



# CONDITIONAL USE PERMIT STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 3

Public Hearings: Planning & Zoning Board (PZB): May 1, 2019  
Board of County Commissioners (BCC): May 21, 2019

Case No. and Project Name: CUP-18-10-5, Grantham-CR 44A Tower

Applicant: Vertex Development, LLC

Owner: Shirley L. Grantham

Requested Action: Conditional use permit (CUP) to allow a 175-foot monopole communications tower on Agriculture (A) zoned property.

Staff Determination: Staff recommends approval of the conditional use permit.

Case Manager: Janie Barrón, Senior Planner

PZB Recommendation:

### Subject Property Information

Size 17.04 +/- acres

Location 36521 Mill Creek Road, Eustis, FL 32726

Alternate Key # 3881527

Future Land Use Rural

Existing Zoning District Agriculture (A)

Overlay Wekiva Study Area

Rural Protection Area Wekiva Ocala Rural Protection Area

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Agriculture (A)	Residences	Single-Family Dwelling Unit on large tract of land
South	Rural	Agriculture (A)	Residences	Single-Family Dwelling Unit on large tract of land
East	Rural	Agriculture (A)	Residences and Ornamental Nursery	Single-Family Dwelling Unit on large tract of land and Ornamental Nursery
West	Rural	Agriculture (A)	Residences and Orange Grove	Single-Family Dwelling Unit on large tract of land and Orange Grove

**– Summary of Staff Determination –**

The conditional use application (CUP) proposes a 175-foot monopole communications tower on 17 +/- acres, identified by Alternate Key Number 3881527. The property is generally located north of County Road 44A and west of Mill Creek Road, in the Eustis area of unincorporated Lake County. The subject parcel is currently zoned Agriculture (A) with a Rural Future Land Use Category designation and is located within the Wekiva Study Area and within the Wekiva Ocala Rural Protection Area. The property is currently developed with two (2) residences, shed, pump house, concrete slab, and wood dock, as attached to the ordinance.

**– Analysis –**

LDR Section 14.05.03 (Standards for Review)

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

The application is consistent with Comprehensive Plan Policy I-1.4.4, Rural FLUC as projects that promote public order and safety, and civic uses are defined as community facility uses in the Comprehensive Plan. Community Facility Uses are further defined as “*A noncommercial and nonresidential use established primarily for the benefit and service of the population of the community in which it is located.*” Communication towers benefit the population by providing another source for emergency communications, promoting public order and safety.

This use is consistent with LDR Table 3.01.00 and LDR Section 3.01.03, which specifies the allowance of Towers within the Agriculture zoning district with a conditional use permit. Conditions have been established in the attached Ordinance to mitigate aesthetic impacts while providing additional communication coverage for the public health, safety, and welfare.

LDR Section 3.13.09, establishes setbacks for communication towers. The Owner of the property where the tower is to be located owns the lot north of the proposed tower site as such that residential unit shall not be taken into consideration when calculating the setback requirement. The proposed tower location is consistent with the established setback in this section as shown on Exhibit B of this Ordinance.

LDR Section 3.13.10, Tower Table 2, establishes specific separation distances between existing and proposed communication towers. The proposed tower meets those separation distances as shown on Attachment A.

The concept plan provided demonstrates consistency with LDR Section 3.13.12, regarding the provision of a chain link fence around the communications tower and support facilities as shown in Exhibit A of this Ordinance.

**B. Effect on Adjacent Properties.**

**1. The proposed conditional use will not have an undue adverse effect upon nearby property.**

The subject property consists of 17.04 +/- acres and will be located in an area of large parcels agriculturally zoned. The surrounding properties are mix of large parcels of lands zoned Agriculture and large vacant lots with wetlands.

The tower location is consistent with the established minimum setbacks contained in LDR Section 3.13.09, and shown on Exhibit B of the proposed Ordinance. Although, the proposed tower must be centered within the boundaries of the parent parcel, variance request (VAR-18-54-5) approved to allow the tower not to be centered within the boundaries of the parent parcel as shown on Exhibit A of this Ordinance.

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

The existing and planned character for the area east, west, and south of the proposed tower site are large parcels agriculturally zoned. The surrounding properties are mix of large parcels of lands zoned Agriculture and large vacant lots with wetlands. The proposed tower is compatible with the existing and planned character of the 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.**

The concept plan shows the tower lease parcel fenced with a six (6) foot tall chain link fence around the perimeter of the compound area, thus providing relief to the potential aesthetic impact of the tower.

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

Although, a variance request (VAR-18-54-5) was approved to allow the proposed tower not to be centered within the non-centering the tower within the parent parcel boundaries of the parent parcel boundary, there is sufficient setbacks from the property lines to avoid any interference with the development of adjacent properties as shown on Exhibit A of this Ordinance and in accordance consistent with the Comprehensive Plan and LDRs. Reference Exhibit A.

**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, parks and recreation, schools, and fire and emergency medical facilities. Levels of service established by the Comprehensive Plan Shall be considered.**

Schools

The proposed request is not anticipated to adversely impact schools.

Parks

The proposed request is not anticipated to adversely impact solid waste capacities or levels of service.

Solid Waste

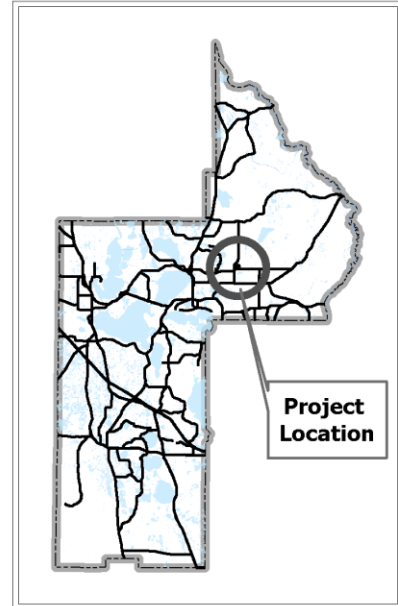
The proposed request is not anticipated to adversely impact solid waste capacities or levels of service.

**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.**

Lake County Fire Rescue Station 21 is located approximately four (4) miles of the subject property at 25100 County Road 44A, Eustis and provides basic life support for this area. Fire protection water supply and emergency access will be addressed during the site plan review process if this CUP is granted.

# Subject Property





**Ordinance 2019-XX**  
**CR44A Tower**  
**CUP-18-10-5**

**AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Vertex Development, LLC (the “Applicant”), has submitted a Conditional Use Permit (CUP) application on behalf of Shirley L. Grantham (the “Owner”) to allow a 175-foot monopole communications tower and associated equipment on Agriculture (A) zoned property; and

**WHEREAS**, the subject property consists of 17.04 +/- acres and is generally located north of County Road 44A and west of Mill Creek Road, in the Eustis area, in Section 34, Township 18 South, Range 27 East, having Alternate Key Number 3881527, and more particularly described as:

The South ½ of the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 of Section 34, Township 18 South, Range 27 East, Lake County, Florida, less rights of way for County Road 439 and County Road 4-6583, Mill Creek Road

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

**WHEREAS**, the Lake County Board of County Commissioners deems it necessary and desirable, in order to protect the public health, safety, and general welfare of the citizens of Lake County and in accordance with the purpose and intent of the Land Development Regulations (LDR), to require compliance with the special conditions after set forth in this Ordinance; and

**WHEREAS**, this Conditional Use Permit was reviewed by the Lake County Planning & Zoning Board on the 1st day of May, 2019 and by the Board of County Commissioners of Lake County, Florida, on the 21st day of May, 2019; and

**NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Lake County, Florida, that:

**Section 1.** Permission is hereby granted for operation of a 175-foot monopole communications tower as a Conditional Use within the Agriculture (A) Zoning District. All land uses must be generally consistent with the Concept Plan as shown in Exhibit “A” of this Ordinance. To the extent that there are conflicts between the Conceptual Plan and this Ordinance, this Ordinance will take precedence.

**Section 2.** Terms: The County Manager or designee shall amend the Official Zoning Map to reflect a Conditional Use Permit (CUP) Amendment to allow uses with conditions as outlined within this Ordinance.

**A. Land Use.** All permissible Agriculture (A) Zoning District uses in additionl to the uses specified below.

1. A wireless communications tower, not to exceed 175-feet in height (including appurtenances).
2. Accessory uses directly associated with the above uses may be approved by the County Manager or designee. Any other use of the site will require approval of an amendment to this Ordinance by the Board of County Commissioners.

1        **B. Specific Conditions.**

- 2            1. The Permittee shall submit a site plan application for review and approval for the monopole  
3            communications tower and associated uses generally consistent with the Concept Plan  
4            (Exhibit "A") prior to commencement of construction for the communication tower.
- 5            2. Illumination: The communications tower shall not be illuminated except to ensure human  
6            safety or as required by the Federal Aviation Administration (FAA) and the Land  
7            Development Regulations (LDR), as amended.
- 8            3. Parking: Parking surfaces may be grass or other pervious material, except as required for  
9            disabled access.
- 10          4. Structural Design: The structural design of the tower shall be in accordance with the LDR as  
11          amended.

12        **B. Tower and Equipment Facility Setbacks.**

- 13            1. Final development order (VAR-18-54-5) allowance for non-centering of the tower within the  
14            parent parcel as shown on the Concept Plan (Exhibit "A") of this Ordinance.
- 15            2. The tower and equipment facility shall meet all applicable setbacks as set forth in the LDR,  
16            as amended, and shall be generally consistent with the Concept Plan (Exhibit "A") of this  
17            Ordinance.

18        **C. Fencing.** A chain link fence around the communications tower and support facilities in accordance  
19        with the LDR, as amended. Any chain link fencing that is visible from Mill Creek Road shall be black  
20        or green coated. Such fencing or wall must be shown on the required site plan.

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

24        **C. Environmental Requirements.**

- 25            1. An environmental assessment no more than six (6) months old will be required at the  
26            time of the Site Plan submittal. The environmental assessment will need to indicate the  
27            presence of vegetation, soils, threatened and endangered species that may exist on the  
28            site. Any State permitting or mitigation will be required before development can  
29            commence.
- 30            2. Proposed structures must maintain a minimum setback of 50 feet from the jurisdictional  
31            wetland line (JWL).
- 32            3. Environmental resources shall be protected in accordance with the Comprehensive Plan  
33            and Land Development Regulations (LDR), as amended.

34        **J. Floodplain / Stormwater Management.**

- 35            1. All access management shall be in accordance with the Comprehensive Plan and Land  
36            Development Regulations, as amended.
- 37            2. The stormwater management system must be designed in accordance with all applicable  
38            Lake County and St. Johns River Water Management District (SJRWMD) requirements.

1                   3. The developer shall be responsible for any flood studies required for developing the site and  
2                   comply with Federal Emergency Management Agency (FEMA), Comprehensive Plan and  
3                   Land Development Regulations (LDR), as amended. Any development within the floodplain  
4                   as identified on the FEMA maps will required compensating storage.

5                   **E. Landscaping, Buffering and Screening.** Landscaping, Buffering and Screening, shall be in  
6                   accordance with the LDR, as amended.

7                   **K. Development Review and Approval:** Prior to the issuance of any permits, the Applicant shall submit  
8                   a development application generally consistent with Exhibit "A" – Concept Plan, for review and  
9                   approval in accordance with the Comprehensive Plan and LDR, as amended, prior to  
10                  commencement of the new operation and uses. To include verification of tower separation distances  
11                  between existing and proposed communication towers.

12                  **L. Future Amendments to Statutes, Code, Plans, and/or Regulations:** The specific references in  
13                  this Ordinance to the Florida Statutes, Florida Administrative Code, Lake County Comprehensive  
14                  Plan, and Lake County Land Development Regulations will include any future amendments to the  
15                  Statutes, Code, Plans, and/or Regulations.

16                  **Section 3. Conditions:**

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

24                  **B.** This Conditional Use Permit will inure to the benefit of, and will constitute a covenant running with  
25                  the land; and the purpose, terms, and conditions contained in this Ordinance will be binding upon  
26                  the Applicant or any successor and her interest.

27                  **C.** Action by the Lake County Code Enforcement Special Master. The Lake County Code Enforcement  
28                  Special Master will have authority to enforce the terms and conditions set forth in this ordinance and  
29                  to recommend that the ordinance be revoked.

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

34                  **Section 4. Severability:** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or  
35                  unconstitutional by any court of competent jurisdiction, the holding will in no way affect the validity  
36                  of the remaining portions of this Ordinance.

37                  **Section 5. Filing with the Department of State.** The clerk is hereby directed forthwith to send a copy of  
38                  this Ordinance to the Secretary of State for the State of Florida in accordance with Section  
39                  125.66, Florida Statutes.



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**Section 6. Effective Date. This Ordinance will become effective as provided by law.**

**ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**FILED** with the Secretary of State \_\_\_\_\_, 2019.

**EFFECTIVE** \_\_\_\_\_, 2019.

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

\_\_\_\_\_  
**LESLIE CAMPIONE, CHAIRMAN**

**ATTEST:**

\_\_\_\_\_  
**GARY J. COONEY, CLERK OF THE  
BOARD OF COUNTY COMMISSIONERS  
LAKE COUNTY, FLORIDA**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**MELANIE MARSH, COUNTY ATTORNEY**

