

**MINUTES**  
**CHARLOTTE COUNTY BOARD OF ZONING APPEALS**  
**Wednesday, August 13, 2008 - 9 a.m. – Room 119**  
**Charlotte County Administration Center**  
**18500 Murdock Circle**  
**Port Charlotte, FL 33948-1094**

*(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)*

**Members Present**

Bill Coy, *Chairman*  
Tom Thornberry, *Vice-Chair*  
Bob Stout, *Secretary*  
Ed Hittson  
Audrey Seay

**Staff Present**

Derek Rooney, *Assistant County Attorney*  
Nicole C. E. Dozier, *Zoning Official*  
Ken Quillen, *AICP, Planner III*  
Barbara D. Watkins, *Recorder*

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**I. Call to Order**

*Chairman Coy* called the August 13, 2007 meeting of the Board of Zoning Appeals to order at 9 a.m.

**II. Pledge of Allegiance**

*Chairman Coy* led the members and the audience in reciting the Pledge of Allegiance.

**III. Roll Call**

Roll call was taken; a quorum was present.

**IV. Swearing In of Those Giving Testimony**

*Barbara Watkins* swore in all persons who wished to provide testimony.

**V. Approval of Minutes**

***ACTION:*** A motion was presented by *Audrey Seay* and seconded by *Bob Stout* to approve the minutes of the July 9, 2008 meeting of the Board of Zoning Appeals as written. Motion carried unanimously.

**VI. Disclosure Statements**

Ex-parte forms indicating site visits concerning the petitions being presented before the August 13, 2008 Board of Zoning Appeals meeting were submitted.

**VII. Introduction of Staff/Comments**

*Chairman Coy* introduced staff. *Nicole Dozier*, *Zoning Official*, *Attorney Derek Rooney* and *Chairman Coy* made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

**VIII. New Business**

***The following petitions were advertised on July 29, 2008: SE-08-27; SE-08-28; SE-93-21 (Modified); ADM-APP-08-01***

**Petition #SE-08-27**

SectorSite, LLC is requesting a special exception to allow a 150' high communication tower and to bring the existing golf course into conformity with the zoning code in a Residential Single-family-3.5 (RSF-3.5) zoning district. The property address is 22400 Gleneagles Terrace, Port Charlotte, Florida and is described as Tract A, Block 4842, Port Charlotte Subdivision Section GCS, in Section 14, Township 40 South, Range 22 East. The property contains +/- 155 acres. A complete legal description and additional information are on file.

*Ken Quillen* presented general information and staff findings for the petition.

*Ed Hittson* asked what the required distance is from residential areas; *Ken Quillen* explained.

*Audrey Seay* asked for clarification on the reason for the request to bring the golf course into conformity at this time; *Ken Quillen* explained.

*Dan Gechtman, 49 Ironia Road, Mendham, NJ*, representing the applicant, appeared before the Board to further present the petition. He submitted 5 exhibits to back up his testimony for the record. The applicant agreed with staff's findings and recommended conditions.

*Chairman Coy* commented that he has played golf numerous times at the golf club and stated that the tower will be quite some distance from any residential properties.

***Chairman Coy opened the meeting to Public Hearing.***

***There being no requests to speak for or against the petition, the Public Hearing was closed.***

*Ken Quillen* presented the analysis, conclusion and recommended conditions for the petition.

**Board Member Comments and Questions**

Discussion ensued regarding how a communication tower collapses when it implodes from a violent force such as an explosion, hurricane or tornado.

***ACTION: A motion was presented by Audrey Seay and seconded by Bob Stout that SE-08-27 be APPROVED based on the Growth Management Staff Report dated August 4, 2008 , the evidence presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the special exception, with the following conditions:***

- 1. This Special Exception is to bring the existing golf course into conformity with the current zoning code and to allow the***

**addition of a communication tower on the golf course property as shown on the plans submitted.**

- 2. The communication tower may only be erected as a stealth monopole tower and no antennas may be mounted on the exterior of the monopole. All antennas must be concealed from view and mounted only on the interior of the monopole.**
- 3. The site plans presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the erection and operation of the proposed stealth monopole communication tower.**
- 4. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.**

**Discussion: Tom Thornberry commented that the Board knows how he feels about towers in residential areas, however, he wanted it on the record that in this case, with it being on a golf course and being a stealth tower, he will support the motion.**

**Motion carried unanimously.**

#### **Petition #SE-08-28**

SectorSite, LLC is requesting a special exception to allow a 150' high communication tower in a Commercial Intensive (CI) zoning district. The property address is 5337 Duncan Road, Punta Gorda, Florida and is described as Parcel P10 in Section 34, Township 40 South, Range 23 East. The property contains +/- 77,655 square feet. A complete legal description and additional information are on file.

*Ken Quillen* presented general information and staff findings for the petition.

*Dan Gechtman, 49 Ironia Road, Mendham, NJ*, representing the applicant, appeared before the Board to further present the petition. He provided additional exhibits in support of the petition for the record. The applicant agrees with staff's findings and recommended conditions.

*Audrey Seay* asked if T-Mobile is going to be the only provider utilizing this pole at this time. *Mr. Gechtman* replied no, there will be others.

*Tom Thornberry* referred to the compound detail plan provided by the applicant and asked if the proposed pads are for future communication companies; *Mr. Gechtman* said no. *Mr. Thornberry* questioned whether the antennas are inside the pole; *Mr. Gechtman* responded that they are located on the outside of the pole since this is a monopole and not a stealth pole. In conclusion, *Mr. Thornberry* asked if this pole is a collapsible pole like the previous petition; *Mr. Gechtman* responded that it is the design of the pole to collapse within itself, however, he has not had any experience with this happening.

***Chairman Coy opened the meeting to Public Hearing.***

***There being no requests to speak for or against the petition, the Public Hearing was closed.***

*Ken Quillen* presented the analysis, conclusion and recommended conditions for the petition.

**Board Member Comments and Questions**

*Audrey Seay* asked that since the site plan states “for illustrative purposes only” whether the pole will be moved from the location from which it appears on the site plan. *Ken Quillen* replied that this will depend on the buffering as to whether it will have to be moved.

*Ed Hittson* spoke of his concern with standard #6 commenting that it could be detrimental to the public health, safety or general welfare of the surrounding properties if unexpected violent storms, hurricanes, tornados come through.

For the record, *Tom Thornberry* stated that the Board knows how he feels about cell towers, however, remarked that this is a perfect location for a cell tower.

***ACTION: A motion was presented by Bob Stout and seconded by Audrey Seay that SE-08-28 be APPROVED based on the Growth Management Staff Report dated August 4, 2008 , the evidence presented at the hearing and finding that the applicant HAS met the required criteria for the granting of the special exception, with the following conditions:***

- 1. This Special Exception is to allow the construction of a monopole communication tower as shown on the plans submitted.***
- 2. The site plans presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the erection and operation of the proposed monopole communication tower.***
- 3. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.***

***Motion carried unanimously.***

**Petition #SE-93-21 (Modified)**

T-Mobile is requesting a special exception to allow a 110' high communication tower in an Agriculture Estate (AE) zoning district. The property address is 28605 Jones Loop Road, Punta Gorda, Florida and is described as Parcels P1-1 and P1-2 in Section 26, Township 41 South, Range 23 East. The property contains +/- 12 acres. A complete legal description and additional information are on file.

*Ken Quillen* presented general information and staff findings for the petition.

*Pier Ballesteros, 19921 Wyndmill Circle, Odessa, FL*, representing the applicant, appeared before the Board to further present the petition. He commented that two

parcels were combined in order to facilitate this tower and presented Exhibit I for the record. Further, the applicant agrees with staff's findings and recommended conditions.

***Chairman Coy opened the meeting to Public Hearing.***

***There being no requests to speak for or against the petition, the Public Hearing was closed.***

*Ken Quillen* presented the analysis, conclusion and recommended conditions for the petition.

**Board Member Comments and Questions - None**

***ACTION: A motion was presented by Ed Hittson and seconded by Audrey Seay that SE-93-21 (Modified) be APPROVED based on the Growth Management Staff Report dated August 4, 2008, the evidence presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the special exception, with the following conditions:***

- 1. This modification of Special Exception SE-93-21 is for the addition of a monopole communication tower as shown on the plans submitted.***
- 2. The site plans presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the erection and operation of the proposed monopole communication tower.***
- 3. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.***

***Motion carried unanimously.***

**Petition #ADM-APP-08-01**

Doug and Marsha Needham are requesting an appeal of the zoning official's determination regarding the definition of "shopping center" as defined in Section 3-9-2 of the zoning code. The property address is 31 Chalett Road, Rotonda, Florida and is described as Lots 1 and 2, Block 2, Rotonda Lakes Subdivision Unit 2, in Section 17, Township 41 South, Range 21 East. The property contains +/- 5.2 acres. A complete legal description and additional information are on file.

*Ed Hittson* asked Ms. Dozier if she was a qualified, expert witness to which she replied yes.

*Nicole Dozier* presented general information and staff findings for the appeal.

*Attorney Michael Haymans, Farr Law Firm*, representing the applicant appeared before the Board to further present the appeal in full detail. He distributed Exhibit I for the record, a matrix, which he reviewed. Exhibit II was distributed for the record.

Exhibit III was distributed for the record. Exhibit IV was distributed for the record. Considerable discussion ensued explaining how they feel they meet the definition of a “shopping center”. *Attorney Haymans* introduced *Attorney Gary Kale, Farr Law Firm*, who spoke to the Board in depth as to the legal meaning of “condominium”.

There was a lengthy discussion between the Board members and the attorneys on the “condominium/shopping center” difference of opinion in the definition and the ultimate issue of the parking space requirement.

To facilitate with some of the discussion, *Attorney Derek Rooney* clarified that *Attorney Haymans* is asking only about the definition of shopping center, not the parking, even though that is ultimately what the County’s issue is, but he is only asking if a condo association can be the owner. The County Code does not recognize formal ownership, whether the building is owned by one person, by a family, by a public corporation or by a private company with multiple shareholders. The parking requirements are based on the use...not the form of ownership.

*For a complete verbatim record of the appeal discussion, an audio recording will be available on the Board of Zoning Appeals website.*

***Chairman Coy opened the meeting to Public Hearing.***

***There being no requests to speak for or against the petition, the Public Hearing was closed.***

*Buddy Braselton, DRC Coordinator*, clarified items pertaining to the DRC process and approvals with this site development.

*Ed Hittson* asked Mr. Braselton if he was a qualified, expert witness to which he replied yes.

**Board Member Comments and Questions - None**

***ACTION: A motion was presented by Tom Thornberry and seconded by Audrey Seay that ADM-APP-08-01 be GRANTED based on the Community Development Staff Report dated August 4, 2007, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the administrative appeal; that the applicant has under these circumstances met his burden finding that the particular form of condo association presented effectively meets the “owned and managed as a single unit” definition of a shopping center under Charlotte County Code.***

***Motion carried unanimously.***

***IX. Public Comments - None***

***X. Staff Comments - None***

***XI. Member Comments - None***

**XII. Next Meeting**

*The next meeting of the Board of Zoning Appeals is scheduled for **September 10, 2008, 9 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 11:54 a.m.

Respectfully submitted,

Barbara D. Watkins, Recorder

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*Willard Coy, Chairman/Board of Zoning Appeals*

Approved: \_\_\_\_\_