MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, March 9, 2016 – 9 a.m. – Room 119
Charlotte County Administration Center
18500 Murdock Circle
Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

Members Present
Katherine Ariens, Chair
Joe Tiseo, Vice-Chair
Steve Vieira, Secretary (Absent)
Blair McVety
Larry Fix

Staff Present
Shaun Cullinan, Zoning Official
Joshua Moye, Assistant Co. Attorney
Ken Quillen, AICP, Planner
Diane Clim, Recorder

I. ***Call to Order***
Chair Ariens called the March 9, 2016 meeting of the Board of Zoning Appeals to order at 9:00 AM.

II. ***Pledge of Allegiance***
Chair Ariens led the members and the audience in reciting the Pledge of Allegiance.

III. ***Roll Call***
Roll call was taken; a quorum was present.

IV. ***Swearing In of Those Giving Testimony***
Diane Clim swore in all persons who wished to provide testimony.

V. ***Approval of Minutes***
ACTION: A motion was presented by Mr. Fix and seconded by Mr. McVety to approve the minutes of the January 13, 2016 meeting of the Board of Zoning Appeals. Motion passed with a unanimous vote.

VI. ***Disclosure Statements***
Ex-parte forms indicating site visits concerning the petitions being presented before the March 9, 2016 Board of Zoning Appeals meeting were submitted.

VII. ***Introduction of Staff/Comments***
Chair Ariens introduced staff. *Shaun Cullinan, Zoning Official,* read the Zoning rules, *Attorney Josh Moye, and Chair Ariens* made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

VIII. *New Business*

The following petitions were advertised on February 23, 2016: SE-16-001

SE-16-001

Attorney Mary Solik, agent for Vertex Development, LLC, is requesting a special exception to allow a 150-foot communications tower in the Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is 22455 Minerva Avenue, Port Charlotte, and is described as Tract A of Block 3104, of Port Charlotte Subdivision Sub-Section 50, located in Section 02, Township 40 South, Range 22 East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

Mary Solik, Esq., agent for the applicant Vertex Development LLC, said she was sworn in. Ms. Solik said to answer the 2 staff questions, the access drive comes off Priscilla Dr., and they are using the uplands part of this site. The second access gate is for the utilities access. There is a utility rack for the 4 users of the tower. They have a lot of landscaping in this area. The second question raised by the environmental review. There is a 15 foot buffer per your code. The tower is a 150' unipole. This is a skinny pole, almost looks like a flag pole. All the antennas are internally mounted. She said they meet all the criteria for the code.

Mr. Tiseo asked if they looked at alternate sites?

Ms. Solik said they asked the school property next door, but they had no interest. It is difficult when looking in a residential area, because most single family lots are small. They would need many single family lots. This church lot is large.

There was discussion about the towers in the area and for each tower, how far out does the tower coverage go.

Olga Suarez, Team Mobile, said she was sworn in. Ms. Suarez said in the surrounding area, they have 3 towers. One tower is 135', one is flagpole at 143' and a third one at 97'. The 100' towers provide approximately a half mile coverage. Coverage is weaker as you get out of the radius. This tower will pick up where the other coverages end. The height helps with frequency coverage. This also helps EMS and emergency calls.

They looked at maps showing the current towers in that area now and how far out their coverage goes. Also where this tower would be and how much more coverage would be in that area.

Chair Ariens opened the meeting to Public Hearing.

Public Input

Elaine Rice, Attorney for the Charlotte Academy School, said she was sworn in. Ms. Rice said the school is next to this site. They are concerned about health issues from the tower.

Donna Paull, Wyler St. said she was sworn in. Ms. Paull said her house is just across the street from where the tower would be. She is also concerned about health risks. She googled this and saw any tower can be a risk.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. McVety. The public hearing was closed with a unanimous vote.

Rebuttal

Ms. Solik said emissions from wireless communications, antennas and facilities are regulated by the FCC. Any company has to maintain emissions within FCC compliance standards. It is part of the license. The carriers are inspected by the FCC, regulated and inspected and they do comply. In the 1996 telecommunications act, the Federal government gave counties the power to regulate wireless towers based on land use issues but prohibits local governments from approving or denying wireless facilities based on their health effects. That is regulated by the FCC.

Ms. Suarez explained they are below exposure from the rules of the FCC. She explained the high frequency and exposure. She said baby monitors have a higher exposure than the towers.

Mr. Tiseo asked about the tower falling on other lots.

Ms. Solik said it would break over at 36' from the top and just hang like a bent straw. They do not freefall.

Bill Brown, Brandon, FL, said he was sworn. Mr. Brown said with all the recent hurricane events, not one monopole has fallen. He said it is designed with breakpoint technology which means from 40' from the top, the tower would bend over and hang there and the remaining part below is beefed up beyond wind codes.

Mark Schuh, Vertex Development, Sanford FL, said he was sworn in. Ms. Schuh said there is a 30 year lease with the church for the tower.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

After the motion and second, there was discussion about how tall the tower is proposed to be. There was concern with the school next to the site. Since the church had a Special Exception years ago, the Board asked staff if they could get that special exception and let them know if there were any conditions. They took a 15 minute break, staff got the church Special Exception and reconvened the meeting. There were no conditions for the church special exception. The vote continued and was approved 2 to 1. (Mr. Fix had left the meeting during the break and Mr. Tiseo voted against)

ACTION: A motion was presented by Larry Fix and seconded by Blair McVety that Petition SE-16-001 be APPROVED based on the Community Development Staff Report dated March 2, 2016, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with the six conditions recommended by staff.

Motion was approved with a 2 to 1 vote with the following six conditions: (Mr. McVety and Ms. Ariens voted yes to approve: Mr. Tiseo voted No to deny)

1. This special exception is to allow a 150-foot high communications tower on subject property and extends only to the land included in the site plan and legal description submitted with this application.
2. The site plan presented by the applicant as part of the petition is for illustrative purposes only. The proposed communications tower and ground facilities shall be developed and constructed according to all applicable County Codes and Land Development Regulations.
3. The required Landscape Buffer shall include an eight-foot high opaque vinyl fence, as proposed in the ***Fence Detail*** (Exhibit E-5) submitted with their application.
4. All necessary permits and approvals must be obtained, as applicable to this development, including but not limited to, right-of-way access, paving, electrical, plumbing, fencing, tree removal, landscaping, and invasive plant species removal.
5. If the proposed communications tower is not constructed within two years of the date of approval of this special exception then this special exception shall expire and be null and void.
6. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

IX. ***Public Comments*** **- None**

X. ***Staff Comments*** **–**
Mr. Quillen said there are 3 petitions for the April BZA meeting.

XI. ***Member Comments*** **- None**

XII. ***Next Meeting***
The next meeting of the Board of Zoning Appeals is scheduled for ***Wednesday, April13, 2016, at 9:00 a.m., in Room 119.***

There being no further business, the meeting ***ADJOURNED*** at 11:10 a.m.

Respectfully submitted,
Diane Clim, Recorder
/dlc

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Katherine Ariens, Chair

*Approval Date:*_____