

HERNANDO COUNTY ZONING AMENDMENT PETITION

H-23-37

File No. Official Date Stamp:



Application to Change a Zoning Classification

Application request (check one):

- Rezoning [] Standard [] PDP
Master Plan [] New [] Revised
PSFOD [x] Communication Tower [] Other
PRINT OR TYPE ALL INFORMATION



Date: 6/6/2023

Planning Department
Hernando County, Florida

APPLICANT NAME: AMERICAN TOWER CORPORATION

Address: 10 Presidential Way
City: Woburn State: MA Zip: 01801
Phone: 781-926-4593 Email: avery.dandreta@americantower.com
Property owner's name: (if not the applicant) Jack Melton Family Inc.

REPRESENTATIVE/CONTACT NAME: Deborah L Martohue

Company Name: Martohue Land Use Law PA
Address: 1036 23rd Ave N
City: Saint Petersburg State: FL Zip: 33704
Phone: 727-256-1211 Email: dmartohuelaw@outlook.com

HOME OWNERS ASSOCIATION: [] Yes [x] No (if applicable provide name)

Contact Name:
Address: City: State: Zip:

PROPERTY INFORMATION:

- 1. PARCEL(S) KEY NUMBER(S): Key# 00541364 Parcel# R07 423 21 0000 0040 0010
2. SECTION 07, TOWNSHIP 23, RANGE 21
3. Current zoning classification: PSOFD Communications Tower height 250' per BC050295 RES File# H-95-9
4. Desired zoning classification: PSOFD Communications Tower 280'
5. Size of area covered by application: Parent Tract 132.70 acres
6. Highway and street boundaries: Lockhart Road (West Boundary), Field of Dreams Ln (East Boundary)
7. Has a public hearing been held on this property within the past twelve months? [] Yes [x] No
8. Will expert witness(es) be utilized during the public hearings? [] Yes [x] No (If yes, identify on an attached list.)
9. Will additional time be required during the public hearing(s) and how much? [] Yes [x] No (Time needed:)

PROPERTY OWNER AFFIDAVIT

I, Rebecca M. Worvell, have thoroughly examined the instructions for filing this application and state and affirm that all information submitted within this petition are true and correct to the best of my knowledge and belief and are a matter of public record, and that (check one):

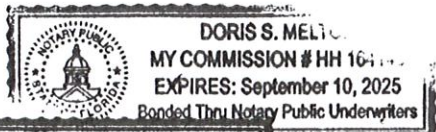
- [] I am the owner of the property and am making this application OR
[x] I am the owner of the property and am authorizing (applicant): American Tower Corporation
and (representative, if applicable): Deborah L. Martohue, Esq., AICP/ Martohue Land Use Law PA
to submit an application for the described property.

Signature of Property Owner: Rebecca M Worvell

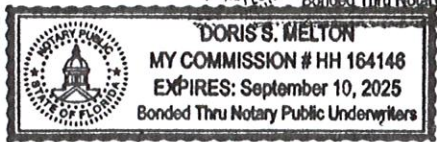
STATE OF FLORIDA
COUNTY OF HERNANDO

The foregoing instrument was acknowledged before me this 6 day of June, 2023, by Rebecca M. Worvell who is personally known to me or produced as identification.

Signature of Notary Public: Doris S. Melton



Effective Date: 11/8/16 Last Revision: 11/8/16



Notary Seal/Stamp



Deborah L. Martohue, Esq., AICP
Martohue Land Use Law, P.A.
1036 23rd Avenue N
St. Petersburg, Florida 33704
Telephone: 727.256.1211
dmartohuelaw@outlook.com

June 7, 2023

Received
JUN 07 2023
Planning Department
Hernando County, Florida

VIA HAND DELIVERY

Michelle L. Miller, M.S.
Planning Administrator
Planning & Zoning Division
Development Services Department
Hernando County
1653 Blaise Drive
Brooksville, FL 34601

RE: Zoning Amendment Petition for PSOFD to permit a 280' Communications Tower
Project Name: ATC Lockhart RD Communications Tower
Property Location: 21628 Lockhart Road, Dade City, FL
Key # 00541364
Folio # R07 423 21 0000 0040 0010
Section-Township-Range: 07-23S-21E
Applicant: American Tower Corporation
Existing Zoning: PSFOD 250' Communications Tower
Existing Use: 280' Guyed Communications Tower
Proposed Zoning: PSFOD 280' Communications Tower
Property Owner: Jack Melton Family Inc.
Authorized Agent: Martohue Land Use Law PA
Deborah L Martohue, Esq. AICP

Dear Ms. Miller:

This law firm represents American Tower Corporation ("ATC" or "Applicant"), the Applicant in the above captioned application. The Applicant is seeking approval of an amendment to the current PSFOD Communications zoning approved May 2, 1995 by the BOCC for a 250' Communications Tower to PSFOD for a 280' Communications Tower to render the existing 280' Guyed Communications Tower conforming. The existing Communications Tower is located on a 132.70 acre Parent Tract parcel zoned PSFOD. The following documents are being submitted that comprise the Application:

1. Fee Calculation Worksheet and Fee Check #327286;
2. Application for a Zoning Amendment including Property Owner Affidavit to Authorize Agent;
3. Proof of Ownership in the form of a Deed and PAO Property Card;
4. Project Narrative and Description of the Request;

5. Map and List of Adjacent Property Owners from Hernando Property Appraiser's Office;
6. FAA Determination of No Hazard;
7. Original BCC Decision dated May 2, 1995 assigned File # H-95-9;
8. November 1997 CO associated with Building Permit # 1030321; and
9. As-Built Survey dated 10/16/1999 prepared by Putnam Engineering and certified to American Tower L.P.

Collectively the above constitutes the "Application". Should you have any questions, please contact me at dmartohuelaw@outlook.com or call 727.256.1211.

Sincerely,



Deborah L. Martohue, Esq., AICP

Enclosures: As listed above including Fee Check #327286

PROJECT NARRATIVE & DESCRIPTION OF ZONING REQUEST

The subject 132.70-acre Parent Tract Property is owned by Jack Melton Family Inc. and is zoned PSFOD for a 250' Communications Tower. The PSFOD zoning for the Communications Tower was approved by the Hernando BCC on May 2, 1995. (See attached BCC Decision dated 050295 assigned File No.: H-95-9). A portion of the subject Property is leased and managed by ATC for an existing 280' Guyed Communications Tower and associated ground equipment within a secured equipment compound. The existing wireless provider tenants are Verizon, T-Mobile and Alltel. The Communications Tower was permitted in the Fall of 1997 by OPM-USA and Putnam Engineering/Construction (1997 Permit No.: 1030321). Said permit application included amongst other items, a narrative, soils, and flood information as well as a SWFWMD Environmental Resource Noticed General Permit # 4717125.00. The Communications Tower has been in continuous use since its November 1997 CO associated with Building Permit # 1030321. While the BCC approved a 250' Communications Tower, the original tower-owner, OPM-USA and its engineer and construction contractor, Putnam Engineering, constructed a 280' Guyed Communications Tower that did receive a CO from Hernando County. All of this occurred prior to acquisition of this tower asset by ATC on or around Fall 1999. See As-Built Survey dated 10/16/1999 prepared by Putnam Engineering and certified to American Tower L.P.

During the Fall of 2022, several wireless providers submitted building permit applications to collocate their antennas and ground equipment at the subject location. All were denied when it was discovered that the original BCC zoning approval was for 250' and the tower height constructed, permitted and CO'd exceeded the approved height of 250 feet. The Applicant, ATC, conferred with Hernando County Staff seeking advice and direction as to how to remedy the non-conformity. Staff obtained a legal opinion from the County Attorney's office stating that the process to remedy the non-conformity is to seek a zoning amendment to PSFOD for a Communications Tower at the existing constructed height. Thus, ATC is seeking zoning approval for 280' height. The FAA recently issued a Determination of No Hazard dated 03/09/2023 for a 289' AGL Height which exceeds the existing constructed height.

As stated previously, the Communications Tower is existing and has been in continuous use since immediately after construction in late Fall 1997. ATC was not involved in obtaining the 1995 zoning approval or the 1997 building permit and was not involved in the construction of the Communications Tower. The Owner/Lessor, Jack Melton Family, Inc., also was not involved in the permitting or construction of the Communications Tower except to consent and authorize OPM-USA and Putnam Engineering/Construction to seek and obtain all necessary approvals and permits. ATC acquired the Communications Tower asset in late Fall 1999 and thus, ATC did not cause the non-conformity sought to be remedied by the subject Zoning Amendment application. The Communications Tower is unmanned and has zero impacts on public services and facilities. The subject 132.70-acre Parent Parcel remains almost entirely improved ag pasture lands similar to the lands within the immediate vicinity. A Communications Tower also produces no nuisances such as odor, dust, noise or hazardous waste.

Therefore, since the Communications Tower has been in existence at the height of 280' for nearly 24 years and the subject Property and the surrounding area has remained largely the same in terms of development during this time period, ATC respectfully requests the County approve the zoning amendment to maintain the PSFOD zoning classification that increases the allowable communications tower height to 280' to eliminate the existing non-conformity and allow wireless provider collocations moving forward. Such collocations not only improve service in the area by wireless competitors but also reduce future tower proliferation.