15-13-4 to allow a 195 foot tall telecommunications tower to be located within 400% of the height of the tower to three single-family dwelling units (473 +/- feet, 593 +/- feet, and 633 +/- feet).


**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 10<sup>th</sup> day of October, 2013.

EFFECTIVE October 10, 2013.


BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA

  
Donald Schreiner, Chairman

STATE OF FLORIDA  
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of October, 2013 by DONALD SCHREINER, who is personally known to me.

(SEAL)

  
Signature of Acknowledger

Serial Number: DD980328  
My Commission Expires: April 10, 2014

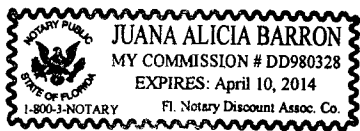


Exhibit #1



Case Location (S-T-R):  
25-16-26



Owner: SR 46 Commercial Land, LLC  
Applicant: Vertex Development, LLC  
BOA# 15-13-4 BUFFER to Dwelling Units

