

**MINUTES**  
**LAKE COUNTY PLANNING AND ZONING BOARD**  
**October 30, 2013**

The Lake County Planning and Zoning Board met on Wednesday, October 30, 2013 in County Commission Chambers on the second floor of the County Administration Building to consider petitions for Rezonings and Comprehensive Plan Map Amendments.

The recommendations of the Lake County Planning and Zoning Board will be transmitted to the Board of County Commissioners (BCC) for their public hearing to be held on Tuesday, November 19, 2013 at 9 a.m. in the County Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

**Members Present:**

Paul Bryan, Chairman	District 5
Kathryn McKeeby	District 1
Timothy Morris	District 3
Debbie Stivender	School Board Representative
Kasey Kesselring, Vice Chairman	At-Large Representative

**Members Not Present:**

Ted DeWitt	District 2
Rick Gonzalez	District 4
Donald Heaton	Ex-Officio Non-Voting Military Representative

**Staff Present:**

Amye King, AICP, Growth Management Director  
Steve Greene, AICP, Chief Planner, Planning & Community Design Division  
Anita Greiner, Chief Planner, Planning and Community Design Division  
Melving Isaac, Planner, Planning & Community Design Division  
Rick Hartenstein, Senior Planner, Planning & Community Design Division  
Jennifer Cotch, Senior Planner, Planning & Community Design Division  
Ross Pluta, P.E., Engineer III, Public Works  
Donna Bohrer, Office Associate, Planning and Community Design Division  
Erin Hartigan, Deputy County Attorney

Chairman Paul Bryan called the meeting to order at 9:00 a.m. and noted that a quorum was present. He led the Pledge of Allegiance and gave the invocation. He confirmed that the meeting was properly noticed and explained the procedure for hearing cases on the consent and regular agendas, stating that they only hear the cases that are on the regular agenda individually. He stated that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Recording Secretary prior to proceeding to the next case. He added that this Board is a recommending board only, and the Board of County Commissioners will be hearing these cases later this month when a final determination will be made.

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**Agenda Updates**

**Consideration of Minutes**      October 2, 2013

**CONSENT AGENDA**

**Tab 1**                                      **CUP#13/11/1-1**                      **Erie Lake, AT&T Mobility Tower**

**Tab 2**                                      **PH# 13-13-4**                      **Sanders-Duke Energy CFD  
rezoning**

**Tab 3**                                      **CUP#13/10/1-4**                      **Wekiva River West Tower**

**REGULAR AGENDA**

**Tab 4**                                      **LPA#13/8/2-T**                      **Economic Development Overlay  
District**

**Tab 5**                                      **LPA#13/8/1-1**                      **Commercial Corridor Extensions**

**Tab 6**                                      **Ordinance 2013-XX**                      **Chicken Ordinance**

**Tab 7**                                      **Ordinance 2013-XX**                      **Green Swamp Chapter 8**

**Tab 8**                                      **Wellness Way Sector Plan  
presentation**

**Other Business**

**Adjournment**

**AGENDA UPDATES**

Amye King, AICP, Growth Management Director, said there were some updates to agenda. She said is requesting to pull Tab 4, Economic Overlay District, for internal staff vetting by the County Attorney's Office. She noted that the Board of County Commissioners (BCC) postponed the Wellness Way Sector plan until January 28, 2014. In addition, she recommended moving Tab 5, 6 and 7 to the consent agenda.

**MINUTES**

**MOTION by Kasey Kesserling, SECONDED by Tim Morris to APPROVE the October 2, 2013 Lake County Planning and Zoning Board Public Hearing minutes, as submitted.**

**FOR: Bryan, McKeeby, Morris, Kesserling**

**AGAINST: None**

**MOTION CARRIED: 4-0**

Debbie Stivender arrived at 9:07 a.m.

**MOTION by Tim Morris, SECONDED by Kasey Kesserling, to amend the agenda, postponing Tab 4 and Tab 8, moving Tabs 5,6,7 to the consent agenda and moving Tab 1 to the regular agenda.**

**FOR: Bryan, McKeeby, Morris, Kesserling, Stivendar**

**AGAINST: None**

**MOTION CARRIED: 5-0**

**MOTION by Kasey Kesserling, SECONDED Tim Morris by to approve the consent agenda, consisting of Tabs 2,3,5,6 and 7.**

**FOR: Bryan, McKeeby, Morris, Kesserling, Stivendar**

**AGAINST: None**

**MOTION CARRIED: 5-0**

**REGULAR AGENDA**

<b>CASE NO.</b>	<b>CUP #13/11/1-1</b>	<b>TAB NO. 1</b>
<b>OWNER:</b>	<b>Elisa &amp; Giraldo Alfonso</b>	
<b>APPLICANT:</b>	<b>AT&amp;T Mobility</b>	
<b>PROJECT NAME:</b>	<b>Erie Lake - AT&amp;T Mobility</b>	

Erin Hartigan, Assistant County Attorney, noted that the Federal Communication Commission (FCC) regulations prohibit local governments from regulating the placement, construction and modification of personal wireless devices on the basis of environment affects. She said because the FCC has sole authority, those concerns can't be taken into consideration when approving the location of communication towers.

Chairman Bryan asked about public comment and Ms. Hartigan said the comments could be heard but not considered in the Board's decision.

Melving Isaac, Planner, Planning and Community Design, presented the case stating this was an application for a conditional use permit (CUP) for 150 foot monopole communications tower. The property is located in the Clermont area, west of the SR 33, Double H Lane intersection. There is currently one residence located on the property. The property is zoned Agriculture and is located in the Green Swamp Rural Future Land Use Category (FLUC). Mr. Isaac showed on an aerial map the location of the owner's residence, the proposed tower location and the property boundaries. Mr. Isaac said because of the surrounding vegetation the applicant was requesting a waiver from the Land Development Regulations (LDR) requiring landscaping the cell tower and equipment. He said the Board of County Commissioners (BCC) can waive those requirements if landscaping is not necessary to mitigate the tower's visual impact.

Mr. Isaac discussed the memo regarding the easement provided to Zoning Board, explaining that the existing easement allows only agriculture uses. He said a condition has been added to the ordinance stating that the owner will provide access at a different location. He said letters of opposition have been received and provided to the Zoning Board. Staff is recommending approval of this application.

In response to a question from Paul Bryan, Mr. Isaac said the nearest existing home, excluding the applicant's home, is located approximately 900 feet from the proposed tower.

Ben Tucker, representing AT&T, said initially they didn't realize the easement was restricted to agriculture use and noted there is alternate access available off SR 33. He said they would be engineering that access and that only the trees necessary to allow access would be removed.

Tim Morris asked why this tower was necessary. Mr. Tucker said additional capacity was needed in that area, because of increased usage, including data use.

In response to a question from Chairman Bryan, Mr. Tucker said towers generally require only monthly maintenance. He added that the tower will have a back-up generator.

In response to a question from Katherine McKeeby, Mr. Tucker said this application was in response to an ATT system requirement. He noted this would be the least obtrusive tower, reaching only 150 feet. He added that the only reason this application had to come before the P&Z board was because of the external antennae.

**PUBLIC COMMENT**

Ronald Large submitted a letter addressing concerns with health issues. He said he had worked in telecommunications for 40 years and it had been his experience that electronic transmission equipment causes health issues.

Chairman Bryan asked the Ms. Hartigan to explain the federal regulations regarding this issue.

In response to a request from Chairman Bryan, Ms. Hartigan read from the federal regulations which states that only the federal government can set regulations regarding health issues.

Chairman Bryan said Mr. Large could continue to address the board with the understanding that the Board was precluded from considering health issues when reviewing cell tower applications. In response to a comment from Mr. Large, he said this was a legal issue and that nothing had been set up. Mr. Large said he still had the concerns and he protested this application.

Fred Armagost noted he had sent an opposition letter to the Board. He was concerned the cell tower would decrease the value of his property.

Scott Leonard said he had sent three letters to the Board, presented petitions and he was assured that they were part of the public record. He said moved to his property after much research to locate an area suitable for his agricultural pursuits. He said his farm is organic; he listed some of his crops and noting his interest in fruit tree grafting. He said the farming community works together and they were good custodians of the environment. He believed all but two of the notified adjacent property owners have signed petitions in opposition. Mr. Leonard said he was concerned with the aesthetic effect of the tower, including any warning lights and the possible affects a tower it could have on migratory birds. He, also, believed the tower would lead to more infrastructure expansion. He said the community wants to retain their agriculture uses. He thought their property values would be decreased and said they are asking the tower request be denied.

In response to a question from Chairman Bryan, Mr. Leonard showed the location of his property including the property lines. He said he was a licensed Ham radio operator and he believed the tower could interfere with his radio. In addition it will also interfere with some landing approaches for his glider.

Barry Viljoen discussed the similarities between this application and a court case from Fairfax County, Virginia. In the Judge's concluding comments he stated the Zoning Board was not obligated to approve the chosen site, or to assist AT&T in location and that decision had not been based on traditional planning principles.

Mr. Viljoen said this application did not provide supporting documentation. He believed this CUP was inconsistent with Comprehensive Plan. He said the application had a number of flaws, referring to LDRs which encourage the use of existing towers. He said there were 8 towers within 3.7 mile radius. He discussed the importance of protecting the Green Swamp and asked the Zoning Board to deny this application.

Mr. Viljoen presented a letter from his daughter who is a property owner in this area. He asked if federal regulations include G4 transmissions?

Ms. Hartigan responded that the act regulates personal wireless services and cell towers.

In response to a question from Tim Morris, Mr. Viljoen has a cell phone and has excellent coverage with the current cell tower coverage.

In response to questions from Kathryn McKeeby, Mr. Viljoen said they live with their daughter, whose house is obstructed by trees on the aerial view. He said it was her easement that had been incorrectly identified as access for this tower.

Jacqueline King said she had read the County's comprehensive plan. She said she believed this was the first cell tower application in the Green Swamp Rural Conservation area. She referred to her email noting there is only one cell tower located within this zoning classification. She said the staff report referred to towers as an allowed civic use, but the definition of civic use does not mention utilities. She believed that civic facilities were public uses not commercial uses. She was concerned that allowing this tower could create a precedent allowing other uses violating the Green Swamp regulations. She recommends denial of the application.

Mr. Isaac explained that communication towers are allowed as a civic-community facility use by both the Comprehensive Plan and the LDRs. He showed the LDR Table 3.01.03, *Schedule of Permitted and Conditional Uses* which demonstrates that communication towers are classified under Community Facility Uses. In addition, he showed proposed ordinance map and discussed the distance from the tower to the property boundaries.

In response to a comment by Tim Morris, Mr. Isaac said this cell tower may be used by public safety.

Chairman Bryan asked if staff looked in the possibility of sharing towers. Mr. Isaac said that was up to the wireless providers. He added that the only reason this application was subject to a public hearing was because of the type of tower. If it this request was for a camouflage tower there would be no public hearing.

Ben Turner said FAA doesn't require towers under 200 feet to be lit for aviation. He said tower heights are decreasing partially because of maintenance issues and lighting requirements. He noted the difference between the distance from the tower location and the distance from the property line was considerable and shouldn't be confused. He said their research showed that this location is not within migratory bird patterns. Mr. Turner said, in his experience, towers do not affect property values or assessments. He said communication towers are considered to be an essential service, noting that over 50% of emergency calls are received from cell phones. In addition emergency service providers use towers for data transmissions. He said their engineers believed this tower was the best way to provide for additional capacity and said this is a willing property owner.

Debbie Stivender suggested if the CUP was approved, a recommendation be added prohibiting lighting located on the top of this tower, even though it is not required by the FAA. There was discussion that was already prohibited under Section B.4 "Illumination: The communication tower shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration and the Land Development Regulations (LDR), as amended."

**MOTION by Debbie Stivender, SECONDED by Tim Morris to APPROVE Condition Use Permit CUP#13/11/1-1, Erie Lake – AT&T Mobility, with the conditions outlined by staff and this Board.**

Erin Hartigan noted the motion should include the memo requiring the easement to be moved north.

The maker of the motion and the second agreed to include the memo by reference.

**FOR: Bryan, Stivender, McKeeby, Morris**

**AGAINST: Kesserling**

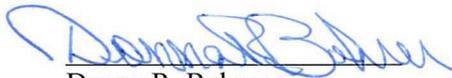
**MOTION CARRIED: 4-1**

**OTHER BUSINESS**

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:15 a.m.

Respectfully submitted,



Donna R. Bohrer  
Public Hearing Associate



Paul Bryan  
Chairman