Orange County Zoning Division

SE-23-01-138
APPLICANT: BOB CHOPRA FOR BLUE SKY TOWERS
APPELLANT: DOREEN GALL

May 2, 2023

Background

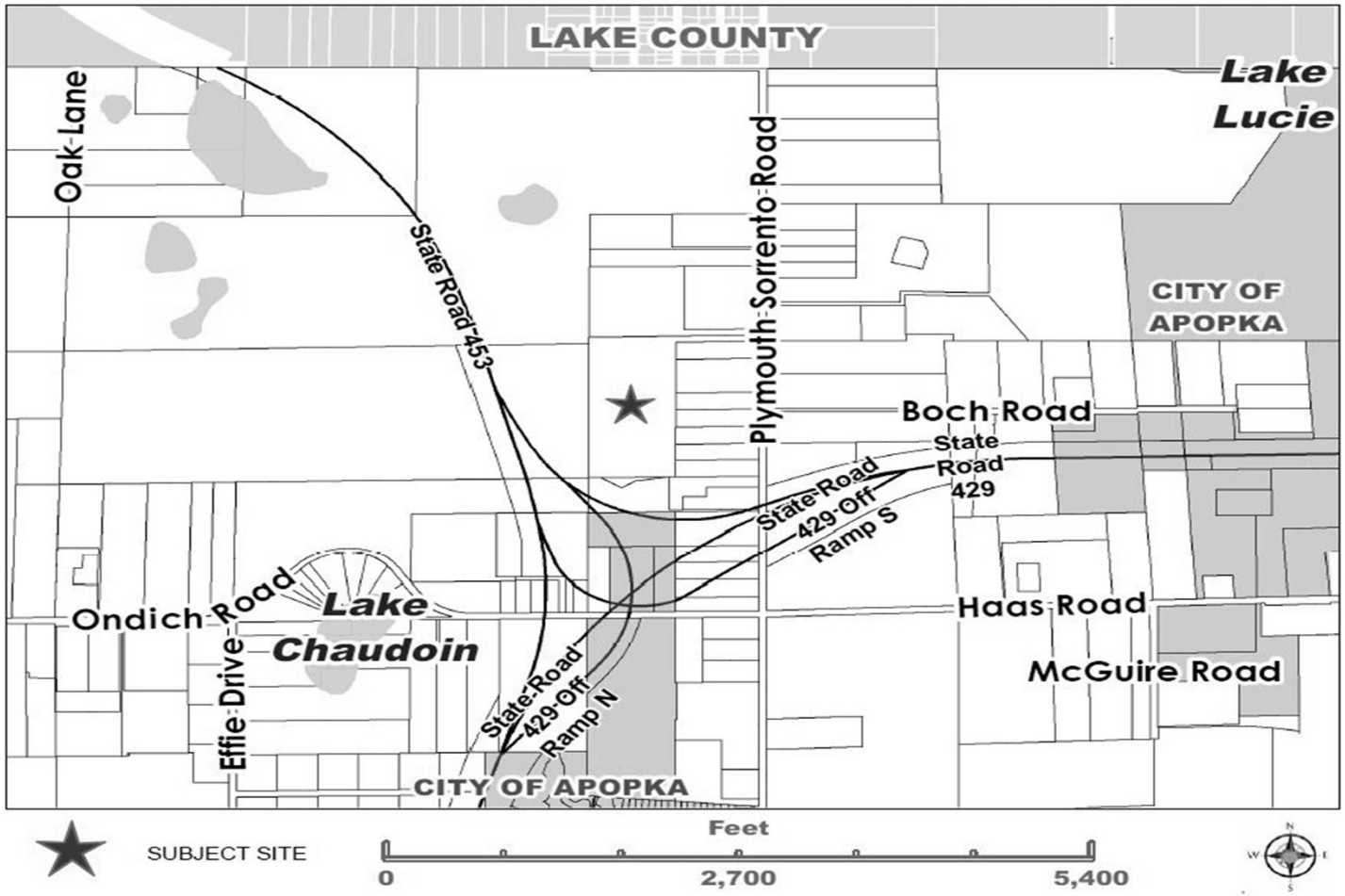
APPLICANT:	**Bob Chopra**
CASE:	**SE-23-01-138**
ZONING:	**A-1 (Citrus Rural) District**
FUTURE LAND USE:	**R (Rural)**
ADDRESS:	**6448 Plymouth Sorrento Rd., Apopka, FL 32712**
LOCATION:	**West side of Plymouth Sorrento Rd., north of Ondich Rd., northeast of S.R. 429 and S.R. 453.**
TRACT SIZE:	**22 acres**
DISTRICT:	**2**

Background

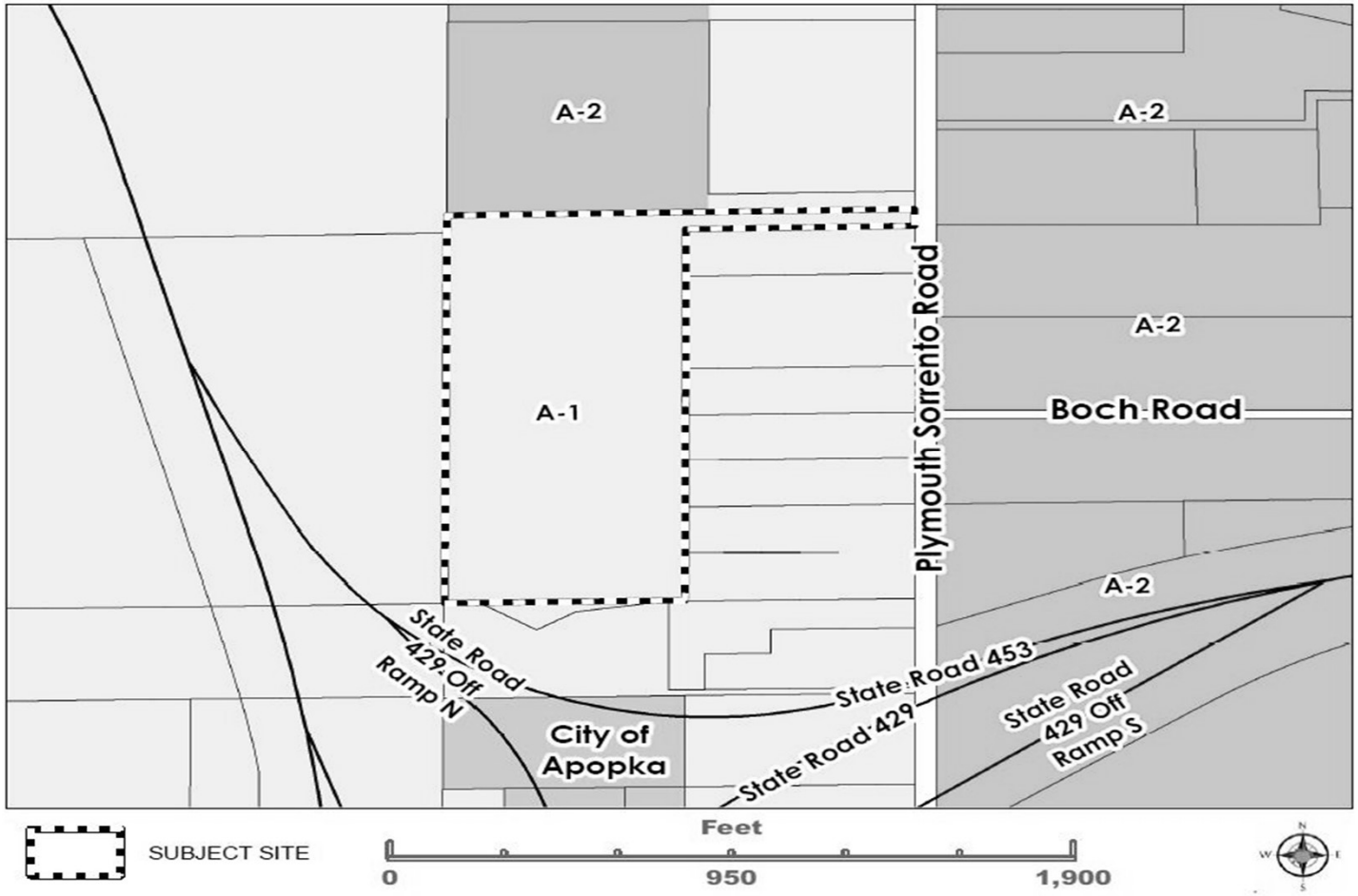
REQUEST: **Special Exception and Variance in the A-1 zoning district as follows:**

1) **Special Exception to allow the construction of a 170 ft. high monopole communication tower.**
2) **Variance to allow a residential distance separation of 591.7 ft. in lieu of 1,190 ft.**

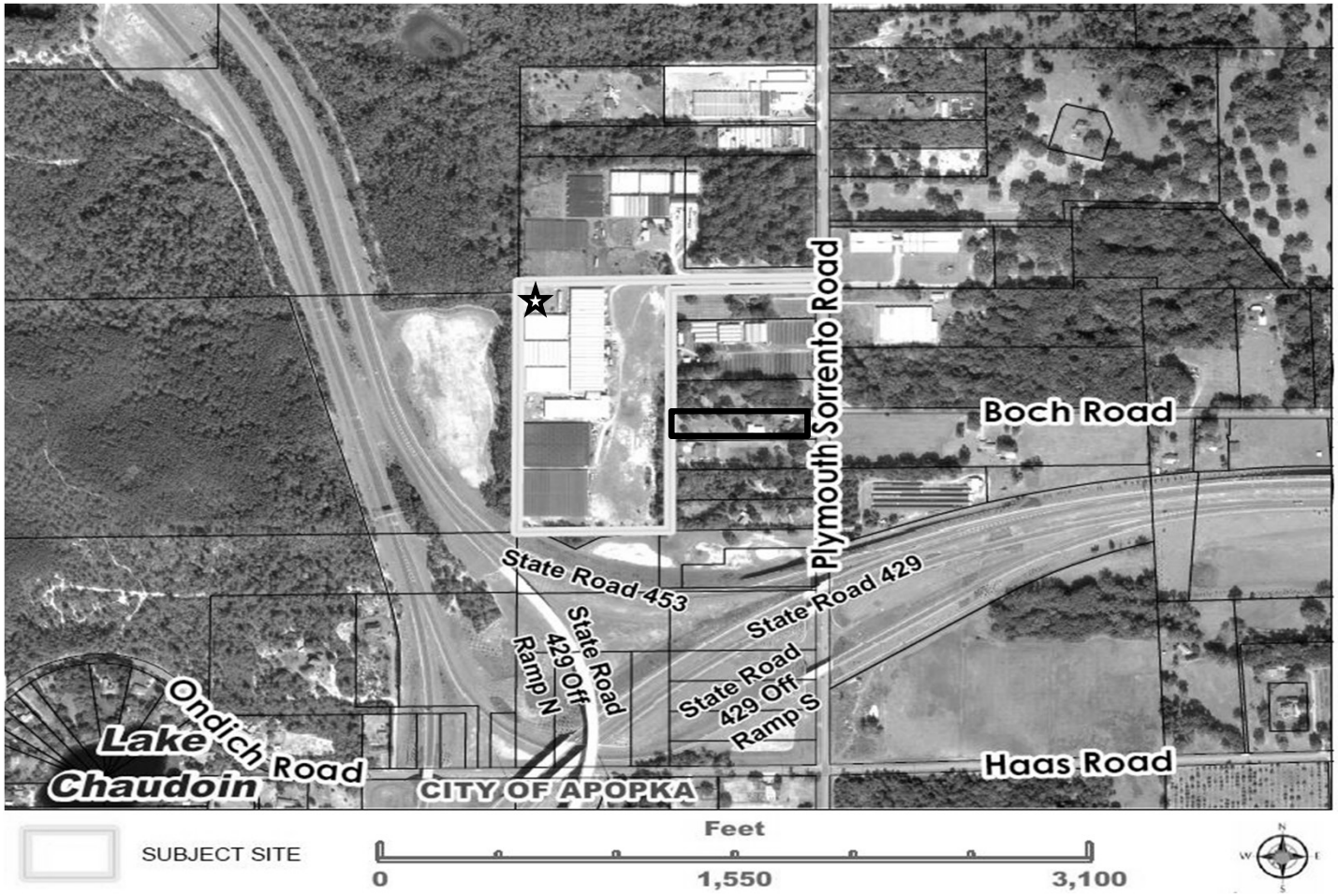
Location Map



Zoning Map

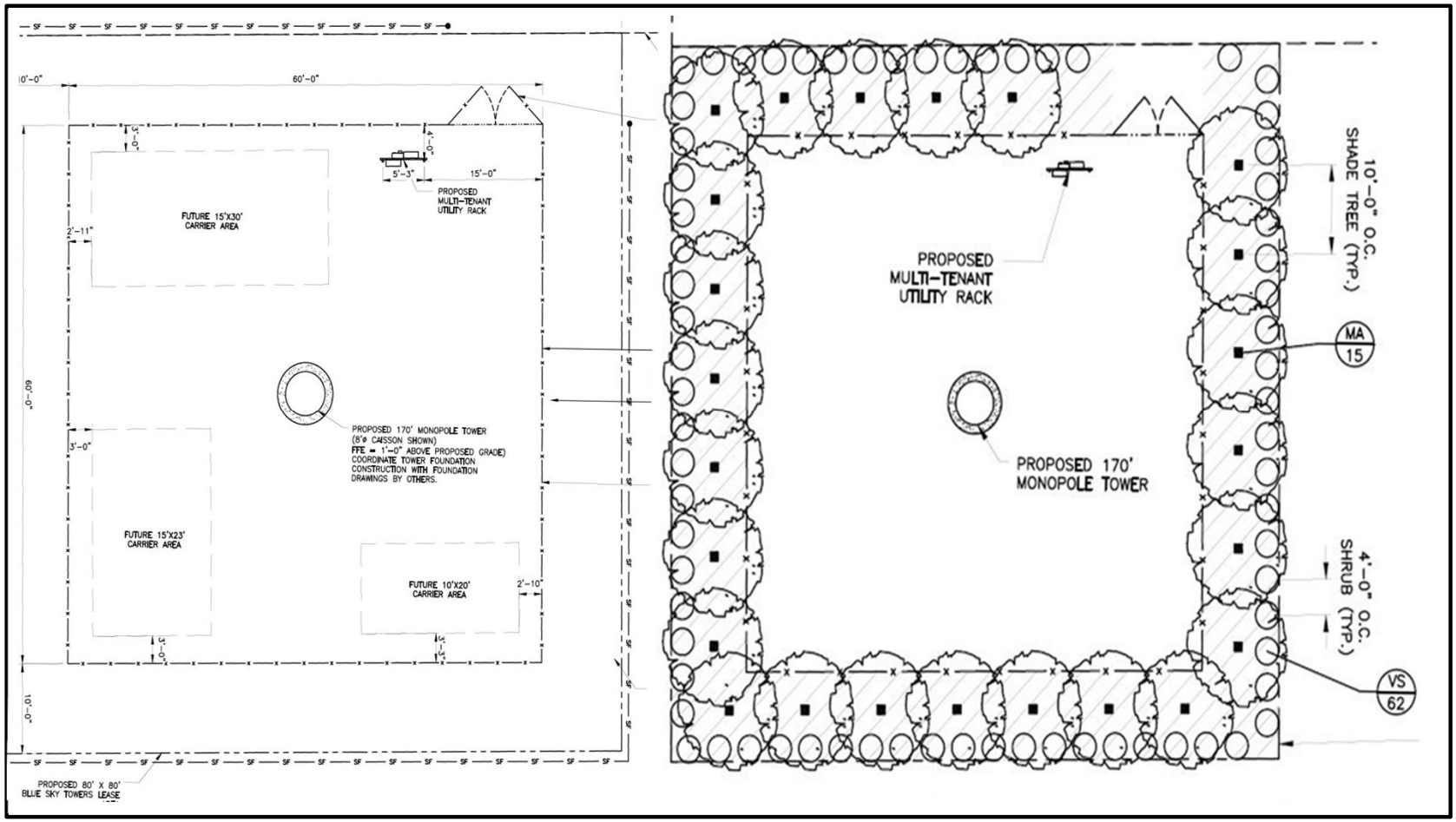

A-2
A-2
A-2
A-1
Plymouth Sorrento Road
Boch Road
A-2
State Road 429 Off Ramp N
State Road 453
State Road 429
State Road 429 Off Ramp S
City of Apopka
SUBJECT SITE
Feet
0
950
1,900

Aerial Map

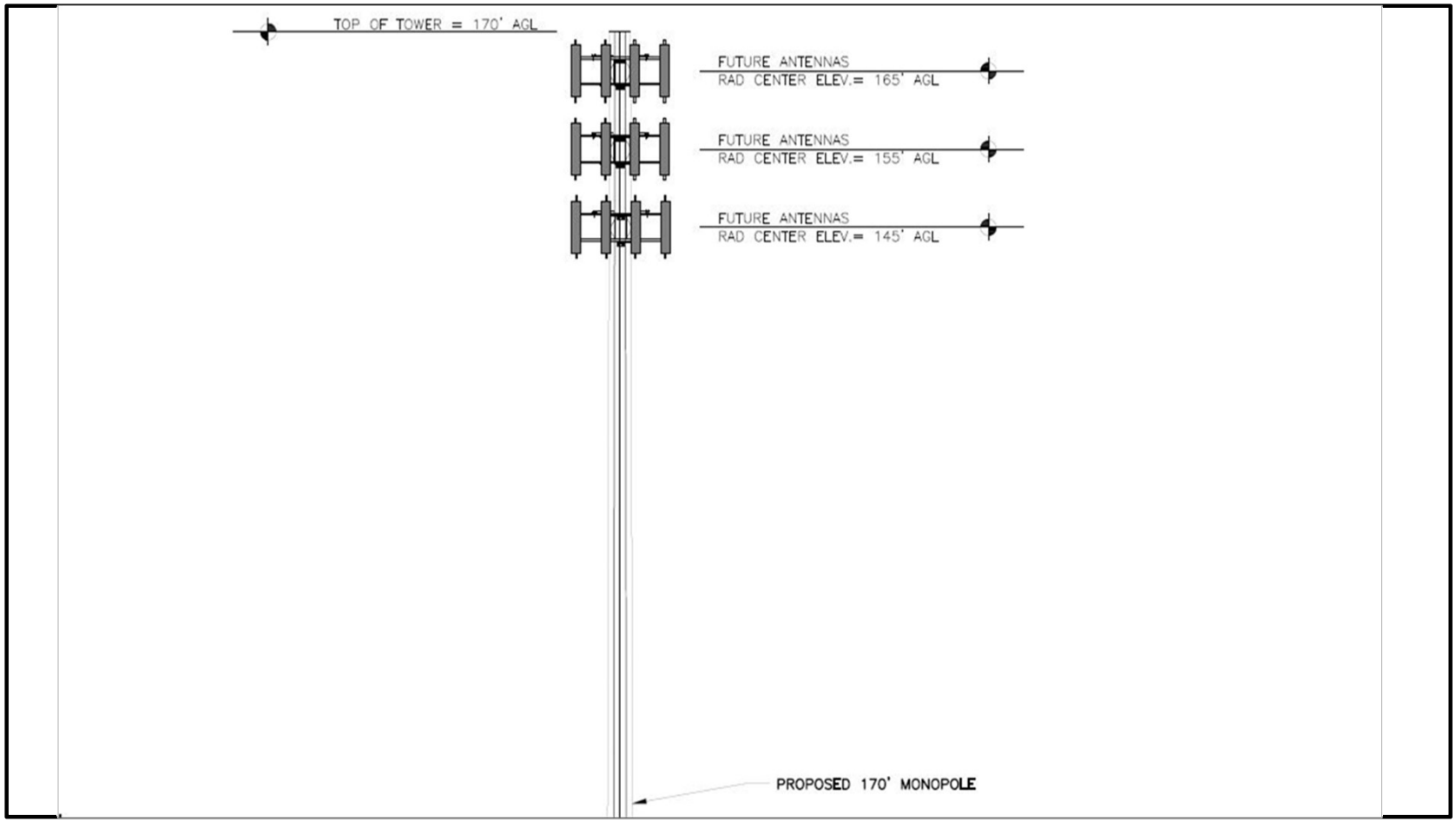

Plymouth Sorrento Road
Boch Road
State Road 453
State Road 429
State Road 429 Off Ramp N
State Road 429 Off Ramp S
Ondich Road
Lake Chaudoin
CITY OF APOPKA
Haas Road
SUBJECT SITE
Feet
0
1,550
3,100

Residential and Tower Distance Separation

Tower Location Layout & Landscape Plan



Tower Elevation



Site Photograph

Front of property facing west from Plymouth Sorrento Rd.

Site Photograph

Facing SE at NW property line towards proposed location

Site Photograph

Facing NE towards closest residence – 591.7 ft. from proposal

Site Photograph

Facing south at east property line, adjacent nursery to left

Staff Findings and Analysis

- Site contains nursery buildings and uses
- Property adjacent to S.R. 429 to the south and S.R. 453 to the west
- Access to tower facility internal to the site
- Existing buildings onsite not impacted
- Proposed 170 ft. high tower within 80 ft. by 80 ft. fenced compound
- Distance separation to other towers – met
- Distance separation to off site residential uses
  - 591.7 ft. in lieu of 1,190 ft. – Variance request
- Meets landscape requirements

Staff Recommendation

- **Staff recommended approval of the Special Exception and Variance request as the tower will be surrounded by toll highways and nurseries, not negatively impact the surrounding area, and will meet landscape requirements;**
- **Further, there are special conditions and circumstances due to the location of the adjacent residences on nursery properties, the need is not self-created, the request would not grant special privilege, there would be deprivation of rights and the Variance is the minimum possible to allow the installation of a maximum 170 ft. tower.**

Special Exception Criteria

Section 38-78, Orange County Code

Subject to Section 38-78, in reviewing any request for a Special Exception, the following criteria shall be met:

1. **The use shall be consistent with the Comprehensive Plan**
2. **The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development**
3. **The use shall not act as a detrimental intrusion into a surrounding area**
4. **The use shall meet the performance standards of the district in which the use is permitted**
5. **The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district**
6. **Landscape buffer yards shall be in accordance with Section 24-5, Orange County Code. Buffer yard types shall track the district in which the use is permitted**

Special Exception Criteria

Section 38-1427(n)(7), Orange County Code

Further, subject to Section 38-1427(n)(7), in reviewing any tower request for a Special Exception, the following additional criteria shall be met:

7. **Aesthetic Impact. This means view of a tower that is not camouflaged. Aesthetic impact shall take into consideration, but not be limited to, the amount of the tower that can be viewed from surrounding residential zones in conjunction with its proximity (distance) to the residential zone, mitigation landscaping, existing character of surrounding area, or other visual options proposed by the applicant.**

8. **Compatibility. This means the degree to which a tower is designed and located to be compatible with the nature and character of other land uses and/or with the environment within which the tower proposes to locate. The tower may be placed, designed or camouflaged to assist with mitigating the overall aesthetic impact of a tower. A camouflage agent shall be designed to be compatible with the surrounding land uses and the environment.**

Variance Criteria

Section 30-43 (3), Orange County Code

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for zoning variance shall be approved unless the Board of Zoning Adjustment finds that all of the following standards are met:

1. **Special Conditions and Circumstances - Special conditions and circumstances exist which are peculiar to the property and which are not applicable to other properties**
2. **Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant**
3. **No Special Privilege Conferred - Approval will not confer on the applicant any special privilege**
4. **Deprivation of Rights - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district**
5. **Minimum Possible Variance - The minimum variance that will make possible the reasonable use of the land, building, or structure**
6. **Purpose and Intent - Approval will be in harmony with the purpose and intent of this Chapter and will not be injurious to the neighborhood**

BZA Findings

- **The BZA concluded that the proposed tower was compatible and would not negatively impact the surrounding area, is not a detrimental intrusion, and there were special conditions and circumstances due to separation requirements to the closest residences; Further, the Variance would not confer special privilege and was the minimum necessary and recommended approval of the Special Exception and Variance, subject to 7 conditions.**

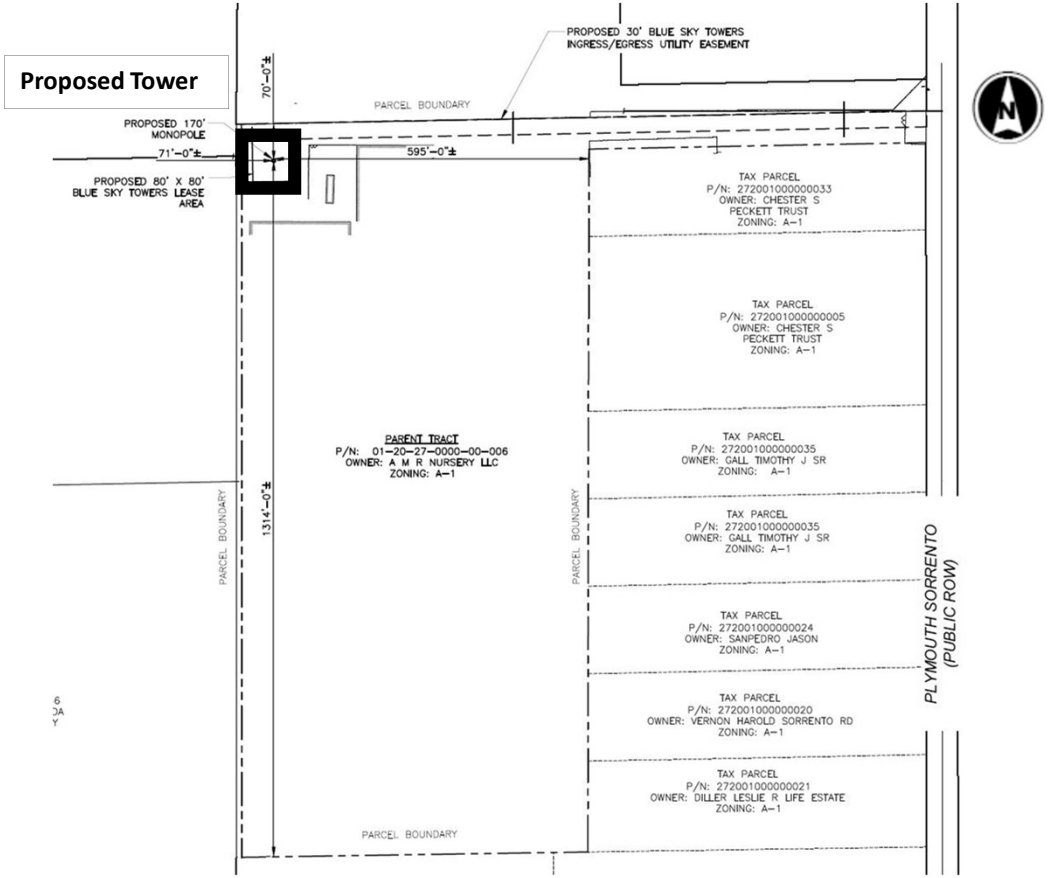
Conditions of Approval

1. **Development shall be in accordance with the site plan and tower specifications received October 18, 2022, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).**
2. **Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.**

Conditions of Approval

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the communication tower facility shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. All new communication towers shall be designed and constructed to accommodate at least one (1) other service provider.
6. The applicant for a new communication tower shall provide a notarized letter acknowledging that the communication tower is designed and will be constructed to accommodate at least one (1) other service provider.
7. All service providers shall cooperate in good faith with other service providers to accomplish co-location of additional antennas on communication towers which are existing, permitted, or otherwise authorized by Orange County, where feasible.

Requested Action

- Deny the applicant’s request; or
- Approve the applicant’s request with conditions

Parent Parcel