

T-Mobile stick together

December 15, 2009

Ms. Karen A. Phillips
City Clerk
City of Port St. Lucie
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984

RE: Variance Application (Project No. P09-141)
St. Lucie County Fire Station #10, T-Mobile

Dear Ms. Phillips:

At the December 1, 2009 Port St. Lucie Planning and Zoning Board meeting, the Board denied the referenced application. Please consider this letter notice on behalf of the Applicant, Karen Osbourne of T-Mobile, Inc. that it wishes to appeal the Planning and Zoning Board's decision to the Board of Zoning Appeals pursuant to Section 158.302 of your City Code. Enclosed is the \$150 appeal fee.

Sincerely,



Karen Osbourne

Cc: Daniel Holbrook, Director, Planning & Zoning
Pam Booker Hakim, Assistant City Attorney

DEC 15 '09 PM 3:54

Lakeshore Plaza, 1300 Concord Terrace, Suite 200, Sunrise, FL 33323

Office (954) 471-9960 Cell (954)3051764

7. PUBLIC HEARINGS

Chairman Lillo stated, "The applicant or agent for the applicant must be present. If no representative is present for the application, it may be tabled to the following month's meeting. Anyone wishing to speak on any item may approach the podium after the issue has been opened for the public to comment. Each person wishing to speak may do so for not more than three minutes. Please state your name when you come to the podium. You may speak only once for each agenda item. Your comments and concerns are very welcome. However, we must maintain order and provide time for everyone."

A. P09-141 ST. LUCIE COUNTY FIRE STATION NO. 10 (T-MOBILE) - VARIANCE

Ms. Kuruvilla stated, "This is a variance application for a T-Mobile communication tower. The applicant is Karen Osbourne of T-Mobile, and the owner is the St. Lucie County Fire District. The property is located on Dalton Circle between St. Mary's Court and Selkirk Lane. The existing zoning is I (Institutional). The existing use is St. Lucie County Fire Station No. 10. T-Mobile is proposing to replace the existing 120-foot 911 communication tower of the Fire District with a 125-foot wireless communication tower. As per Code Section 158.213 (F) (1) (b), the required acreage is five in Institutional zoning. The requested zoning is four acres. The applicant states that the tower already exists on the site, and that by installing the monopole telecommunication facility, coverage and public-safety services would be enhanced, even though it does not meet the Code requirement. The applicant also states that this is an unmanned facility that will not invite new traffic to the area. The staff feels that this variance would confer a special privilege to the applicant. It would grant the applicant relief from the Zoning Code for a variance of four acres, an 80% deficiency. The need for the variance is a direct result of the actions of the applicant. I would like to mention some of the history of the project. In 1985, the Site Plan for a fire station with an area of 5,300 square feet was approved. A special exception use for a 60-foot radio antenna was approved in the same year. That was destroyed by a hurricane and replaced with a 120-foot tower in 2004. Now that T-Mobile has applied for a variance, they have concurrently applied for a special exception use for this facility. They have also applied for a Site Plan amendment. The St. Lucie County Fire District is seeking an Interlocal Agreement with the City to address replacement scenarios. The draft is included in your packet. As indicated in the report, the Planning and Zoning Department

finds the request to be inconsistent with the variance criteria as stipulated in Section 158.295(C) and recommends denial."

Mr. Stermer said, "There was a special exception approved in 2004. Correct?" Ms. Kuruvilla clarified that it was approved in 1985, and that a Site Plan amendment in 2004 approved the 120-foot tower. Mr. Stermer said, "The variance is because of the property, but the property hasn't changed. Why do we need a variance now?" Mr. Holbrook answered, "The 2004 Site Plan amendment was to include a higher antenna than was previously allowed. This variance is looking not at just the 911 tower, but also at use as a monopole carrier for cell phones. That is not exempt."

Mr. Rich asked if the new tower improves communication for the 911 system in the county, or if it is strictly for the use of T-Mobile. Ms. Kuruvilla replied that it will improve the 911 facility. Mr. Stermer noted, "So the 911 system is using this tower, and the system for the Fire Department will be improved." Mr. Rich observed that he has not seen documentation to back that up. Mr. Holbrook said, "I would refer that to the applicant. They are the ones who are proposing the changes to the tower. I would ask them to address your concern."

Patrick Liautaud, RF Engineer for T-Mobile, said, "All of our cell towers have a system to help triangulate where 911 calls come from. It can pinpoint the location for emergency services. As far as other carriers being able to use this, if you have a phone that uses the same technology we have, we process their calls, so they can get a 911 call through." Mr. Mougeotte asked whether that improves the existing 911 service. Mr. Liautaud replied, "I think all we are doing is replacing the existing tower with a tower that is strong enough to hold our antennas. I believe we're keeping their antennas at the same height. I'm not sure if they plan a change to their system. We're adding 911 for anyone with a T-Mobile or ATT phone."

Mr. Gardner said, "We've dealt with this with other applicants. We want to know what other carriers can collocate on the tower. If Verizon comes in, for instance, will they be able to collocate on this tower?" Mr. Liautaud answered, "The tower there is 120-feet high, so we want to keep the same height. The Fire District already has a microwave dish and an antenna there that take up part of the height. I believe there is enough room for at least one carrier to add antennas." Mr. Gardner asked if the Fire District or T-Mobile will own the tower. Karen Osbourne, T-Mobile, replied, "The tower facility would be owned by T-Mobile. The rental payments would be made to the Fire District." Mr. Gardner said, "The last time we saw this type of

application, it was a private company that was going to own the tower and lease space. Mr. Holbrook, is there any way we can put something in place that would facilitate better use of the tower, so there are not so many put up?" Mr. Holbrook responded, "The requirements are the same for this site as for any site pursuing a cell tower in the City. I believe that the City's Codes are at least minimally adequate to address those concerns. The issue we have here is that they are requesting a variance to those standards. Clearly, they only have one acre, and the minimum requirement for Institutional is five acres. That is the issue before the board for this specific application."

Mr. Martin asked, "Is triangulation available now with just the 911 capabilities on the tower? My concern is for public-safety issues. If you can add a triangulation feature, that would be beneficial." Mr. Liautaud answered, "I'm not sure how the public-safety network works. I know that for us, they use the closest cell tower to pinpoint the location. I think they have the microwave dish to relay. We haven't done anything like that in the past, as far as I know." Mr. Martin asked what the response was from the public notices that were sent. Ms. Kuruvilla replied that she got calls but no written responses.

Chairman Lillo opened the Public Hearing.

GARY SCHELLINGER said, "I live on Lot 18. I faxed a statement to you. I want to know if my property values are going to drop by 30%, which is the national average. Secondly, the tower there now is like a pencil, but this one will look like a tree trunk. It has a 30-foot footprint. Thirdly, I am concerned about cancer, which studies in Germany and Israel say is a danger from cell towers." Ms. Kuruvilla advised that Mr. Schellinger's fax is included in the backup for the special exception use.

RON COLANGELO, 108 SW Dalton Circle, said, "I live directly behind the fire station, and the tower would be directly in front of my house. This is unacceptable. Our property values have already gone down 50%. A variance of four acres is unacceptable. More people would be at this meeting if it were in the evening. I'm sure all of you would object to a tower in front of your house. We reject this tower and hope you will place it away from homes. I already had one form of cancer, and I don't want another one. I'm sure no one does."

GREG ATKINSON said, "I've lived in Port St. Lucie since 1997. I'm a father of three kids. This is a residential community that is not a suitable site for a cell tower. They are unsightly and greatly diminish the aesthetics of the neighborhood. This would be nothing like the existing tower. The City Code requires a

minimum of five acres. This would be an 80% reduction of that. It's crazy to think of putting this in a residential area. I'm sure there are many sites for this commercial tower. Triangulation was mentioned. Could the existing tower be modified for that instead? This would set a precedent for cell towers in residential communities. I don't want to look at this every day. As for cancer, the towers haven't been around long enough to determine if they do or do not cause it."

There being no further comments, Chairman Lillo closed the Public Hearing and said, "We are being asked to discuss a variance of the four acres. But I am sure that my fellow board members have read in the documents that there is a pending interlocal agreement with the St. Lucie County Fire District. I wish they would have been here today to speak to us. Ms. Hakim, do you know the status of the agreement? Will it make our vote moot?" Ms. Hakim answered, "That agreement is supposed to go before the City Council at the December 7 meeting. It would not require these items to come before this board for what is being called replacement towers. If they are replacing this existing tower with a new tower, through T-Mobile or any other carrier, they would be able to do that without coming before this board." Chairman Lillo commented, "I would say to those residents who have concerns that they need to be at that Council meeting. If the interlocal agreement is approved, whatever we say on the subject won't matter. I have a comment that isn't really relevant: What type of a bid process did the Fire District go through before making this prime piece of land available to T-Mobile? And that is nothing against T-Mobile. We would certainly be setting a precedent if we vote for a four-acre, 80% variance."

Mr. Stermer asked, "If this variance is denied today, will that interlocal agreement supersede the denial? Or will they be able to get it automatically, because of the agreement?" Ms. Hakim responded, "If the interlocal agreement is approved by the City Council, they could go forward at this site with the swap-out of the existing tower." Mr. Stermer continued, "I've been to the site. To me the footprint is too intrusive on the one acre. I explained to a couple of firefighters what I was doing, and they couldn't believe how big it was going to be. They even thought it was too big. For that reason, I will vote against this."

Mr. Rich said, "I recommend we table this issue. If the interlocal agreement is approved, we have done our job. That agreement supersedes anything we would say for or against. If the interlocal is denied, this can come back before this board for a decision as a recommendation to City Council." Mr. Stermer said, "If we vote now and the interlocal isn't approved, this

matter is done. It doesn't have to come back. If this is approved today and they approve it, it's a moot point." Mr. Rich said, "If we table it, Council can't do a thing with it until. . . ." Mr. Stermer interjected, "City Council isn't going to do anything with it, anyway. It's a variance." Mr. Rich said that the interlocal agreement would supersede whatever is done by the board. Chairman Lillo said, "Our responsibility and opportunity as a citizen's board is to send a message to the Council. They deserve to hear our opinion, in addition to public appearance at the Council meeting." Mr. Rich noted that either way, the Council will hear the feelings of the board.

Mr. Stermer **moved** to deny P09-141. Mr. Rooksberry **seconded** the motion. The **motion to deny passed** by roll call vote, with Mr. Rich, Mr. Gardner, Mr. Stermer, Mr. Mougeotte, Chairman Lillo, and Mr. Rooksberry voting in favor, and Mr. Martin voting against. Mr. Holbrook advised that the applicant may appeal before the Board of Zoning Appeals by contacting the City Clerk's Office.

B. P09-142 ST. LUCIE COUNTY FIRE STATION NO. 10 (T-MOBILE) - SPECIAL EXCEPTION USE

Ms. Kuruvilla stated, "This is a special exception use application for the same property. T-Mobile is proposing to replace the existing 120-foot 911 communication tower of the Fire District with a 125-foot wireless communication tower. This is considered a special exception use per Section 158.213 (D) (4) of the Zoning Code. The Planning and Zoning staff finds the request to be inconsistent with the special exception criteria as stipulated in Section 158.260 of the Code and recommends denial."

Mr. Rich said, "The Code specifically indicates that a mobile company must submit letters to competitive businesses to see if there is any shared tower space available. That was complied with for this packet. Does the law specify that a response has to be obtained prior to the application being presented?" Mr. Holbrook replied in the negative.

Patrick Liautaud, RF Engineer, T-Mobile, said, "We already collocate on all of the existing towers in the area. We have a coverage gap. We worked on a site at Port St. Lucie Boulevard and Aledo Lane, but the community didn't want us to build there. We got a letter from the Fire District with a list of their stations, asking us if we were interested. This location was the one we picked. That's how we got to this point. We have searched the whole area, looking for a building or a tower we can use. We figured that swapping an existing tower would be more feasible.

We have also addressed the health and safety issue. There is no study proving that cell-phone towers cause cancer. There is a study by the American Cancer Society that states that there is no proof. We have a graph showing the exposure from our facility compared to household items. We are at the bottom." Mr. Rich asked the date and origin of the data because the reports in the application are from 2006, and substantial studies have been carried out since then. Karen Osbourne, T-Mobile, answered that it is the same information.

Mr. Stermer said, "The first map of coverage showed T-Mobile's existing service. Wouldn't the circle of availability from the western tower by I-95 cover more of that area than you are showing? It looks like the data is skewed, and the area that circle would cover is being misrepresented." Mr. Liautaud said, "The center of the coverage gap is around Port St. Lucie Boulevard and Aledo. This site is a little bit out of the ideal location." Mr. Stermer said, "That tower provides a numerical radius. What coverage does that tower give you?" Mr. Liautaud said that it is about 1.5 miles, depending upon the area. Mr. Stermer continued, "Based on that, the tower out west should cover farther east than you are showing. Maybe you need more antennas."

Chairman Lillo said, "We're getting off into technicalities. I appreciate your line of questioning, but we have to defer to T-Mobile as the experts that they can't use that tower. I will ask if anyone from the public wants to speak on this item."

GARY SCHELLINGER said, "My son-in-law lives in the Acreage, and he was just diagnosed with a brain tumor. There is a cancer cluster there. It turns out that Pratt-Whitney dumped illegal toxic waste there. If T-Mobile tells me it doesn't cause cancer, I don't believe that."

ED LEARY said, "I live on Dalton Circle. I'm the single parent of two teenage boys. This doesn't sit well with me. Is the fire station part of the City of Port St. Lucie? Can they make their own deals?" Chairman Lillo answered, "The property the station is on is in Port St. Lucie, but they are administered by the St. Lucie County Fire District. That is why there is a need for an interlocal agreement." Mr. Holbrook added, "They are a separate agency. The property is within the municipal boundaries of Port St. Lucie. That's why this application is before this board." Chairman Lillo said, "The City Council meeting is December 7. That is important to you, because it will give the Fire District carte blanche." Mr. Leary stated, "Put it on record that I am opposed to this."

RON COLANGELO said, "I want to reiterate what I said. I didn't realize until now how big this tower is going to be. If it's going to be around 40-feet wide at the base, it will be within 50 feet of my house. I am opposed to this. I don't think it's a good thing for the community or the neighborhood. It will be an eyesore. We don't know if in time this tower will cause cancer. I would appreciate the board denying this at this point. I will be at that meeting."

GREG ATKINSON said, "Regarding the data, I thank Mr. Rich for pointing out that it is not current. Things have been proved unsafe after many years. Decades ago men worked around asbestos; now we know how unhealthy it was. Our kids could have issues when they're 50." Mr. Rich said, "I would like to give him a diagram showing the distance in feet from the tower to existing dwellings."

There being no further comments, Chairman Lillo closed the Public Hearing.

Mr. Rich **moved** to recommend denial of P09-142. Mr. Rooksberry **seconded** the motion. The **motion for denial passed** by roll call vote, with Mr. Gardner, Mr. Stermer, Mr. Mougeotte, Chairman Lillo, Mr. Rooksberry, and Mr. Rich voting in favor, and Mr. Martin voting against.

C. P09-086 CVS @ BECKER ROAD AND PORT ST. LUCIE BOULEVARD - PHARMACY DRIVE-THRU - SPECIAL EXCEPTION USE

Ms. Huntress stated, "This is the SEU for the CVS plat and Site Plan. Under the evaluation of special-exception criteria, Section 158.260, Section A of the staff reports states: Adequate ingress and egress may be obtained to and from the property with particular reference to automobile and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency. The staff evaluation is the following: The proposed development provides vehicular access from the ingress/egress points on Port St. Lucie Boulevard and Becker Road. The proposed access located on Lot 16, which is zoned RS-2, contradicts Section 158.222(A)(5), Access Standards of the City's Land Development Regulations. Said section states that no lot that is residentially zoned shall be used for driveway, walkway, or access purposes to any lot which is non-residentially zoned, or used for any purpose not permitted within the applicable residential zoning district, except for ingress and egress to and from an existing use that does not abut a street. Therefore, Lot 16 will have to be rezoned to CG in order to accommodate the proposed commercial use and allow the commercial access shown on the plans. The Site Plan Review



City of Port St. Lucie

Planning and Zoning Department Memorandum

TO: PLANNING AND ZONING BOARD - MEETING OF DECEMBER 1, 2009
FROM: THRESIAMMA KURUVILLA, PLANNER *[Signature]*
RE: VARIANCE APPLICATION (PROJECT NO. P09-141)
ST. LUCIE COUNTY FIRE STATION #10, T-MOBILE
DATE: NOVEMBER 20, 2009

APPLICANT: Karen Osbourne of T-Mobile, Inc.

OWNER: St. Lucie County Fire District

LOCATION: The property is located on Dalton Circle, between St. Mary's Court and Selkirk Lane.

LEGAL DESCRIPTION: Port St. Lucie section 41, part of Tract D.

SIZE: 1 Acre (43,560 sq. ft.)

EXISTING ZONING: I (Institutional)

EXISTING USE: St. Lucie County Fire Station #10

SURROUNDING USES: North = RS-2 (Single Family Residential), South = RS-2 (Single Family Residential), East = I/SEU (Institutional), Sons of Italy Lodge; and West = RS-2 (Single Family Residential).

REQUESTED VARIANCE: As per section 158.213 (F) (1) (b) of the City's Code, the required acreage is 5 in an (I) Institutional zoning. T-Mobile is proposing to replace the existing 120 foot high 911 communication tower of the St. Lucie County Fire District, with a 125 foot high wireless communication tower. The requested variance is 4 acres.

IMPACTS AND FINDINGS

Compatibility with variance criteria: The variance request does not appear to be consistent with the variance criteria as outlined below.

Evaluation of Variance Criteria (Section 158.295(C):

1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

Applicant: The existing building has an emergency 911 communication tower. The property is currently 1 acre.

Staff Response: Per Section 158.213 (E) (b) of the Land Development Regulation, a tower is to be built on property zoned I (Institutional) that has a minimum of 5 acres. The subject property is only 1 acre. Special conditions and circumstances do not relate to this site. The minimum area to install a telecommunication tower in Institutional zoning as per the Land Development Regulation is 5 acres, and they are not meeting it. Therefore, the need for this variance is a direct result of action by the applicant.

2) That these special conditions and circumstances do not result from any action of the applicant.

Applicant: The applicant states that the building and emergency pole currently exist, which did not result from the action of the applicant.

Staff Response: The applicant has not demonstrated that there is a special condition peculiar to this property.

3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district.

Applicant: The applicant states that granting the variance will not confer special privileges to the applicant because it will preserve emergency services that currently exist.

Staff Response: This variance would confer a special privilege to the applicant. It would grant the applicant relief from the zoning code for a variance of 4 acres, or 80% deficiency.

4) That literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant.

Applicant: The applicant states that the literal interpretation would deprive the applicant

of an existing use of the property. It would result in the denial of services that currently exist at this location and provision of services the public uses for emergency purposes. This is an undue hardship as this is the only location that will work for this carrier. The carrier has exhausted all search options in this area and has provided the back-up information to show why this location is the only option.

Staff Response: There is no undue hardship to this business and does not justify approval of this request.

5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Applicant: The variance approval would allow this location to be used as a communications facility, which is reasonable use as it provides the same use that currently exists.

Staff Response: Denying the variance does not hinder the reasonable use of the land, building, or structure. Reasonable use of the land would be allowed with adherence to the code.

6) That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant: The applicant states that this is an unmanned facility, it will not generate new traffic to the area, and it will enhance public safety services to the public by providing communication options for Emergency 911 and otherwise.

Staff Response: Granting the variance would not be in harmony with the intent or purpose of the City's Land Development Regulations.

7) That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.

Applicant: The applicant states that the applicant has analyzed the code and this application is being submitted to the jurisdiction with supporting documents such as drawings that have complied with local laws.

Staff Response: The Planning and Zoning Department sees no need for any additional conditions of this request. The 120 feet high 911 tower already exists on the site. By installing the monopole telecommunication facility will enhance the coverage and public safety services to the public by providing communication options, even though it does not meet the code requirement. St. Lucie County Fire District is seeking an interlocal agreement with the City to address replacement scenarios. See attached draft agreement.

History:

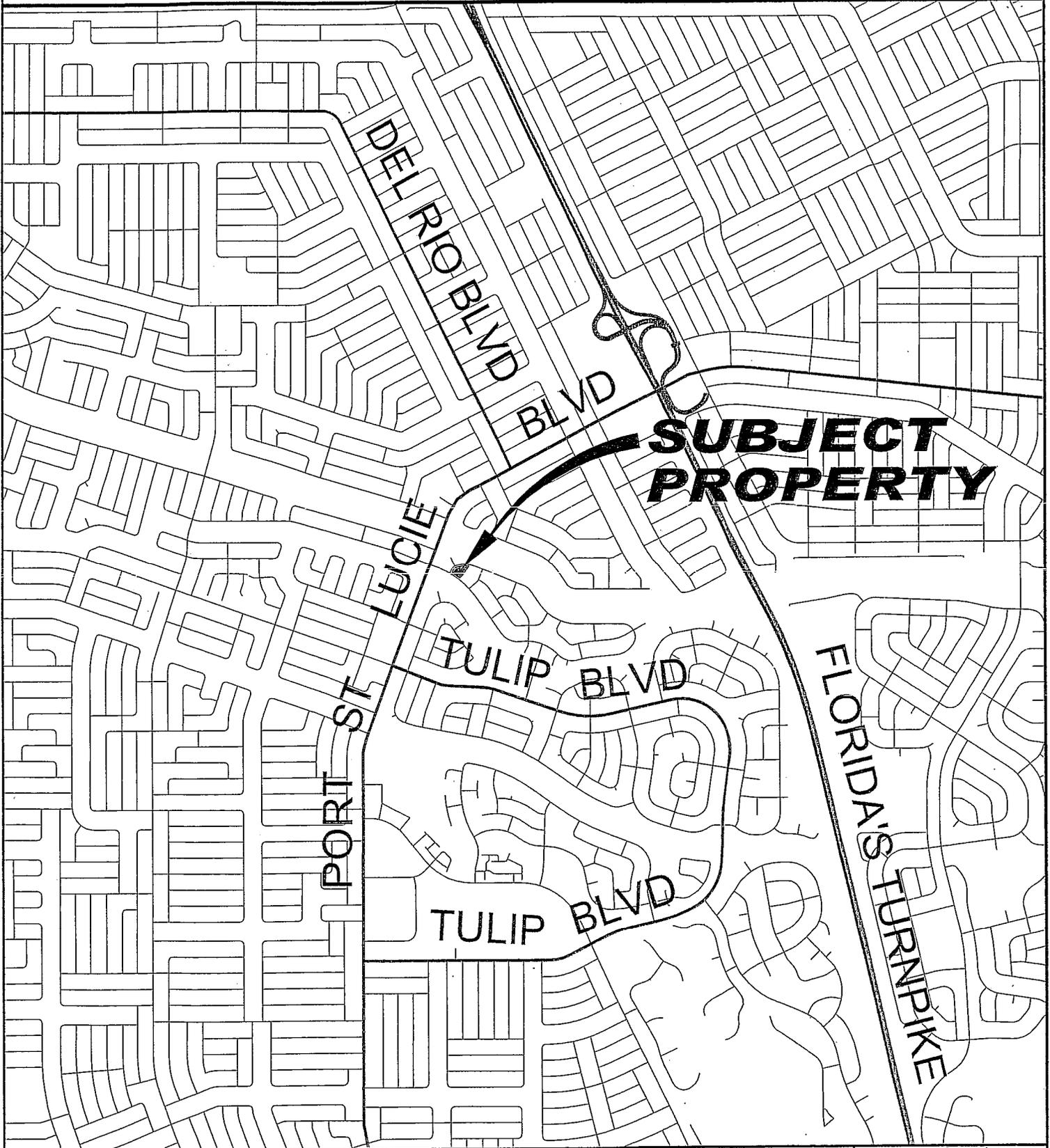
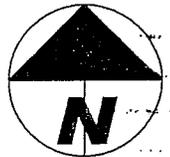
1. P85-066-The site plan for a fire station with 5,300 sq. ft. area was approved by the SPRC on 4/16/85.
2. P85-064- A Special Exception use for a 60 foot radio antenna adjacent to the building was approved by the City Council on 05/06/85.
3. P00-168- The site plan amendment for the addition of storage shed and parking variance was approved administratively on 8/23/00.
4. P04-519- The site plan amendment was approved administratively on 11/15/04 to replace the 60 foot high communication tower that was destroyed by the hurricane with another communication tower of 120 foot high.
5. P09-142- The SLC Fire Station#10, T-Mobile has applied concurrently for a Special Exception Use for a wireless telecommunication tower by replacing the existing 120 foot high tower with 125 foot high and will be heard on Planning and Zoning Board meeting today (December 1, 2009).
6. P09-143- The SLC Fire Station#10, T-Mobile has applied concurrently for a site plan amendment and is under process.

STAFF RECOMMENDATION:

The Planning and Zoning Department staff finds the request to be inconsistent with variance criteria as stipulated in Section 158.295(C) of the Zoning Code and recommends denial.

(NOTE TO APPLICANT: Any request for a variance that is denied by the Planning and Zoning Board may be appealed to the City Council. Appeal applications are made through the City Clerk's office and must be submitted within 15 days after the Planning and Zoning Board hearing).

SITE LOCATION



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS, Division of M.I.S.

PZ2008.DWG

VARIANCE
PART OF TRACT "D"
PORT ST LUCIE SECTION 41

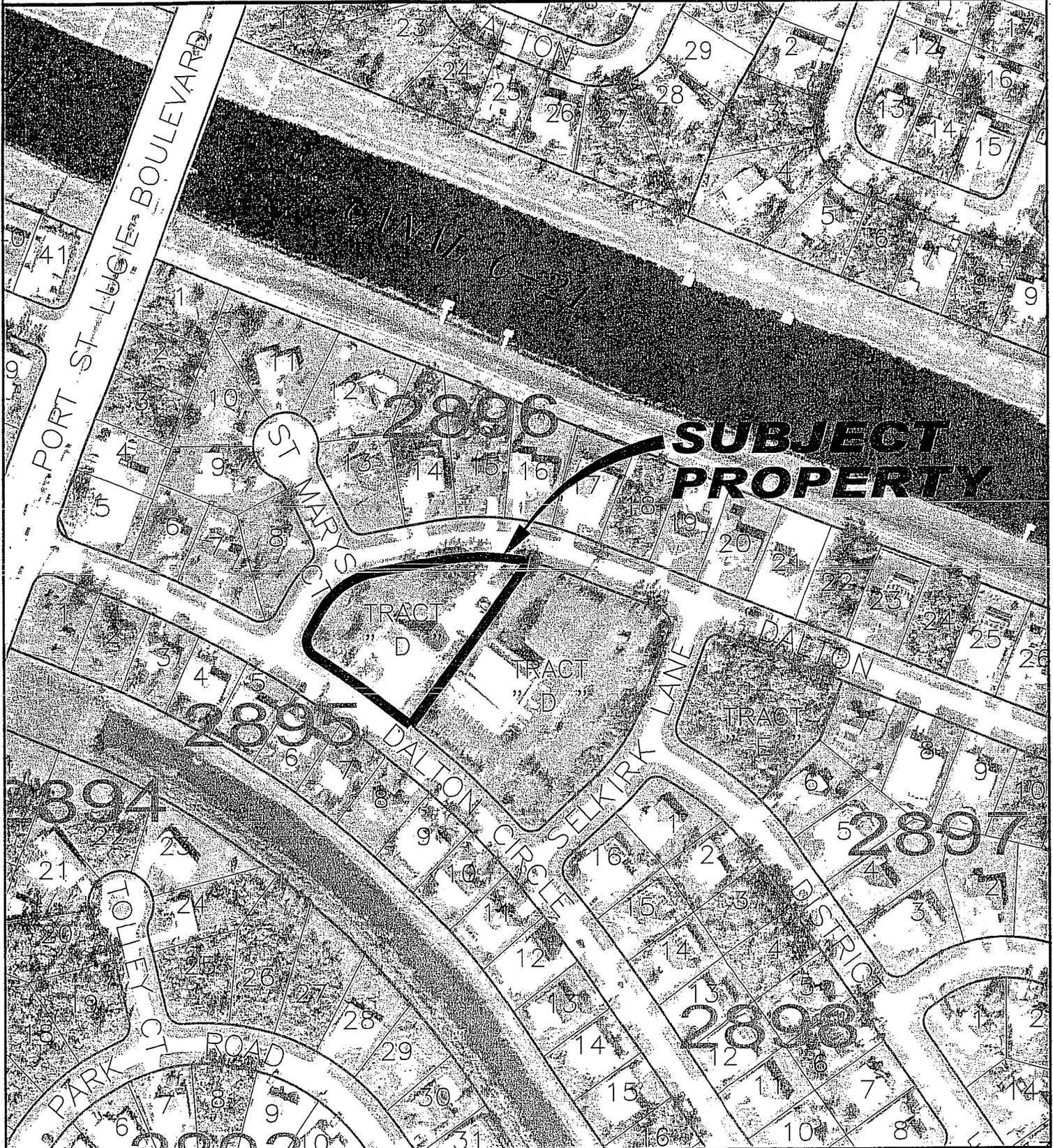
DATE: 11/05/09

APPLICATION NUMBER:
P09-141

CADD FILE NAME:
P09-141L

SCALE: 1" = .5 MI

SITE LOCATION



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS, Division of M.I.S.

PZ2008.DWG

VARIANCE
PART OF TRACT "D"
PORT ST LUCIE SECTION 41
AERIAL JAN 2009

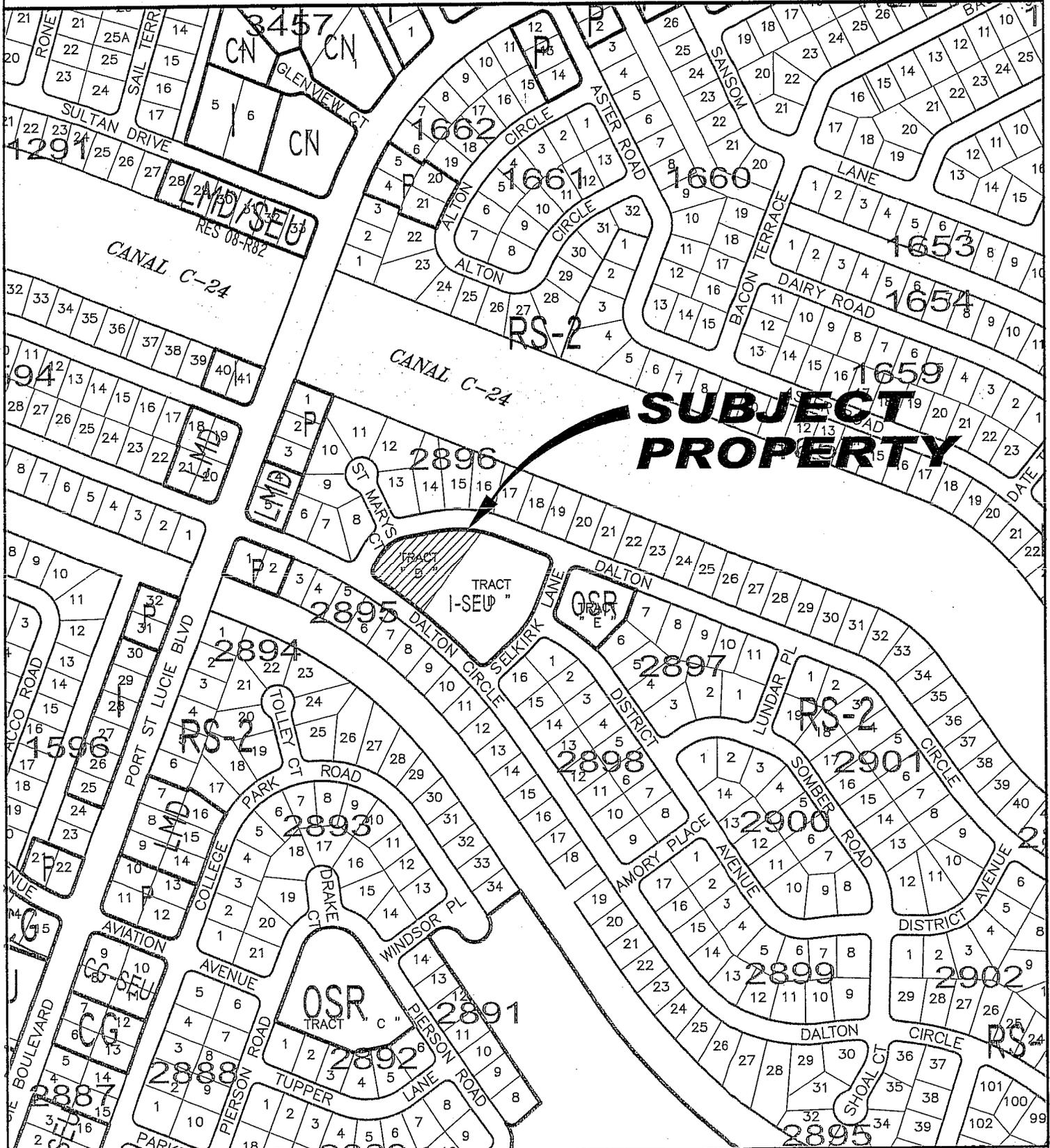
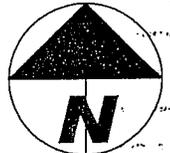
DATE: 11/05/09

APPLICATION NUMBER:
P09-141

CADD FILE NAME:
P09-141M

SCALE: 1"=200'

EXISTING ZONING



**SUBJECT
PROPERTY**



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS, Division of M.I.S.

PZ2008.DWG

VARIANCE
PART OF TRACT "D"
PORT ST LUCIE SECTION 41

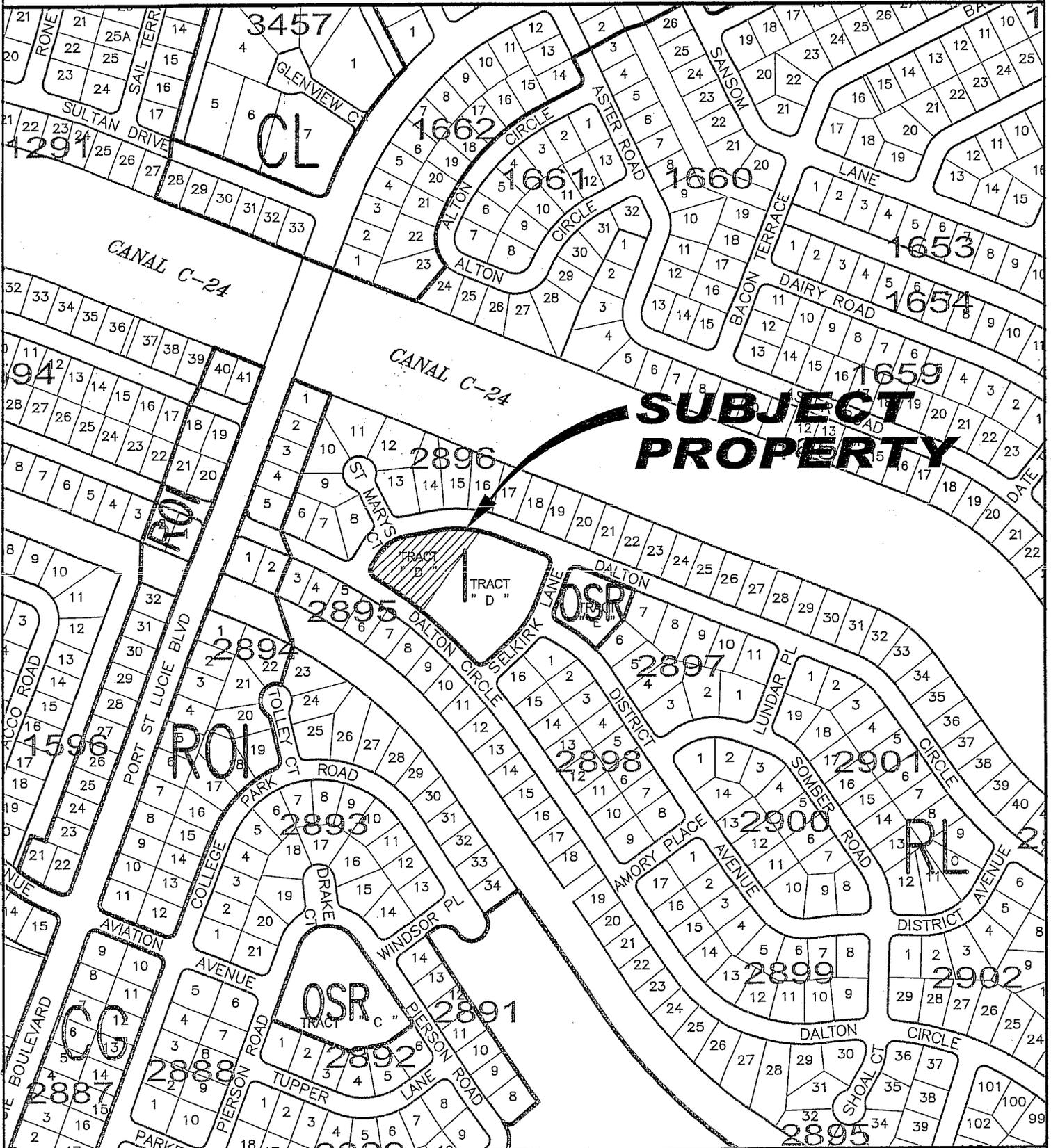
DATE: 11/05/09

APPLICATION NUMBER:
P09-141

CADD FILE NAME:
P09-141M

SCALE: 1" = 400'

FUTURE LAND USE



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS, Division of M.I.S.

PZ2008.DWG

VARIANCE
PART OF TRACT "D"
PORT ST LUCIE SECTION 41

DATE: 11/05/09

APPLICATION NUMBER:
P09-141

CADD FILE NAME:
P09-141M

SCALE: 1"=400'

VARIANCE APPLICATION

FOR OFFICE USE ONLY

CITY OF PORT ST. LUCIE
Planning & Zoning Department
121 SW Port St. Lucie Blvd.
Port St. Lucie, Florida 34984
(772)871-5212 FAX: (772)871-5124

Planning Dept P09-141
Fee (Nonrefundable) \$ 1635.00
Receipt # 10076

Refer to "Fee Schedule" for application fee. Make check payable to the "City of Port St. Lucie. Fee is nonrefundable unless application is withdrawn prior to advertising for the Planning and Zoning Board meeting. Attach two copies of proof of ownership (e.g., warranty deed, affidavit), a copy of recent survey and a statement addressing each of the attached criteria.

PROPERTY OWNER:

Name: St. Lucie County Fire District
Address: 560 Milnes Drive, Port St. Lucie, FL 34983
Telephone No. 772-621-3400 Fax No. _____

RECEIVED

APPLICANT (IF OTHER THAN OWNER, ATTACH AUTHORIZATION TO ACT AS AGENT):

Name: Karen Osbourne, Tomahik
Address: 1300 Concord Terrace, Suite # 200
Telephone No. (954) 305-1764 Fax No. (954) 514-8086

PLANNING DEPARTMENT
CITY OF PORT ST. LUCIE, FL
NOV 23 2009

SUBJECT PROPERTY:

Legal Description: Port St. Lucie - Sec - 41 - That part of Tract D MPDAF
Parcel I.D. Number: 3420-105-0004-010-4
Address: 777 S.W Dalton Circle
Current Zoning Classification Institutional

Description of requested variance and applicable conditions/circumstances justifying request (continue on separate sheet, if necessary): Provide documentation that the attached variance criteria have been met.

Proposed is an unmanned communication tower that will replace the one currently existing at the address noted. There will be equipment installed at the tower base. The existing cell tower will be removed and the proposed will serve in its function upon replacement. The property is zoned in zone where 5 acres are required.

Karen Osbourne KAREN OSBOURNE 10-26-09
Signature of Applicant Hand Print Name Date

NOTE: Signature on this application acknowledges that a certificate of concurrency for adequate public facilities as needed to service this project has not yet been determined. Adequacy of public facility services is not guaranteed at this stage in the development review process. Adequacy for public facilities is determined through certification of concurrency and the issuance of final local development orders as may be necessary for this project to be determined based on the application material submitted.
H:\PZ\SHARED\APPLCTNW\ARAPPL(07/29/04)

RECEIVED

OCT 30 2009

VARIANCES

PLANNING DEPARTMENT
CITY OF PORT ST. LUCIE, FL

The Planning and Zoning Board and Zoning Administrator may authorize the variance from the provisions of this chapter as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the Planning and Zoning Board or Zoning Administrator will consider the variance criteria in § 158.295 (C) 1-7 and consider your responses to the following when making a determination.

(1) Please explain special conditions and circumstances that exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

Existing building has an emergency 911 communications pole. The property is currently 1 acre where 5 acres are required.

(2) Please explain if these conditions and circumstances result from actions by the applicant;

The building and emergency pole currently exist, which did not result from the actions of the applicant.

(3) Please explain how granting the variance requested will not confer on the applicant special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district;

Granting the variance will not confer special privileges to applicant because it will preserve emergency services that currently exist.

(4) Please explain how a literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant;

The literal interpretation would result in the denial of services that currently exist at this location and provision of services public uses for emergency purposes. This is an undue hardship. Other has exhausted all options. This is the only location that is viable. Please see attached supporting documents.

(5) Please illustrate and explain if the variance requested is the minimum variance that will make possible the reasonable use of the land, building, or structure;

The variance approval would allow in this location's use as a communications facility, which is reasonable use because it is consistent with the 911 services which it currently provides.

(6) Please indicate how granting variance will be in harmony with the general intent and purpose of the chapter and that granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;

This is an unmanned facility, it will not generate new traffic to the area, and it will enhance services to the public by providing communication options for emergency and otherwise.

(7) Please indicate that there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both:

The applicant has analyzed the code and this application is being submitted to the jurisdiction with the supporting documents, and applicant will adhere to jurisdictions conditions.

Karen Osbo
Signature of Applicant

KAREN OSBOURNE
Hand Print Name

10/30/09.
Date

ST. LUCIE COUNTY FIRE DISTRICT
Ronald Parrish, BA, EFO
Fire Chief



Telephone: (772) 621-3312
Fax: (772) 621-3600
E-mail: rparrish@slcfd.org

October 30, 2009

City of Port St. Lucie
Planning and Zoning Department
121 SW Port St. Lucie Blvd.
Port St. Lucie, Florida 34984

RECEIVED
OCT 30 2009
PLANNING DEPARTMENT
CITY OF PORT ST. LUCIE, FL

Re: Property Owner Authorization to File Zoning Applications for the Subject Property i.e. the Port St. Lucie Fire Station located at 777 SW Dalton Circle, Port St. Lucie, Florida 34983

Dear Zoning Examiner:

This letter shall serve as authorization for Ms. Karen Osbourne, of T-Mobile, to represent the St. Lucie County Fire District, on the zoning application for a telecommunications facility at the Subject Property, being the Fire Station at 777 SW Dalton Circle, Port St. Lucie. The zoning applications include the following: the application for Variance; the Special Exception Application; and the Site Plan Review Amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Parrish".

Ron Parrish, Fire Chief

cc: Deputy Chief Buddy Emerson
Ken Crooks, Fire District Attorney

T-Mobile

October 19, 2009

City of Port St. Lucie
Department of Planning and Zoning
121 S.W. Port St. Lucie Blvd.
Port St. Lucie, FL 34984

Re: Application for Site Plan Approval, Special Exception and Variance to Permit the Removal of an existing Lattice Tower and the Installation and Maintenance of a Monopole Telecommunications Facility and related Ground Based Equipment.

Applicant: T-Mobile South, LLC ("Lessee")

Property Address: 777 SW Dalton Circle (Fire Station)

Dear Ladies and Gentlemen:

Please accept the following Letter of Intent in connection with the captioned application(s) for public hearing. The Applicant, T-Mobile Inc., is applying for the approval of a Site Plan application to allow the drop and swap out of a 120 ft. telecommunication lattice telecommunication facility for a 125 ft. monopole telecommunication facility.

T-Mobile proposes to install a monopole telecommunications facility on the property. More specifically, the Applicant proposes to construct a monopole which will house internal mounted telecommunications antennas. The proposed monopole will accommodate up to two wireless services providers in addition to T-Mobile. Since the antennas are internally mounted, they will not be visible from the exterior of the monopole. The monopole will have a height of 125 feet. The ground based telecommunications equipment will be located at the base of the monopole. The entire installation will be fenced.

Per Section 158.213. *Wireless Communication Antennas and Towers*, a Special Exception and Site Plan Review application is required to allow for the use of a telecommunication tower on a property zoned I *Institutional*, which is the Fire Station property. The tower that is currently located on the property and planned to be removed is a 911 tower. In addition, we are submitting a variance application as the property is approximately one (1) acre, which is less than the five (5) acres required.

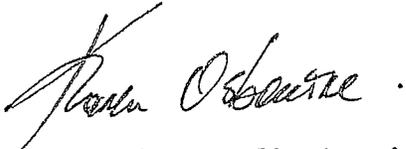
City of Port St. Lucie
Department of Planning and Zoning
October 19, 2009
Page 2

T-Mobile designed the installation to be as aesthetically please and minimally intrusive as possible. As indicated above, and as you will note from the supporting drawings, no antennas protrude from the monopole. Rather, the antennas are concealed wholly within the monopole.

T-Mobile believes that the use contemplated by the application is permitted as a special exception under the code subject to approval at public hearing. The applicant has determined that a need exists for this installation in order to provide reliable wireless capacity and coverage in the area. The applicant's investigations have not revealed an alternate site within the appropriate coverage area that could be utilized with less impact than this site. The proposed installation will be in compliance with all applicable FCC requirements.

T-Mobile hopes to receive your favorable consideration of the Application. If the County requires additional information in connection with the application, please do not hesitate to contact me.

Best Regards,



Karen Osbourne, Site Acquisition & Zoning Specialist
T-Mobile, Inc.
1300 Concord Terrace Suite # 200
Sunrise, FL 33323
(954) 305-1762
karen.osbourne@t-mobile.com

T-Mobile

T-Mobile USA, Inc.
1300 Concord Terrace Suite 200
Sunrise, FL 33323
Office: 954-514-8081 Fax: 954-514-8021

To: City of Port St Lucie

From: T-Mobile USA

Date: October 08, 2009

Re: Interference Letter

The intent of this letter is to confirm that the proposed T-Mobile USA telecommunication site (A2P0109) will not in any way impede with reception and transmission of the City of Port St Lucie's public safety communication systems. This includes television stations, radio stations, or other two-way and cellular services to either residential or commercial establishments.

T-Mobile USA has met FCC rules and regulations part 22, section 22.902 (d) regarding prior frequency coordination and notification: "...all applicants for regular authorization in Domestic Public Cellular Telecommunication Service or when permissive changes (i.e. changes in frequency assignment not requiring prior commission approval) are made within an authorized Cellular Geographic Service Areas within 75 miles of all base stations affected, and with other applicants with previously filed applications whose facility could affect or could be affected by the new proposal in terms of intersystem frequency interference or restricted ultimate system capacity."

The proposed PCS communication facility has passed all relevant FCC interference requirements and is thus certified not to interfere with other electrical systems. The construction, placement or operation of the tower or antennas will not create unacceptable interference with the City of Port St Lucie's Public Safety Communications Systems.

T-Mobile USA will acknowledge and respond to a notification of possible interference from the City of Port St Lucie. Upon receipt of this notification T-Mobile USA will dispatch a field technician and/or a RF Engineer within 24 hours to analyze the problem. If T-Mobile USA is found to be responsible for the problem, necessary steps will be taken immediately to resolve the issue. T-Mobile USA can be reached at (888-218-6664) 24 hours a day, 7 days a week.

Sincerely,

Patrick Liautaud
RF Engineer
T-Mobile USA
(305) 401-9503



T-Mobile USA, Inc.
1300 Concord Terrace Suite 200
Sunrise, FL 33323
Office: 954-514-8081 Fax: 954-514-8021

T-Mobile Site ID: A2P0109B St Lucie County FS#10

Dear Sir/Madam:

T-Mobile's PCS system design has determined that a site is required in the area Port St Lucie Boulevard and Dalton Avenue in Port St Lucie, FL. The need for this installation is to improve In-car/In-Building coverage in this area. As part of this letter, I am including propagation plots to further substantiate our lack of In-Car/In-Building coverage in the area.

T-Mobile is the holder of the PCS license given by the FCC in the A-3 and F Blocks with ranges from 1860 MHz to 1865 MHz and 1890 MHz and 1895 MHz in the receive and from 1940 MHz to 1945 MHz and 1970 MHz to 1975 MHz in the transmit. Due to the lack of spectrum, T-Mobile is forced to re-use its channels within our assigned area. With the increase of subscribers, T-Mobile is forced to adhere to a severe downtilt program in order to accommodate traffic. The dimensioning of the cells becomes smaller due to downtilting, and cells are split, defined as the installation of additional base stations within each cell depends on the degree of cell density in each area and on the coverage effect of each base-station antenna. Thus, allowing us to repeat the channels on numerous occasions by using numerous cells of a small radius, which provide a sufficient signal to noise ratio and a low level of interference with received signals within the coverage area.

Attached are predictive analysis plots of the site and specifications of the proposed site and the search ring showing a radius of 1.2 miles. The plots show the projected propagation prediction of the signal level in dBm that will exist in the indicated geographical areas with and without the candidate site.

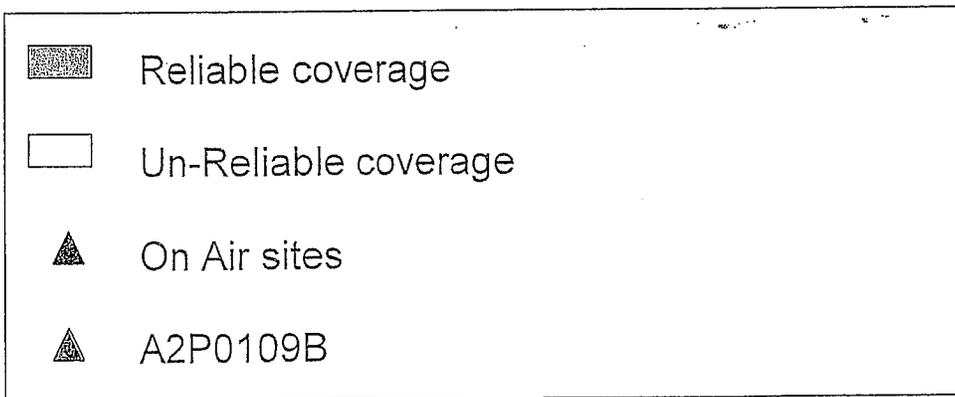
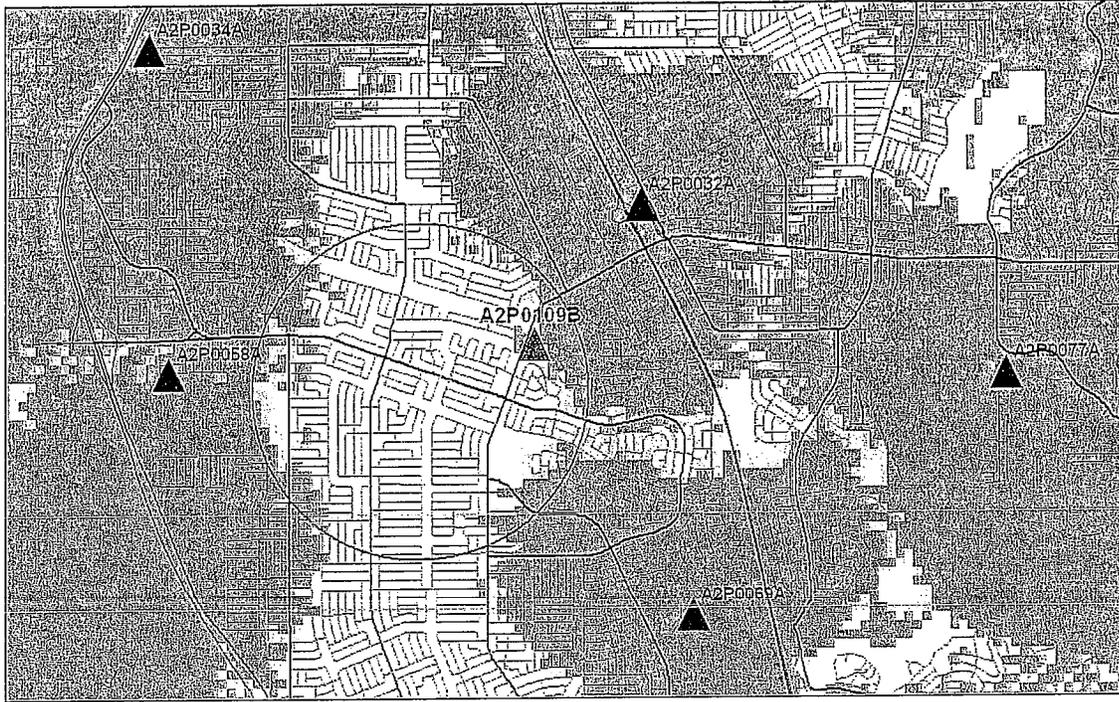
The ability to build a site will enhance the lack of coverage in the area and allow us to re-use our limited spectrum more efficiently in the Port St Lucie area. It will also allow our customers to hand off from the Eastern part of the county to the Western part of the county and have continuous coverage.

Sincerely,

Patrick Liautaud
RF Engineer
T-Mobile
Office (305) 401-9503

I. Requirements for PCS St Lucie County Zoning

1.) Coverage without A2P0109B:



2.) Coverage with A2P0109B:

St Lucie County FS#10 St located on Port St Lucie Boulevard and Dalton Avenue provides the In Building coverage that is needed for the Search Ring

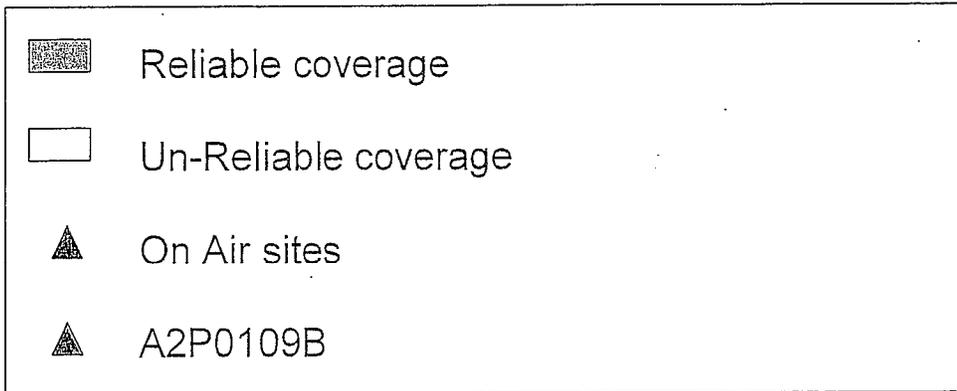
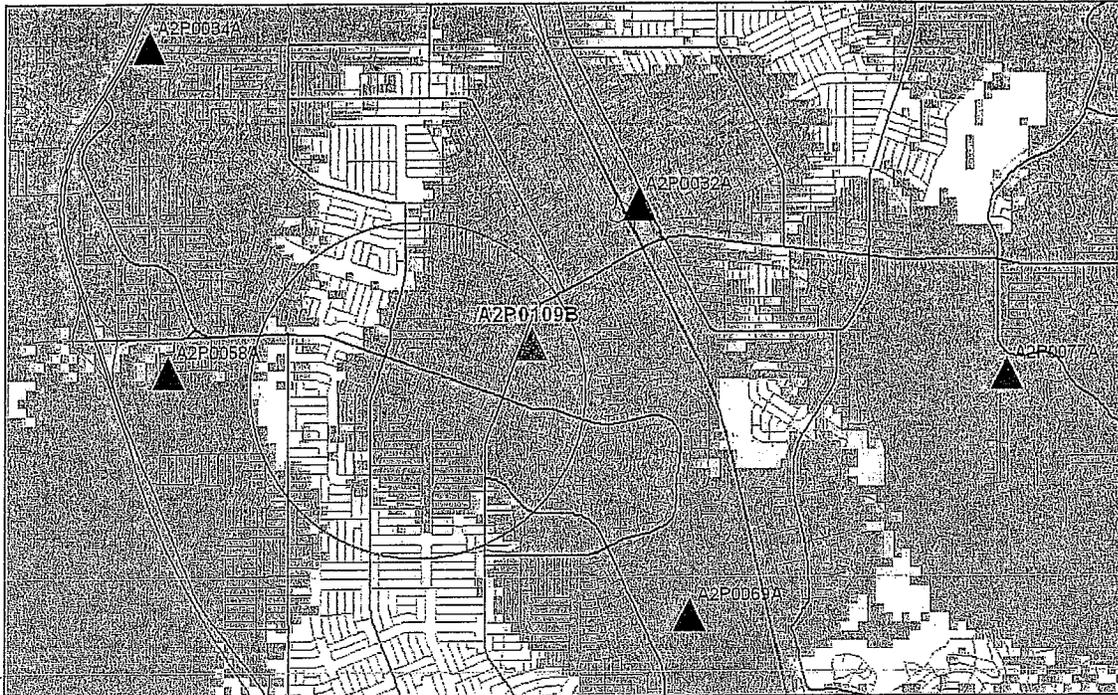


Exhibit A

This instrument prepared by:
PETER L. BRETON, ESQUIRE
1111 So. Bayshore Drive
Miami, Florida 33131

WARRANTY DEED

THIS WARRANTY DEED Made and entered this 3rd day of May 1985 by GENERAL DEVELOPMENT CORPORATION, a corporation existing under the laws of Delaware, and having its principal place of business at 1111 South Bayshore Drive, Miami, Florida 33131, hereinafter called the Grantor, to ST. LUCIE COUNTY-FORT PIERCE FIRE DISTRICT, whose post office address is 2400 Rhode Island Avenue, Ft. Pierce, Florida 33450, hereinafter called the Grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH: That the Grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee all that certain land situate in St. Lucie County, Florida, vis:

As more fully described on Exhibit "A", Pages 1 and 2, attached hereto and made a part hereof by reference.

This Deed is executed subject to taxes assessed for the year 1985 and all subsequent years and to conditions, easements, limitations and restrictions of record.

Grantee acknowledges that a Development of Regional Impact Scheduling Agreement dated February 10, 1978 has been entered into between General Development Corporation and the Florida Division of State Planning. A Master Plan has been filed pursuant to said Agreement under which the real property contemplated herein has been designated as a fire station.

The Grantee's development and improvement of this real property shall be in compliance with the Master Plan described above and on file with the Florida Division of State Planning as of the date of the recording of this Deed, or a revised Master Plan with which said Grantee is in agreement. Chapter 380, Florida Statutes, and Chapter 22-F, Florida Administrative Code, shall be applied to this real property notwithstanding the existence of said Development of Regional Impact Scheduling Agreement, and said Grantee shall not be bound by any Development of Regional Impact filing commitments made by Grantor by virtue of said Agreement as distinguished from any legal responsibility imposed upon said Grantee by Chapter 380, Florida Statutes, and Chapter 22-F, Florida Administrative Code.

Further, the following restrictions shall remain in full force and effect for a period of twenty years from the date of recordation of this Deed:

1. Prior to the commencement of construction of any kind, including but not limited to original construction and subsequent or future alterations or modifications, Grantee agrees that all plans and specifications for architectural and landscaping improvements shall be submitted for approval to Grantor. Grantor shall review the data submitted as to aesthetical functional and economical conformance with the area and its proposed development and Grantor agrees that such approval shall not be unreasonably withheld.

2. The parties acknowledge and agree that the premises shall be used for the sole purpose of a fire station and any modification or change in such use will require the consent and approval of Grantor, which consent will not be unreasonably withheld.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, THE SAME IN FEE SIMPLE FOREVER.

AND the Grantor hereby covenants with said Grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except as above set forth.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

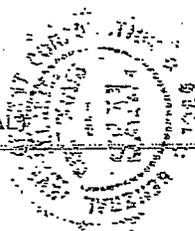
ATTEST: *[Signature]* GENERAL DEVELOPMENT CORPORATION
PETER L. BRETON, ASST. SECTY.

Signed, sealed and delivered in the presence of:

BY: *[Signature]*
HAROLD W. FENNO, SR. VICE PRES

[Signatures of witnesses]

(CORPORATE SEAL)



STATE OF FLORIDA)
COUNTY OF DADE)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared HAROLD W. FENNO, Senior Vice President and PETER L. BRETON, Assistant Secretary, of the corporation named as Grantor in the foregoing deed and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid 3rd day of May 1985.

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
BONDED THROUGH GENERAL INSURANCE UNDER
MY COMMISSION EXPIRES JULY 24 1986

[Signature]
NOTARY PUBLIC
State of Florida at Large

Exhibit A

This instrument prepared by:
PETER L. BRETON, ESQUIRE
1111 So. Bayshore Drive
Miami, Florida 33131

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(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH: That the Grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee all that certain land situate in St. Lucie County, Florida, vis:

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TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, THE SAME IN FEE SIMPLE FOREVER.

AND the Grantor hereby covenants with said Grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except as above set forth.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed in its name and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

ATTEST: *[Signature]* GENERAL DEVELOPMENT CORPORATION
PETER L. BRETON, ASST. SECTY.

Signed, sealed and delivered in the presence of:

BY: *[Signature]*
HAROLD W. FENNO, SR. VICE PRES

[Signatures of witnesses]

(CORPORATE SEAL)



STATE OF FLORIDA)
COUNTY OF DADE)

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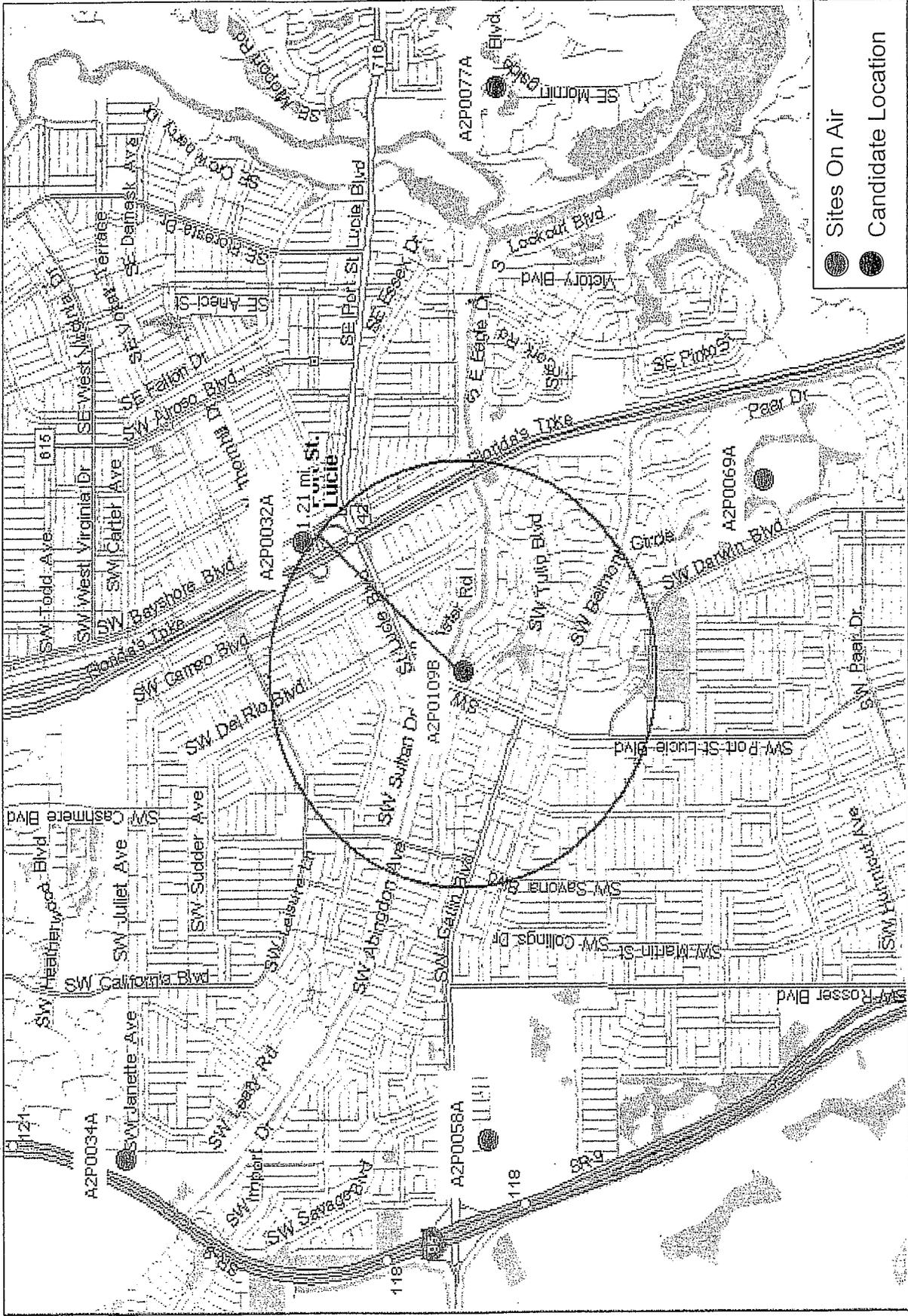
WITNESS my hand and official seal in the County and State last aforesaid 3rd day of May 1985.

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
BONDED THRU GENERAL INSURANCE UNDER
MY COMMISSION EXPIRES JULY 24 1986

[Signature]
NOTARY PUBLIC
State of Florida at Large

T-Mobile Existing Site Locations



T-Mobile stick together™

This instrument prepared by (and return to):
Ken Crooks
St. Lucie County Fire District
5160 N.W. Milner Drive
Port St. Lucie, FL 34983

DRAFT

INTERLOCAL AGREEMENT
QUALIFIED EXEMPTION FOR TOWERS

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into on this the ____ day of _____, 2009, by and between the **CITY OF PORT ST. LUCIE**, a municipal corporation of the State of Florida (“City”) and the **ST. LUCIE COUNTY FIRE DISTRICT**, an independent special taxing district of the State of Florida (“the Fire District”).

WITNESSETH:

WHEREAS, the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes, provides that local government units and independent special districts may cooperate by agreement to provide necessary and essential public services; and

WHEREAS, the City is a Florida municipal corporation and the general purpose government that has jurisdiction over certain lands in St. Lucie County, Florida; and

WHEREAS, the Fire District is an independent special district of the State of Florida responsible for the provision of fire and emergency medical services in incorporated and unincorporated St. Lucie County, Florida; and

WHEREAS, the use of communication towers is an integral component of operating fire stations, so as to provide fire and emergency medical services; and

WHEREAS, the City and Fire District recognize their mutual obligations and responsibility for the health, safety and welfare of those within their communities; and

WHEREAS, the City and Fire District have decided to grant a qualified exemption to the Fire District, within the manner provided for by law, pursuant to the terms set forth below; and

WHEREAS, the City and the Fire District recognize the benefits that will flow to the citizens of their communities by entering into this Interlocal Agreement; and

WHEREAS, the Fire District and the City wish to assure that fire and emergency medical services are available to meet the demands created by the residents for the City of Port St. Lucie; and

WHEREAS, St. Lucie County Fire District Fire Stations Nos. 3, 5, 10, 12, 13, 14, 16, 17, and the Administration Complex, are located within the jurisdictional boundaries of the City; and

WHEREAS, the Fire District is currently permitted to use its Fire Station sites for public safety purposes, including the construction and maintenance of communication towers; and

WHEREAS, to discourage the proliferation of communication towers, shared use of tower structures is both permitted and encouraged, under Section 158.213(G), City of Port St. Lucie Code; and

WHEREAS, the City is willing to provide the Fire District with a qualified exemption from the need to obtain a variance or special exception in order to have communication tower firms replace existing towers at St. Lucie County Fire District sites, under the following terms and conditions.

NOW, THEREFORE, the Parties hereby mutually agree as follows:

1. Recitations

The recitations above are true and correct and made a part of this Agreement by this reference.

2. Authority

This Agreement is entered into pursuant to the provisions of Section 163.01, Florida Statutes; Section 163.400, Florida Statutes; Chapter 163, Part II, Florida Statutes; and other applicable provisions of law, all as amended and supplemented from time to time.

3. Replacement Towers

The City hereby provides the Fire District with a qualified exemption from the need to obtain a variance or special exception to replace existing towers (“Replacement Towers”) at the St. Lucie County Fire District Fire Stations and Administration Complex, some of which are less than the five (5) acre parcel size requirement.

4. Tower Requirements

Towers located at St. Lucie County Fire District Fire Stations Administrative Facilities shall comply with all standards set forth in Section 158.213, City of Port St. Lucie Code.

5. Height of Replacement Towers

Replacement Towers located at St. Lucie County Fire District Fire Stations and Administration Complex shall not exceed 120’ in height, unless otherwise permitted. All replacement towers must be in the same location as the existing tower.

6. Control of Towers

The Fire District shall maintain control over the operation of all towers located at its Fire Stations and Administration Complex.

7. Qualified Exemption

The qualified exemption does not apply to any new tower structures. Any newly constructed towers must follow the City's codes for towers.

8. City's Public Safety Agencies

The Fire District shall provide access and use of the towers located at its Fire Stations and Administration Complex for use by the City's public safety agencies.

9. Removal Bond

Pursuant to Section 158.213(M), of the City Code, a Removal Bond is required for removal of towers in case of abandonment. Due to the nature of emergency services provided, the towers for emergency services will not be abandoned. Therefore, the requirement for bonds under Section 158.213(M), is waived for new and replacement towers. However, any unused towers shall be removed within 15 days of non-use.

10. Termination

This Interlocal Agreement shall remain in effect until any party terminates this Interlocal Agreement. Either party may terminate this Agreement by giving 90 days written notice to the other party of said termination.

11. Notices

Every notice, demand, consent, approval or other document or instrument required or permitted to be given to any party to this Agreement shall be in writing and shall be delivered in person or sent by registered or certified mail, postage prepaid, return

receipt requested to the following address or such other address as a party may designate from time to time in writing to:

City: City Manager
City of Port St. Lucie
121 S.W. Port St. Lucie Blvd.
Port St. Lucie, Florida 34984
Phone number: 772-871-5163
Fax Number: 772-871-5248

Copies to: City Attorney
121 S.W. Port St. Lucie Blvd.
Port St. Lucie, Florida 34984
Phone Number: 772-871-5294
Fax Number: 772-344-4298

Fire District: Fire Chief
St. Lucie County Fire District
5160 N.W. Milner Drive
Port St. Lucie, Florida 34983
Phone Number: 772-621-3312
Fax Number: 772-621-3600

Copies to: Fire District Attorney
5160 N.W. Milner Drive
Port St. Lucie, Florida 34983
Phone Number: 772-621-3313
Fax Number: 772-621-3605

12. Agency

Nothing contained in this Interlocal Agreement shall be construed or deemed to name, designate, or cause (either directly or implicitly), any Party to be an agent of or in partnership with another.

13. Effective Date

This Agreement shall be effective upon the date that it is executed by both parties.

14. Filing with the Circuit Court Clerk

The Clerk/Treasurer to the Fire Board of Commissioners is hereby authorized and directed, after approval of this Agreement by authorized officers of each of the Parties hereto, to file with the Clerk of the Circuit Court of St. Lucie County, Florida, as provided in Section 163.01 (11), *Florida Statutes*.

15. Entire Agreement

This Agreement contains and sets forth all the promises, covenants agreements, conditions and understandings between the parties with respect to the subject matter of this Agreement.

16. Severability

If any provisions of this Agreement are held to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected or impaired, and each remaining provision shall remain in full force and effect.

17. Headings

Captions and paragraphs herein contained in this Agreement are for convenience and for reference only, and in no way define, describe, extent or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

18. Governing Law

This Agreement shall be construed and interpreted according to the laws of the State of Florida with venue and respect to any litigation between the parties related to this Agreement shall be in St. Lucie County, Florida.

19. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be considered an original, and all of which shall constitute one in the same Agreement.

20. Attorneys Fees

In the event it shall be necessary for any party to this Agreement to bring suit to enforce any provision hereof or for damages on account of any breach of this Agreement, the prevailing party shall be entitled to recover from the other, in addition to any damages or other relief granted as a result of such litigation, all costs and expenses of such litigation and reasonable attorney's fees, including attorney's fees and costs of appeals as fixed by court of competent jurisdiction.

21. Amendments

This Agreement shall not be changed, modified or amended except by an instrument in writing and executed by the parties

22. Public Purpose

This Interlocal Agreement satisfies and is pursuant to a public purpose and is in the public interest, and is a proper exercise by the City and the Fire District of the power and authority of each under Florida law.

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the parties as of the _____ day of _____, 2009.

ATTEST:

CITY OF PORT ST. LUCIE,
FLORIDA:

Karen A. Phillips, City Clerk

Patricia P. Christensen, Mayor

APPROVED AS TO FORM
AND CORRECTNESS:

Roger G. Orr, City Attorney

ATTEST:

ST. LUCIE FIRE DISTRICT:

Gary Perdew, Clerk/Treasurer

Doug Coward, Chairman

APPROVED AS TO FORM
AND CORRECTNESS:

Ken Crooks, Fire District Attorney



CITY OF PORT ST. LUCIE

CITY CLERK'S OFFICE

.....
A CITY FOR ALL AGES

December 21, 2009

CERTIFIED MAIL

T-Mobile, Inc.
1300 Concord Terrace, Suite #200
Sunrise, FL 33323

Attn: Karen Osbourne, Site Acquisition & Zoning Specialist

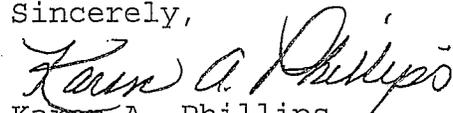
RE: ZONING APPEAL 10-1, Appeal the decision of the Planning & Zoning Board of December 1, 2009, denying a request for a four-acre variance to Section 158.213(F)(1)(b) of the City's Code to replace an existing 120-foot-high 911 communication tower of the St. Lucie County Fire District with a 125-foot-high wireless communication tower, P09-141

Please consider this notice of Public Hearing before the City Council serving as Board of Zoning Appeals to be held on **Monday, January 11, 2010, at 6:00 p.m.**, at the Port. St. Lucie Council Chambers, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

Any back-up material you wish to have put into the packet should be in the City Clerk's office by 12:00 noon on Wednesday, January 6, 2010.

If you should have any questions, please do not hesitate to contact me at 344-4370.

Sincerely,


Karen A. Phillips,
City Clerk

cc: Daniel Holbrook, Director Planning & Zoning
Roger G. Orr, City Attorney
Pam E. Hakim, Assistant City Attorney
Thresiamma Kuruvilla, Planner

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NOTICE OF PUBLIC HEARING

The City Council of the City of Port St. Lucie serving as the Board of Zoning Appeals will consider an appeal on January 11, 2010, at 6:00 p.m., or as closely thereafter as business permits, at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida, as follows:

Zoning Appeal #10-1
Legal Description: Port St. Lucie Section 41, Part of Tract D
Location: St. Lucie County Fire Station #10, Dalton Circle,
between St. Mary's Court and Selkirk Lane, Port St.
Lucie, FL
Action Sought: Appeal the decision of the Planning & Zoning Board of
December 1, 2009, to deny granting a request for a four-
acre variance to Section 158.213(F)(1)(b) of the City's
Code in order to replace an existing 120-foot-high 911
communication tower of the St. Lucie County Fire
District with a 125-foot-high wireless communication
tower, P09-141
Appellant: Agent: Karen Osbourne of T-Mobile, 1300 Concord Terrace,
Suite #200, Sunrise, Fl 33323

Copies of the above appeal documents are available in the City Clerk's office for public inspection Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m. Interested parties may appear at the meeting and be heard with respect to the appeal.

No stenographic record by a certified court reporter will be made of the foregoing meeting. Accordingly, any person who may seek to appeal any decision involving the matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at said meeting upon which any appeal is to be based.

Karen A. Phillips, CMC
City Clerk

PUBLISH: December 28, 2009

NOTICE OF MEETING

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Karen A. Phillips, CMC
City Clerk

Publish: December 28, 2009
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PUBLIC NOTICE