

Tab 3

VERIZON WIRELESS TOWER
CONDITIONAL USE 2010-04

Staff Report
Verizon Wireless Tower
Conditional Use Permit (CU-2010-04)
1712 12th St W

BACKGROUND:

Verizon Wireless is a cellular (cell) communication provider applying for a 154 foot “stealth” communication tower (designed to be a flagpole) and accessory equipment. Currently there are no suitable existing towers or structures in or near the Verizon Wireless 87017 designed search area. The attached exhibits identify the proposed location.

The agent for the applicant met with City staff months prior to the submittal of the application and with the DRC on June 9, 2010. The DRC discussed several concerns with the agent including the location and setbacks of the tower, buffering and screening, fencing the yards of the restrooms and the size of the flag before the applicant proceeded with this request. The applicant is requesting the approval from the City of Palmetto.

GENERAL LOCATION/PARCEL SIZE:

Location: 1712 12th St W., Hidden Lake Park

EXISTING LAND USE/ZONING CATEGORY:

Future Land Use: RES-6 (Residential)
Zoning: P (Public)

REQUESTED APPROVAL

A conditional use permit may be issued for the establishment of a monopole tower and associated antennas pursuant to Articles 15 and 17 of the Land Development Code. The proposed antenna cannot create an unsafe condition or be detrimental to health safety and welfare of the general public. The following conditions have been analyzed in reviewing this request:

- (1) The proposed use shall be consistent with the purpose and intent of the applicable zoning district regulations, this article, and the comprehensive plan.

The proposed request for a 154’ monopole tower is permitted with a Conditional Use approval in the P zoning district which is consistent

with the RES-6 future land use designation for this site. The cell tower is proposed in Hidden Lake Park which is owned by the City of Palmetto. Verizon Wireless entered into a lease agreement for approximately 460 square feet of City owned property located within Hidden Lake Park in order for the applicant to proceed with this request.

- (2) The proposed use shall be compatible with surrounding land uses and the general character of the area, considering, without limitation, such factors as traffic, lighting, appearance, and effect on surrounding property values. **The proposed monopole tower will be designed as a flagpole with a 20 by 37 foot American flag which should blend into the park setting. The antennas are disguised within the architecture of a flag pole and should not have an adverse effect on traffic, lighting, appearance, or surrounding property values.**
- (3) The conditional use will not adversely impact on the public interest or adjacent property and all necessary alternative measures shall be taken by the applicant to prevent any such impact. **The proposed use will be set back as far as possible (a minimum of approximately 287 feet) from the park's property lines and adjacent residential uses. The impact of the proposed antennas will be mitigated by blending the antenna into the design of the flag pole. There does not appear to be any adverse impacts on the public interest or adjacent properties.**
- (4) The conditional use is not discriminatory, considering similar situations in the general area and in past decisions under this article. **This request is not discriminatory. There have been no similar applications or past decisions regarding cell towers in the general area or the applicant's search area.**
- (5) The purpose of the requirement is otherwise fully achieved, or more important purposes of this article will be served thereby, or the requirement serves no valid public purpose in the particular case. **Cell service has become an essential service. In an attempt to limit the number of cell towers in the City, Section 17.6(2)(b) of the City zoning code requires that the tower and telecommunications equipment building be designed to accommodate at least 3 providers for towers over 150'. The proposed tower will be 154' high with at least four antennas allowing for three providers on the tower.**
- (6) The proposal shall be consistent with the stated purpose and intent of the applicable district regulations and this article. **The proposed cell tower is considered a public service facility which is**

permitted and consistent with stated purpose and intent of the P zoning district regulations.

(7) The proposal shall comply, where applicable, with the regulations of the zoning district in which the proposed use is most commonly permitted. **The proposed use is considered a public service facility which is a permitted use in all zoning districts. The other cell tower within the City limits at the SW corner of 9th St W and 3rd Avenue W is zoned CG.**

(8) The proposal shall not create hazardous vehicular or pedestrian traffic conditions or any other type of unsafe condition. **Sec. 17.10(1) of the City zoning code requires the tower to be set back from the property line a distance equal to the height of the tower. The City Commission may reduce this setback if it can be shown that the collapse zone is less than this distance. The proposed tower is designed such that the top section will collapse on itself within a fall radius of 40 feet. The proposed tower is setback a minimum of 287 feet from the park's northern property line, 133 feet from the tower's straight fall zone.**

The proposed use will not create any hazardous vehicular or pedestrian traffic or any other unsafe condition.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed conditional use permit.

PLANNING AND ZONING BOARD RECOMMENDATION:

The Planning and Zoning Board shall **APPROVE, APPROVE WITH CONDITION(S) or DENY** the proposed conditional use permit.

CITY COMMISSION

The City Commission shall **APPROVE, APPROVE WITH CONDITION(S) or DENY** the proposed conditional use permit.

Attachments: Memorandum of Land Lease Agreement
Letter from Federal Aviation Administration
Pictures
Site Plan

Upon Recording, Return to:

Tirso M. Carreja, Jr., Esq.
Fowler White Boggs P.A.
501 E. Kennedy Blvd., Suite 1700
Tampa, Florida 33602

STATE OF FLORIDA)
)
COUNTY OF MANATEE)

MEMORANDUM OF LAND LEASE AGREEMENT

This Memorandum of Land Lease Agreement (the "Memorandum") is made this 22 day of June, 2010, between the City of Palmetto, Florida, a municipal corporation of the State of Florida, with its principal offices located at 516 8th Avenue West, Palmetto, Florida 34221, hereinafter designated LESSOR and Verizon Wireless Personal Communications LP, a Delaware limited partnership d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), hereinafter designated LESSEE. The LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

1. LESSOR and LESSEE entered into a Land Lease Agreement (the "Agreement") on June 22, 2010 for an initial term of five (5) years, commencing on the Commencement Date. The Agreement shall automatically be extended for four (4) additional five (5) year terms unless the LESSEE terminates it at the end of the then current term by giving the LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term. If at the end of the fourth (4th) five (5) year extension term this Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate it at least three (3) months prior to the end of such term, the Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least three (3) months prior to the end of such term.
2. LESSOR hereby leases to LESSEE a portion of that certain parcel of property (the entirety of LESSOR's property is referred to hereinafter as the "Property"), located at 1720 12th Street West, Palmetto, Manatee County, Florida 34221, and being described as a 10' by 10' tower parcel and a 12' by 30' equipment parcel collectively containing approximately 460 square feet (the "Land Space"), together with the non-exclusive right (the "Access and Utility Easement") for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks over or along a twenty (20') foot wide right-of-way extending from the nearest public right-of-way, 12th Street West, to the Land


Space, and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along one or more rights of way from the Land Space, said Land Space and Access and Utility Easement (hereinafter collectively referred to as the "Premises"). The Premises are described in Exhibit A attached hereto and made a part hereof, and as shown on the plat of survey attached hereto and incorporated herein as Exhibit B. In the event any public utility is unable to use the aforementioned Access and Utility Easement, the LESSOR has agreed to grant an additional right-of-way either to the LESSEE or to the public utility at no cost to the LESSEE.

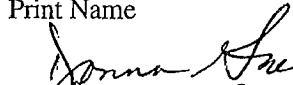
3. The Commencement Date is based upon the date LESSEE is granted a building permit by the governmental agency charged with issuing such permits, or the date of execution of the Agreement by the Parties, whichever is later. In the event the date at which LESSEE is granted a building permit or the date of execution of the Agreement, whichever is applicable, falls between the 1st and 15th of the month, the Agreement shall commence on the 1st of that month and if such date falls between the 16th and 31st of the month, then the Agreement shall commence on the 1st day of the following month (either the "Commencement Date").
4. The terms, covenants and provisions of the Agreement, the terms of which are hereby incorporated by reference into this Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of LESSOR and LESSEE.

<Signature Page to Follow>

IN WITNESS WHEREOF, hereunto and to a duplicate hereof, LESSOR and LESSEE have caused this Memorandum to be duly executed on the date first written hereinabove.

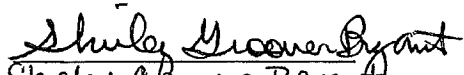
WITNESSES:


DIANE PONDER
Print Name

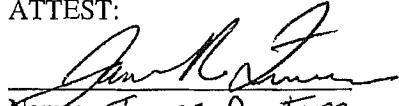

DONNA CROSS
Print Name

LESSOR:

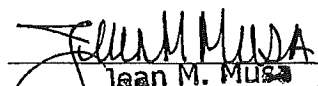
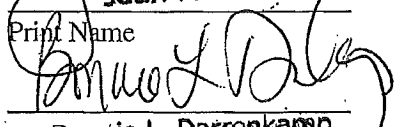
City of Palmetto, Florida,
a municipal corporation of the State of Florida

By: 
Name: SHIRLEY CROOVER BRYANT
Title: MAYOR
Date: 5-20-2010

ATTEST:

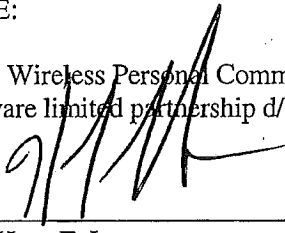

Name: James R. Freeman
Title: City Clerk

WITNESSES:


Jean M. Musa
Print Name

Bonnie L. Darrenkamp
Print Name

LESSEE:

Verizon Wireless Personal Communications LP,
a Delaware limited partnership d/b/a Verizon Wireless


By: _____
Name: Hans F. Leutenegger
Title: Area Vice President Network
Date: 6/22/2010

STATE OF FLORIDA)
)
COUNTY OF MANATEE)

ACKNOWLEDGEMENT

I, Deanna F. Roberts, a Notary Public for said County and State, do hereby certify that Shirley Geovon Bryant personally came before me this day and acknowledged that s/he is the Mayor of City of Palmetto, Florida, a municipal corporation of the State of Florida, and s/he, being authorized to do so, executed this Memorandum as his/her own act and deed on behalf of the city.

WITNESS my hand and official Notarial Seal, this 20th day of MAY, 2010.

NOTARY PUBLIC-STATE OF FLORIDA
Deanna F. Roberts
Commission # DD897960
Expires: JUNE 10, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

Deanna F. Roberts
Notary Public

My Commission Expires:

STATE OF NORTH CAROLINA)
)
COUNTY OF MECKLENBURG)

ACKNOWLEDGMENT

I, Lynne Carlisle, a Notary Public for said County and State, do hereby certify that Hans F. Leutenegger, personally came before me this day and acknowledged that he is the Area Vice President Network of Verizon Wireless Personal Communications LP, a Delaware limited partnership d/b/a Verizon Wireless, and that he, as Area Vice President Network, being authorized to do so, executed this Memorandum on behalf of Verizon Wireless Personal Communications LP, a Delaware limited partnership d/b/a Verizon Wireless.

WITNESS my hand and official Notarial Seal, this 22 day of June, 2010.

LYNNE CARLISLE
Notary Public, North Carolina
Mecklenburg County
My Commission Expires
March 20, 2011

Lynne Carlisle
Notary Public

My Commission Expires:



Federal Aviation Administration
Air Traffic Airspace Branch, ASW-520
2601 Meacham Blvd.
Fort Worth, TX 76137-0520

Aeronautical Study No.
2009-ASO-4758-OE

Issued Date: 09/01/2009

Diana Joseph
Verizon Wireless Personal Communications LP
1120 Sanctuary Pkwy, Ste 150
Alpharetta, GA 30009

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower HIDDEN LAKE PARK
Location:	Palmoetto, FL
Latitude:	27-31-27.35N NAD 83
Longitude:	82-35-12.23W
Heights:	160 feet above ground level (AGL) 168 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 K Change 2.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (202) 267-5235. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2009-ASO-4758-OE.

Signature Control No: 648487-118302580

(DNE)

Tracy Rosgen
Technician

Attachment(s)
Frequency Data

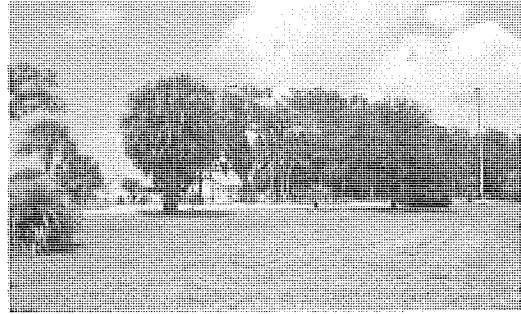
Frequency Data for ASN 2009-ASO-4758-C

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
806	824	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1850	1910	MHz	1640	W
1930	1990	MHz	1640	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W

Proposed Verizon Cell Tower – Hidden Lake Park



Restrooms



Residential on northside of park



Looking east



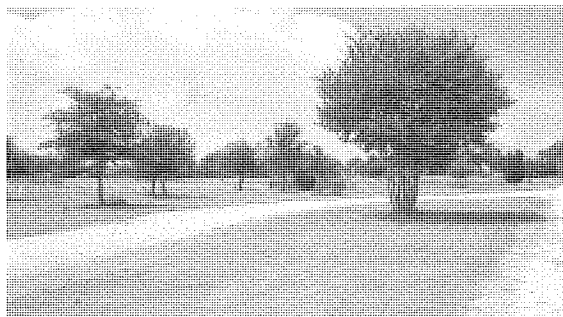
Looking southeast toward entrance



Looking west from entrance



Looking north from entrance

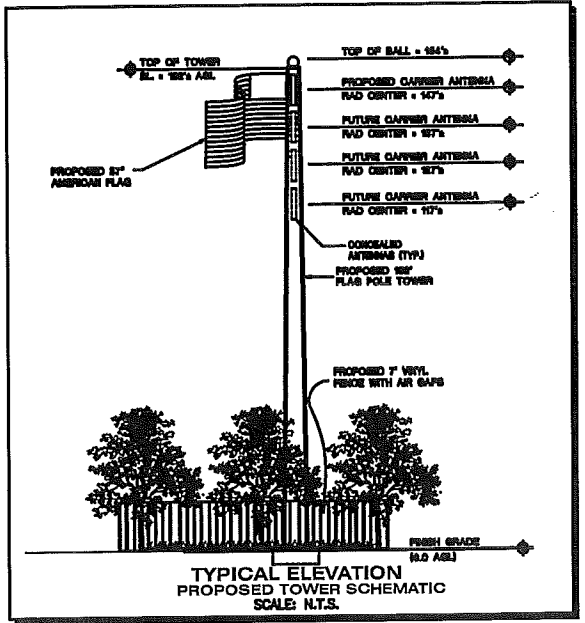
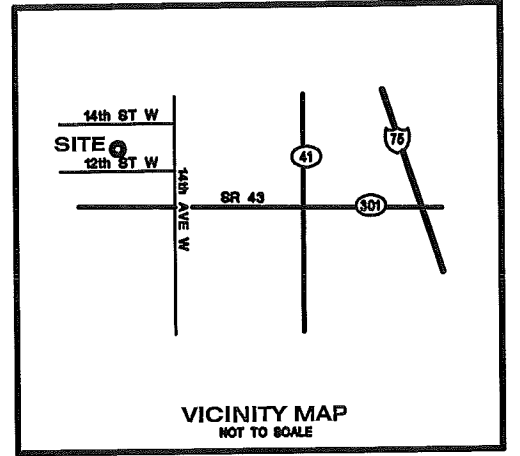


Looking north at houses



Looking E w/houses in background

SECTION 15, TOWNSHIP 34 SOUTH, RANGE 17 EAST
MANATEE COUNTY, FLORIDA

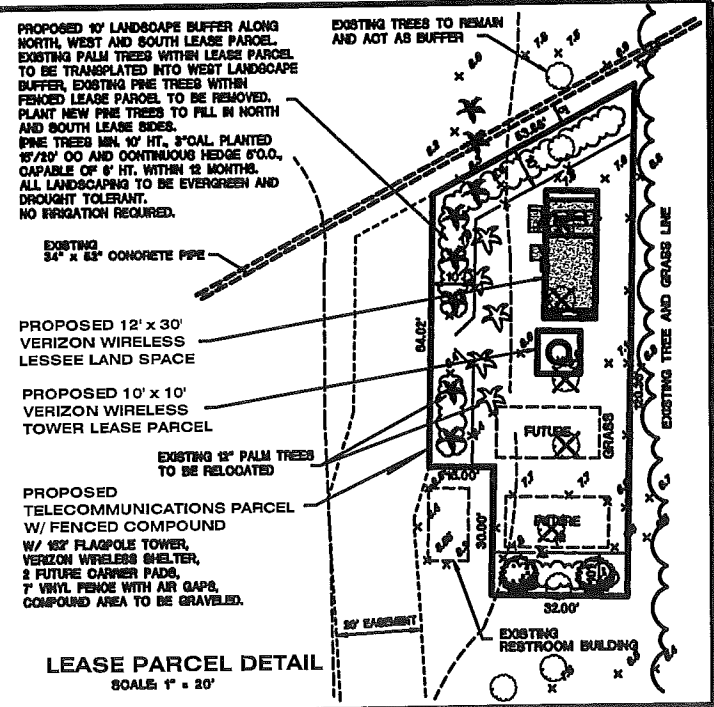
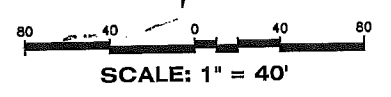


- GENERAL NOTES:**
- EXISTING USE PARK AND RECREATION
 - PROPOSED USE UNMANNED TELECOMMUNICATION TOWER/RELAY EQUIPMENT.
 - WATER & SEWER SERVICE IS NOT REQUIRED.
 - TOWER SHALL NOT INTERFERE WITH NORMAL RADIO AND TELEVISION RECEPTION IN THE VICINITY.
 - PROPOSED TOWER FACILITIES SHALL COMPLY WITH ALL APPLICABLE F.A.A. AND F.O.C. REGULATIONS AND REQUIREMENTS.
 - TOWER SHALL BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH APPLICABLE PROVISIONS OF STANDARD E.L.A./T.L.A. 222-E.
 - AFTER REVIEW OF FLOOD INSURANCE RATE MAP, COMMUNITY PANEL No. 8098 0005 D DATED NOVEMBER 14, 1993, THE VERIZON WIRELESS LEASE PARCEL DEPICTED HEREON LIES IN ZONE "A10" WITH A BASE FLOOD ELEVATION OF 8 (AREAS OF 100 YEAR FLOOD), BASE FLOOD ELEVATIONS AND FLOOD HAZARD FACTORS DETERMINED.
 - TOWER COORDINATES: NAD 83 LATITUDE 27°32'28.972"N, LONGITUDE 82°30'12.140"W.
 - SITE SURVEY DATA TAKEN FROM SURVEY PERFORMED BY ADVANCED LAND SURVEYING & MAPPING, DATED 3-18-2008, NO. 147-0298 REVISED 12-21-2008.
- SITE DATA:**
- EXISTING ZONING: P (PUBLIC)
 - PARENT TRACT AREA: 147.28 ACRES
 - PROPOSED PROJECT AREA: 0.10 ACRES
 - OWNER: CITY OF PALMETTO
616 8th AVENUE WEST
PALMETTO, FL 34220
 - SITE ADDRESS: 1720 12th ST. WEST
PALMETTO, FL 34221
 - PARCEL No.: 280810010/0
 - JURISDICTION: MANATEE COUNTY

DRAINAGE CALCULATIONS
Verizon Wireless PALMETTO HIDDEN LAKE PARK Site
Site Characteristics: Parent Tract Area = 147.28 acres
Project Area = 0.10 acres

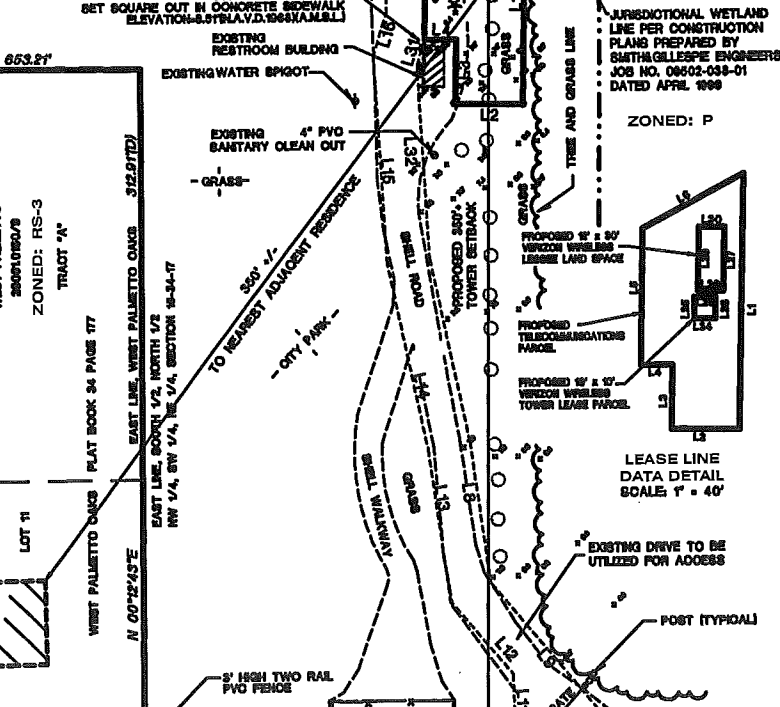
Estimate Condition	Parent Tract Area	Prop. Parcelly Developed On Lease	Total CA
Runoff Impervious	28,000sf	10	28,010
Concrete Paved/Driveways	1,000sf	10	1,010
Asphalt Paved	1,000sf	0.50	400
Grass (Impervious)	28,000sf	0.50	14,000
Total	38,000sf	0.50	17,820

Proposed 0-Pavement = 0.50% Coefficient for impervious in runoff
Existing 0-Pavement = 0.50%



LINE TABLE

COURSE	BEARING	DISTANCE
L1	S 89°22'22"E	82.50'
L2	S 89°22'22"E	82.50'
L3	S 89°22'22"E	82.50'
L4	S 89°22'22"E	82.50'
L5	S 89°22'22"E	82.50'
L6	S 89°22'22"E	82.50'
L7	S 89°22'22"E	82.50'
L8	S 89°22'22"E	82.50'
L9	S 89°22'22"E	82.50'
L10	S 89°22'22"E	82.50'
L11	S 89°22'22"E	82.50'
L12	S 89°22'22"E	82.50'
L13	S 89°22'22"E	82.50'
L14	S 89°22'22"E	82.50'
L15	S 89°22'22"E	82.50'
L16	S 89°22'22"E	82.50'
L17	S 89°22'22"E	82.50'
L18	S 89°22'22"E	82.50'
L19	S 89°22'22"E	82.50'
L20	S 89°22'22"E	82.50'
L21	S 89°22'22"E	82.50'
L22	S 89°22'22"E	82.50'
L23	S 89°22'22"E	82.50'
L24	S 89°22'22"E	82.50'
L25	S 89°22'22"E	82.50'



PARENT TRACT
THE NORTH 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 34 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
... (Detailed description of the parent tract boundaries and area) ...

TELECOMMUNICATIONS PARCEL
A PORTION OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 34 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
... (Detailed description of the telecommunications parcel boundaries and area) ...

TOWER LEASE PARCEL
A PORTION OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 34 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
... (Detailed description of the tower lease parcel boundaries and area) ...

LESSEE LAND SPACE
A PORTION OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 34 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
... (Detailed description of the lessee land space boundaries and area) ...

NO.	REVISION	DATE
1	REVISED PENDING	9-22-09
2	LEASE PARCELS, LEGALS	10-9-09
3	LEASE PARCELS LOCATIONS, LEGALS	1-12-10
4	ADD 60' HIGH TOWER ANTENNA	4-27-10

PREPARED BY: **ALLES DESIGN CORPORATION**
TIM ALLES, P.E.
7117 WAREHAM DRIVE TAMPA, FL 38647
TELEPHONE/FAX (813) 866-0080

DEVELOPER: **VERIZON WIRELESS**
12802 TAMPA OAKS BLVD.
SUITE 460
TEMPLE TERRACE, FLORIDA 33637

DRAWN BY: MIDDLETON
CHECKED BY: T.M.A.
DATE: 1008 09 2008

PALMETTO HIDDEN LAKE PARK
SITE ID 87017
PROPOSED TELECOMMUNICATIONS FACILITY
ZONING PLAN

SHEET **Z1**
JOB NO.