



SENT VIA ELECTRONIC UPLOAD

October 7, 2022

City of Palm Coast Zoning Division
Estelle Lens
160 Lake Avenue
Palm Coast, FL 32164
Elens@palmcoastgov.com

**RE: Diamond Communications, LLC – 7 Clubhouse Drive Utility Site
7 Club House Drive– Parcel #07-11-31-7008-000B0-0000
Special Exception Request for 150’ AGL Monopole style Communication Tower.**

Dear Ms. Lens:

On behalf of my client, Diamond Communications, LLC please find the included Special Exception application to allow a 150’ AGL Monopole style telecommunication tower and support facility on parcel # 07-11-31-7008-000B0-0000 along with supporting documentation:

- Application Fee check in the amount of \$250.00 to be paid concurrently
- Special Exception Application
- AORs
 - City of Palm Coast – MSJPA Form and City AOR
 - Diamond Communications, LLC – MSJPA Form
- Legal descriptions – 1 word doc at 8.5 x 11
- Fall Zone Letter - 1 Electronically Signed and Sealed PDF
- Ground Lease
- TOWAIR Notice
- RF Package
 - LOI/Statement of Need
 - Color Plots Showing
 - Before/After
 - All towers within ring
 - All handoff towers
 - Search ring
 - FCC Licenses
- Colocation Affidavit
- Affidavit of Corporate Identity
- Sworn Statement Affidavit – No Impact to Neighboring Residential Properties

- Orange County 2021 911 Call Statistics
- Photo-Simulations – 1 PDF Set
- Survey – 1 Electronically Signed and Sealed PDF
- Zoning Drawings – 1 Electronically Signed and Sealed PDF

Summary of Request

Diamond respectfully requests a Special Exception approval at 7 Clubhouse Drive on Parcel 07-11-31-7008-000B0-0000, to allow the construction of a 150’ AGL Monopole style telecommunication tower (“Monopole”) and related fenced compound and power meter/telco rack. The 1.01 Acre parcel is currently owned by the City and developed with a sewage lift station upon it. Diamond’s leased area consists of approximately 1,800 square feet and the Monopole will be contained within a locked compound. The parent parcel currently carries a Future Land Use designation of Mixed Use and a Public/Semipublic District Use (PSP) zoning designation. There are no City owned properties designated as Wireless Master Plan sites within the service area, due to City Council action in 2021.

Applicable Land Development Code

§ 4.20 Wireless Telecommunications.

4.20.01. Legislative purposes.

- A. The legislative purposes of this section are to:
1. Promote the health, safety, and general welfare of the public by regulating the siting of wireless communication facilities.
 2. Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity and land use compatibility.
 3. Establish standards for preferred siting, design and screening by requiring consistency with the City's Wireless Master Plan, consistent with the Telecommunications Act of 1996, and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act").
 4. Encourage the use of public lands, buildings, and structures as locations for wireless telecommunications infrastructure thereby establishing more ability to manage selected sites identified in the City's Wireless Master Plan.
 5. Encourage coordination and collocation of antennas on existing structures to meet coverage needs and promote the efficient use of existing infrastructure.
 6. Accommodate the growing need and demand for wireless communications services in a manner that ensures the placement, construction or modification of wireless communication facilities complies with all applicable state and federal laws.

7. Ensure there is sufficient wireless infrastructure to support public safety communication services throughout the City, including times of evacuation and disaster response.
 8. Encourage providers of wireless communication facilities to locate wireless communication facilities in areas where the need is demonstrated and planned for and adverse impacts on the community is minimal.
 9. Respond to the rational policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services.
 10. Ensure that land use decisions are made in consideration of, and in compatibility with, the goals, objectives and policies of the City of Palm Coast Comprehensive Plan and its land development regulations as set forth in the Land Development Code (LDC).
- B. It is the intent of this section that all actions of the City be consistent with controlling federal and state law.
- C. The City Council of the City of Palm Coast hereby finds and determines that this section is consistent with the goals, objectives and policies of the City of Palm Coast Comprehensive Plan and other controlling law.

The Monopole will be sited on a City-owned property that is developed as a sewage lift station and is located immediately adjacent to a telecom switching facility and support yard. The Monopole will be sited in the center of the parcel maximizing separation from residential uses to the East and the West. Mature vegetation and urban canopy exist throughout the area, breaking up viewsheds, which will help buffer the Monopole from off-site uses. Therefore, the slim grey Monopole, which will be completely dark at night, will balance and further the sound planning objectives of the code. Please see Sheet C-1 of the Site Plan Set as well as the enclosed Photo-Simulations.

4.20.02. *Definitions.*

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4.20.03. *Applicability.*

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4.20.04. *Exempt installations.:*

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4.20.05. *Wireless Master Plan.*

- A. The City has adopted a Wireless Master Plan by Resolution of the City Council. The Wireless Master Plan identifies existing or proposed City or publicly owned sites for wireless communication infrastructure and service.

- B. Design standards for proposed towers in the Wireless Master Plan shall be consistent with this Ordinance and the Wireless Master Plan but may be further detailed and addressed through the required lease terms for use of any public property.
- C. The Wireless Master Plan was adopted by the City Council by Resolution No. [2018-], as may be amended by City Council resolution hereafter. And, by this reference, the Wireless Master Plan is incorporated herein.
- D. The Land Use Administrator or designee may waive application requirements in Section 4.20.09 for sites within the Wireless Master Plan. The applicable requirements are listed in Section 4.20.09.
- E. If an applicant receives a permit to develop a site on City-owned property, the permit shall not become effective until the applicant and the City have executed a written agreement or lease setting forth the applicable terms and provisions.
- F. No permit granted under this section shall convey an exclusive right, privilege, permit, or franchise to occupy or use the publicly owned sites of the jurisdiction for delivery of wireless communications services or any other purpose.
- G. No permit granted under this section shall convey any right, title or interest in the public lands, but shall be deemed a permit only to use and occupy the public lands for the limited purposes and term stated in the agreement between the lessor and lessee.
- H. Sites located within the Wireless Master Plan may utilize a standard landscape plan, approved by the Land Use Administrator or designee.
- I. Sites within the Wireless Master Plan may utilize alternative compliance standards to access a WCF site, if approved by the Land Use Administrator or designee.

Diamond previously attempted to solve the gap in service through seeking approval of a tower on a wireless master plan site. The City Council denied that site and removed it from the Wireless Master Plan. As such, there is no Wireless Master Plan sites to locate the Monopole upon.

4.20.06. *Preferred siting locations.*

- A. All new WCFs and any supporting structures, except for those proposed within the public rights-of-way, shall generally adhere to the following siting preferences, in order of preference:
1. City-owned property identified in the Wireless Master Plan;
 2. Other public property identified in the Wireless Master Plan;
 3. Other City-owned or public property not identified in the Wireless Master Plan;
 4. Privately owned property not identified in the Wireless Master Plan.

Diamond is proposing to construct the Monopole on City-owned property not identified in the Wireless Master Plan. Diamond previously attempted to apply for a tower in the area on a City owned property identified in the Wireless Master Plan, however, the City Council denied it and removed it from the Wireless Master Plan.

- B. If the proposed location for the new WCF is not consistent with the preferred hierarchy and the Wireless Master Plan, the applicant must file relevant information as indicated in Section 4.20.09 with the siting application including, at minimum, the following:
1. An affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the geographic preferences established in the wireless master plan, wireless master plan options are not technically infeasible, practical or justified given the location of the proposed WCF;
 2. An affidavit demonstrating that the proposed site will not adversely affect existing or future single-family uses or environmentally sensitive areas and is not contrary to the City's Comprehensive Plan and Unified Land Development Code; and
 3. The existing land uses of the subject and surrounding properties within 300 feet of the proposed site.

Please see the enclosed RF Package showing that a tower is needed in the area. Diamond previously attempted to apply for a tower in the area on City owned property identified in the Wireless Master Plan, however, the City Council denied it and removed it from the Wireless Master Plan.

- C. This section shall not be interpreted to require applicants to locate on publicly-owned sites when lease negotiation processes are prohibitively lengthy or expensive relative to those of the private sector as determined by the Land Use Administrator or designee, based upon competent substantial evidence. The applicant is considered justified in selecting a lower-ranked privately-owned property option if the government entity fails to approve a memorandum of agreement or letter of intent to lease a specified publicly-owned site within 90 days of the application date or if it is demonstrated that the proposed lease rate for the specified public-owned site significantly exceeds the market rate for comparable privately-owned sites.

Diamond previously attempted to apply for a tower in the area on City owned property identified in the Wireless Master Plan, however, the City Council denied it and removed it from the Wireless Master Plan.

4.20.07. *Permitted uses.*

- A. The placement, maintenance or modification of WCFs shall be permitted only in accordance with the wireless communication permit, and the land development requirements of this Code. The placement or maintenance of wireless communication facilities in the public rights-of-way shall comply with the regulations of Chapter 42 of the Code of Ordinances:

Diamond will comply.

- B. Applicable permits. All applications shall meet the review timeframes as shown in Section 4.20.10.
 - 1. Level I wireless communication facility permit. All applicable non-exempt applications to place, maintain, modify, or collocate wireless communications facilities, not subject to special exception use approval, shall be subject to administrative review and approval by the Land Use Administrator or designee, with no public hearing requirement.
 - 2. Level II wireless communication facility permit. All applicable non-exempt applications to place, maintain, or substantially change wireless communications facilities that do not qualify for an administrative permit shall be subject to the special exception approval process set forth in Section 2.07 of the Land Development Code, except that the application review and approval timeframes set forth in Section 4.20.10 shall apply. New towers proposed in non-master planned sites shall require Level II permits. All other installations only require Level I permits.

4.20.07. *Permitted uses.*

- A. The placement, maintenance or modification of WCFs shall be permitted only in accordance with the wireless communication permit, and the land development requirements of this Code. The placement or maintenance of wireless communication facilities in the public rights-of-way shall comply with the regulations of Chapter 42 of the Code of Ordinances:

Diamond will comply.

- B. Applicable permits. All applications shall meet the review timeframes as shown in Section 4.20.10.
 - 1. Level I wireless communication facility permit. All applicable non-exempt applications to place, maintain, modify, or collocate wireless communications facilities, not subject to special exception use approval, shall be subject to

administrative review and approval by the Land Use Administrator or designee, with no public hearing requirement.

2. Level II wireless communication facility permit. All applicable non-exempt applications to place, maintain, or substantially change wireless communications facilities that do not qualify for an administrative permit shall be subject to the special exception approval process set forth in Section 2.07 of the Land Development Code, except that the application review and approval timeframes set forth in Section 4.20.10 shall apply. New towers proposed in non-master planned sites shall require Level II permits. All other installations only require Level I permits.
3. Communications Rights-of-Way Permit. All non-exempt applications to place, maintain, modify, or collocate wireless communications facilities within the public rights-of-way shall be subject to the review and approval requirements set forth in Chapter 42, Code of Ordinances, and the applicable land development regulations set forth herein. Wireless communication facilities, other than small wireless facilities and micro wireless facilities, are prohibited within the public rights-of-way.
4. Eligible facilities requests. Any request for modification of an existing tower or base station involving collocation of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment that does not substantially change the physical dimensions of such tower or base station shall be reviewed and processed in accordance with the provisions set forth in Section 4.20.12.

Diamond respectfully requests a Level II Special Exception approval of a 150' Monopole style communication tower on City-owned property. Please see the enclosed application packet.

C. Expedited collocation applications.

1. Expedited collocation applications for antenna on towers. ...
2. Expedited collocation applications for antenna on base stations. In accordance with F.S. § 365.172, except for an historic building, structure, site, object, or district, the following collocation applications on all other existing base stations shall be subject to no more than administrative review for compliance with this section and building permit standards if they meet the following requirements:
 - a. The collocation does not increase the height;
 - b. The collocation does not increase the existing ground space area, otherwise known as the compound, if any, approved in the site plan for the equipment facility and ancillary facilities.
 - c. The collocation consists of antennas, equipment facility and ancillary facilities that are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure in effect at the time of approval of the structure,

but not prohibitions or restrictions on the placement of additional collocations on the existing structure or procedural requirements, other than those authorized by this subsection at the time of the collocation application; and

- d. The collocation consists of antennas, equipment facility and ancillary facilities that are of a design and configuration consistent with all applicable restrictions or conditions, if any, that do not conflict with subsection (c), and were applied to the initial antennas placed on the structure and to its accompanying equipment facility and ancillary facilities and, if applicable, applied to the structure supporting the antennas.

This application is subject to the expedited review timelines codified in Florida Statute 365.172 (13) (d) and the Telecom Act of 1996 as interpreted by FCC rules 18-133 and 20-75.

3. If only a portion of the collocation does not meet the requirements of any of the above subsections, such as an increase in the height or a proposal to expand the ground space approved in the site plan for the equipment facility by more than 400 square feet or 50 percent, where all other portions of the collocation meet the requirements of this subsection, that portion of the collocation only may be reviewed as set forth in subsection (6) below. A collocation proposal under this subsection that increases the ground space area approved in the original site plan, for equipment facilities and ancillary facilities, by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall require no more than administrative review for compliance with the City's regulations; including, but not limited to, land development code and building permit review; provided, however, that any collocation proposal that increases the original compound size more than such greater cumulative amount shall be reviewed as if it were a new communications facility.

N/A

4. Any existing tower, including a nonconforming tower, may be structurally modified to permit collocation, or may be replaced through no more than administrative review and building permit review, and is not subject to public hearing review, if the overall height of the tower is not increased and, if the replacement tower is a monopole tower, or if the pre-existing tower is a stealth tower, the replacement tower is a similar stealth tower.

N/A

5. The owner of the existing tower on which the proposed antennas are to be collocated shall remain responsible for compliance with any applicable condition or requirement of a permit or agreement, or any applicable condition or requirement of the land development code to which the pre-existing tower must comply, including any aesthetic requirements, provided the condition or requirement is consistent with this subsection.

N/A

- 6. Collocations or portions of collocations that are not exempt from this section and do not fall under the provisions of subsections 4.20.07.C(1) through (4), shall be reviewed through a full permitted use review. Those located on historic structures or in historic districts, shall be reviewed through the review processes for historic structures or districts indicated in the LDC.

N/A

4.20.08. *Development standards.*

A. *General:*

- 1. All development standards and land development code regulations relating to the property upon which the WCF is located shall apply. Additionally, where permitted as provided in Section 4.20.07, the following development standards apply to all attached collocations and all new, modified, or combined WCF installations. Where any environmentally sensitive lands, historic or scenic overlay districts or corridor plans also apply, the most restrictive standards shall govern.

The Monopole will meet or exceed all standards and expectations of the land development code. Further, the Monopole is proposed on disturbed property developed as a Sewage Lift Station. Please see Sheet C-1.

- 2. Cabinets shall be provided within the principal building, behind a screen on a rooftop or on the ground within the fenced-in and screened equipment compound. This is not required if out of the public view.

The Monopole's compound and its cabinets will meet or exceed all standards and expectations for PSP zoning:

The setbacks for the compound will be:

	Required	Provided
North:	10'	47.5'
South:	25'	12.5'
East:	25'	166.76'
West:	50'	184.24'

Please see the enclosed Survey.

- 3. All equipment compounds shall be enclosed with a wood/brick/masonry fence or otherwise secured and screened with opaque landscaping. Fencing shall be subject to the requirements as outlined in the LDC.

The compound will be enclosed by 6' tall chain link fence with three strands of barbed wire. Please see Sheet C-4.

4. WCF equipment compounds shall be landscaped as required in Chapter 11 of the LDC. Wireless Master Plan sites may utilize a standard alternative landscape plan approved by the Land Use Administrator or designee.

Diamond respectfully proposes to use the open space and existing vegetation on the parent property to meet the buffering requirement in lieu of the 10' type A landscape buffer.

5. Attaching commercial messages for off-site and on-site advertising to a WCF is prohibited and unlawful. The placement of a religious symbol as part of the concealment of a WCF shall not be considered prohibited commercial messages or signage. The only signage that is permitted upon a tower, equipment cabinet, or fence shall be informational, and for the purpose of identifying the tower (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable). On permitted signs which are not located on a tower, cabinet or fence, a WCF may be concealed inside such signage, provided that all applicable standards for both the signage and the concealed WCF are met.

Noted.

6. Lighting on WCFs, if required by the FAA, shall not exceed the FAA minimum standards. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA to minimize the potential attraction to migratory birds. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements. Any security lighting for on-ground facilities and equipment shall be in compliance with the LDC.

The Monopole will be completely dark at night. Please see Sheet C-3 of the enclosed Site Plan as well as the FAA TOWAIR Notice.

7. Each WCF and its equipment compounds shall be constructed and maintained in conformance with all applicable building code requirements.

Diamond will comply.

8. Equipment compounds shall not be used for the storage of any excess equipment or hazardous waste (e.g., discarded batteries). It is prohibited and unlawful to allow an outdoor storage yard in a WCF equipment compound or to use the equipment compound as habitable space.

Diamond will comply.

- 9. The WCF shall comply with all applicable federal, state and local regulations.

Diamond will comply.

- 10. The WCF applicant shall comply with all applicable American National Standards Institute (ANSI) standards as adopted by the FCC.

Diamond will comply.

- 11. Each WCF shall be designed to ensure that no sound emissions from machinery, alarms, bells, buzzers, or similar noise making devices are audible beyond the perimeter of the equipment compound and shall comply with the City of Palm Coast Code of Ordinances. Emergency backup power generators are allowed to operate in short term maintenance durations, and during power outages.

The Monopole will comply with this section of the Code and the City's noise regulations.

- 12. Building permits. A building permit shall be required for the construction, modification, and collocation of all WCFs, including any accessory structures or equipment, as provided in Section 4.20.07 above. A compliance letter from the State Historic Preservation Office of Cultural and Historic Programs of the Florida Department of State is a condition of receiving a building permit.

Diamond will comply.

- 13. The WCF and its equipment compound shall be subject to the setbacks of the underlying zoning district. Antennas may extend a maximum of 30 inches into the setback. However, no antenna or portion of any structure shall extend into any easement.

The Monopole's will meet or exceed all standards and expectations for PSP zoning:

The setbacks for the Monopole will be:

	Required	Provided
North:	10'	60'
South:	25'	25'
East:	25'	200'
West:	50'	189'

The setbacks for the Monopole's compound will be:

	Required	Provided
North:	10'	47.5'
South:	25'	12.5'
East:	25'	166.76'
West:	50'	184.24'

Please see Sheet C-1 of the Site Plan Set and Survey enclosed.

B. *Attached WCFs:*

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C. *Freestanding WCFs:*

1. All new freestanding WCFs shall meet minimum lot size standards of the underlying zoning district and are subject to the LDC.

The minimum lot size for PSP zoning is .46 Acres. The Parent Parcel is 1.01 Acres. Therefore, the Monopole Exceeds the requirements of the code.

2. New freestanding towers shall be configured and located in a manner that shall minimize adverse effects including, but not limited to, visual impacts on the landscape and adjacent properties. New freestanding WCFs shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural design, height, scale, color and texture, and shall have the least visually obtrusive profile.

The Monopole will be sited on a City-owned property that is developed as a sewage lift station and is located immediately adjacent to a telecom switching facility and support yard. The Monopole will be sited in the center of the parcel maximizing separation from residential uses to the East and the West. Mature vegetation and urban canopy exist throughout the area breaking up viewsheds, which will help buffer the Monopole from off-site uses. Therefore, the slim grey Monopole, which will be completely dark at night, will appear as an extension of these utility-oriented parcels. Please see Sheet C-1 of the Site Plan Set as well as the enclosed Photo-Simulations.

3. Grading shall be minimized and limited only to the area necessary for the new WCF as approved by the Land Use Administrator or designee.

Diamond will comply.

4. All support structures shall be certified to comply with the safety standards contained in the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) Document 222-F, Structural Standards For

Steel Antenna Towers and Supporting Structures, as amended, by a Florida professional engineer.

The Monopole will be certified to comply with the safety standards contained in the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) and the Florida Building Code (FBC). Please see Sheet T-1 of the enclosed Site Plan Set.

5. Freestanding towers may only be permitted as monopole towers. Guyed and lattice structures are prohibited, unless the applicant demonstrates to the City by clear and convincing evidence that monopole towers are not feasible to accommodate the intended uses. Freestanding monopoles are prohibited from single-family or multi-family residential districts unless the applicant can conclusively demonstrate to the satisfaction of the City that it cannot reasonably provide its service to the residential zone from outside of the district. The City shall cooperate to determine an appropriate location for the freestanding tower of an appropriate design within the residential district. The applicant shall reimburse the City for all reasonable costs incurred by the City for this cooperative determination.

Diamond is proposing a 150' AGL Monopole communication tower on a City-owned parcel zoned PSP. This parcel was selected in coordination with the City and is a second attempt to solve a significant gap in service to the area. The Monopole will be located on a parcel developed as a sewage lift station and adjacent to a telecom switch facility. Therefore, the Monopole will not adversely affect residential properties in the area. Please see the enclosed sworn statement affidavit, the RF Package, Site Plan Set.

6. The height of a new monopole tower shall not exceed the heights provided in the table below:

Freestanding Non-Wireless Master Plan Sites	
Zone	Maximum Height WCF
Single family Residential	Not permitted unless applicant can conclusively demonstrate to the satisfaction of the City that it cannot reasonably provide its service to the residential zone from outside of the district.
Multifamily Residential	Not permitted unless applicant can conclusively demonstrate to the satisfaction of the City that it cannot reasonably provide its service to the residential zone from outside of the district.
MPD	As determined by the MPD ordinance, unless within a Wireless Master Plan
All other districts	Up to 150 feet.
Wireless Master Plan Sites	
All districts	Up to 150 feet.

Diamond is proposing to construct a 150' AGL Monopole. Therefore, the Monopole will meet the requirements of the Code. Please see Sheet C-3.

7. In calculating the height limit, above ground foundation shall be included, but lightning rods or lights required by the FAA that do not provide any support for antennas shall be excluded. If the freestanding WCF is located within the Wireless Master Plan, the maximum height may be up to 150 feet.

Noted.

8. A freestanding monopole and its equipment compound shall be subject to the land development code regulations applicable to the underlying zoning district. The minimum setback distance for a freestanding tower shall be 150 feet from any residentially zoned or platted property. Freestanding monopoles are not allowed in residentially zoned or platted property. In the event of any conflict between this section and the Land Development Code, this section shall control.

The Monopole will be located on a parcel zoned PSP and separated from the nearest residential property by 200'. Therefore, the Monopole will exceed the code required separation.

9. New towers shall maintain a galvanized gray finish or other approved contextual or compatible color and provide the least visually obtrusive profile, except as required by Federal regulations. The level of required concealment for antenna placement shall be determined based upon the visibility and location of the proposed tower and the network objectives of the desired coverage area.

The Monopole will have a dull galvanized grey finish. Please see color note on Sheet C-3.

10. All new or modified freestanding WCFs shall be engineered to maximize collocation.

The Monopole will be designed to support three carriers, therefore the Monopole will meet this section of the Code.

...

4.20.09. *Submittal requirements for Level I and Level II permits.*

- A. *Application form.* Requests for Level I and Level II wireless communication permits shall be made only on application forms approved by the City. Applications shall contain all information required by this land development code and other City regulations, and shall be reviewed for completeness.

Please see the enclosed Special Exception application.

B. *Application materials.* In addition to the application materials specified in this code for the appropriate type of review, all applications shall provide sufficient materials (plans, graphics, narratives, or expert statements) to demonstrate compliance with all applicable requirements of this section.

1. Level I and Level II applications shall contain the following:
 - a. Application.

Please see the enclosed Special Exception application.

- b. A site plan addressing the development standards of the LDC. If applicable, an application meeting the special exception requirements of Section 2.07 of the LDC shall be submitted.

Please see the enclosed Site Plan Set.

- c. An affidavit by a RF engineer demonstrating compliance with Section 4.20.05. If a non-master plan site is proposed, the affidavit must address why master plan sites are not technically feasible, practical or justified given the location of the proposed WCF communications facility.

Please see the enclosed RF Package.

- d. FCC documentation including a copy of FCC license submittal or registration, and FCC license or registration.

Please see the enclosed FCC licenses.

- e. Proposed maximum height of the WCF including, but not limited to, individual measurement of the base, the tower or base station, and lightning rod.

Please see Sheet C-3 of the enclosed Site Plan Set.

- f. Photo-simulated post-construction renderings of the completed proposed tower, base station, equipment cabinets, and ancillary structures from locations to be determined during a mandatory pre-application conference. The renderings shall include proposed exterior paint and stain samples for any items to be painted or stained, exterior building material and roof samples. The applicant shall provide simulated photographic evidence of the proposed WCFs appearance from a maximum of four vantage points chosen by the City with consultation with the applicant.

Please see the enclosed Photo-Simulations.

- g. If the proposed WCF is subject to FAA regulation, then, prior to issuance of a building permit, evidence of compliance with applicable FAA requirements under 14 C.F.R. § 77 et seq., as amended, together with any FAA "no hazard" determinations concerning the WCF (if applicable) shall be timely provided by the applicant to the City.

Please see the enclosed FAA TOWAIR notification.

- h. In order to facilitate the regulation, placement, and construction of WCFs and to ensure that all parties comply with the rules, regulations and applicable guidelines of the FCC, each owner of a WCF or applicant for a WCF shall provide an affirmative statement that it will comply with all applicable federal, state and local statutory and regulatory requirements.

The Monopole will comply with the applicable FCC regulations.

- i. For applications for new towers or other freestanding WCFs, as necessary to determine that there is no other existing structure that could reasonably be used for the placement of the proposed antennas, or for applications for new WCFs or attached collocations that increase the height of an existing structure, as needed to determine if the proposed height is necessary to provide the carrier's designed service, materials detailing the locations of existing WCFs to which the proposed antenna will be candidate for placement, including, but not limited to, latitude and longitude of the proposed and existing antenna. This material is not required for Wireless Master Plan sites.

Please see the enclosed RF Package. Additionally Latitude and Longitude are included on Sheet T-1 of the enclosed Site Plan Set.

- j. For applications for new towers or other freestanding WCFs, as necessary to determine that there is no other existing structure that could reasonably be used for the placement of the proposed antennas, a map showing the designated search ring. This map is not required for Wireless Master Plan sites.

Please see the enclosed RF Package.

- k. With regard to attached collocations, attached and combined WCFs, the applicant shall also submit:
 - i. Certification furnished by a Florida registered professional engineer that the WCF has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.

N/A.

- l. With regard to freestanding concealed or non-concealed WCFs, and modification of WCFs, for non-Wireless Master Plan sites only, the applicant shall also submit:
 - i. A report and supporting technical data demonstrating that all antenna attachments and collocations, including all potentially useable utility distribution poles or transmission towers and other elevated structures within the proposed geographic search ring, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons that existing facilities such as utility distribution poles and transmission towers and other elevated structures are not acceptable alternatives to a new freestanding WCF. The report regarding the adequacy of alternative existing WCFs or the mitigation of existing WCFs to meet the applicant's need or the needs of service providers indicating that no existing WCF could accommodate the applicant's proposed WCF shall demonstrate any of the following:
 - a. No existing WCFs located within the geographic search ring meet the applicant's engineering requirements, and why.
 - b. Existing WCFs are not of sufficient height to reasonably meet the applicant's engineering requirements, and cannot be increased in height.
 - c. Existing WCFs do not have sufficient structural integrity to support the applicant's proposed WCFs and related equipment, and the existing WCF cannot be sufficiently improved.
 - d. Other limiting factors that render existing WCFs unsuitable.

Please see the enclosed RF Package.

- ii. The applicant shall provide simulated photographic evidence of the proposed WCFs appearance from four vantage points chosen by the City with consultation with the applicant, including the facility types the applicant has considered and the impact on adjacent properties including, but not limited to:
 - a. Overall height.
 - b. Configuration.
 - c. Physical location.
 - d. Mass and scale.
 - e. Materials and color.
 - f. Illumination.
 - g. Architectural design.This does not apply to Wireless Master Plan sites.

Please see the enclosed Photo-Simulations.

- iii. If applicable, the applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed WCF on all adjacent properties assigned a residential land use designation or zoning district. This does not apply to Wireless Master Plan sites.

Please see the enclosed Photo-Simulations.

- iv. A certification by a Florida professional engineer that the WCF has sufficient structural integrity to accommodate the required and a proposed number of collocations.

Please see the enclosed Fall Zone Letter.

- v. A certification by a Florida professional engineer specifying the design structural failure modes of the proposed WCF, if applicable.

Please see the enclosed Fall Zone Letter.

- vi. Identification of the proposed intended service providers of the WCF.

Please see the enclosed AT&T RF Package.

...

2. Level II applications.
 - a. A completed special exception approval application, and all items required pursuant to Section 2.07, including compliance with all applicable special exception requirements.

Please see the enclosed Special Exception Application.

- C. *Disclosure of ownership.* A notarized affidavit from all owners having a legal, equitable, or beneficial ownership interest in the tower or base station, or privately owned real property upon which a facility is or will be located or collocated, granting permission to the applicant to locate upon such real property, or attach to the tower or base station being collocated upon or attached to.

Please see the enclosed Agent of Record Affidavits.

- D. *Submission of fee.* All applications must be accompanied by the permit fee as established by resolution of the City Council.

The application fee will be paid concurrently with this application.

4.20.10. *Application Review Process.*

- A. *A pre-application conference is required.* To minimize issues related to permit application, prior to submitting materials for a permit application, an applicant must request a pre-submittal meeting with the Land Use Administrator or designee. The City shall undertake efforts to accommodate an applicant's request for a pre-application conference within ten business days of a request.

Diamond held a pre-application conference in December of 2021.

- B. *Expert review.* The City may require that all wireless communications permit applications be reviewed by a third-party consultant or expert at the expense of the applicant for compliance with the requirements set forth herein. No permit shall be issued to any applicant that has not fully reimbursed the City for the third-party review fees, which shall be limited to the specifically identified reasonable expenses incurred in the review.

Noted.

C. *Application Review Timeframes: "shot clock"*. The City's action on proposals to place, maintain, modify, or collocate wireless communications facilities shall be subject to the applicable standards and timeframes set out in F.S. § 365.172, 47 U.S.C. § 1455 (a) and Orders issued by the FCC, as same may be amended from time to time. All Federal and State "shot clock" timeframe guidelines that apply to any particular permit are hereby recognized by the City, and the City will make all reasonable efforts to comply. Except for eligible facilities request applications reviewed in accordance with Section 4.20.12, the following procedures apply to installation of a new WCF or modification:

1. Notification of completeness. The Land Use Administrator or designee shall notify the applicant within 20 business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted in accordance with the requirements set forth above. However, such determination shall not be deemed as an approval of the application. Such notification shall indicate with specificity any deficiencies which, if cured, could make the application properly completed.
2. Expedited collocation applications. The City shall grant or deny each properly completed expedited collocation application for collocation based on the application's compliance with this section, applicable provisions of the City Code and any other applicable regulations, and within the normal timeframe for a similar building permit review, but in no case later than 45 business days after the date the application is determined to be properly completed. This timeframe shall not apply to lease negotiations for collocation on City-owned property.
3. All other applications. The City shall grant or deny each properly completed application for any other non-exempt WCF, including special exception approvals and collocations that do not qualify for an expedited collocation, based on the application's compliance with this section and any other applicable law, including but not limited to the City Code, and within the normal timeframe for a similar type of review, but in no case later than 90 business days after the date the City determines the application is completed. This timeframe shall not apply to lease negotiations for wireless communications facilities on City-owned property. Collocations located on historic base stations, or within a historic district, shall be reviewed through the review processes for historic structures or districts indicated in the LDC.
4. An application is deemed submitted or resubmitted on the date the application is received by the City. If the City does not notify the applicant in writing that the application is not completed in compliance with the City's regulations within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. However, the determination shall not be deemed as an approval of the application. If the application is not completed in compliance with the City's regulations, the City shall so notify the applicant in writing indicating with specificity any

deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, would make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the City shall notify the applicant, in writing, within the normal timeframes of review, but in no case longer than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. However, if applicant does not cure the application deficiencies within 20 business days after receiving the notice of deficiencies, the application shall be considered withdrawn or closed unless an extension, due to reasonable circumstances, of the time to cure is requested by the applicant prior to the expiration of the 20-day period, and such extension is granted by the Land Use Administrator or designee.

5. The timeframes specified above may be extended, but in no case longer than 90 calendar days for collocations, and 150 calendar days for new installations, and only to the extent that the application has not been granted or denied because the City's procedures generally applicable to all other similar types of applications require action by the City Council or Planning and Land Development Regulation Board, and such action has not taken place within the specified timeframes. Under such circumstances, the City Council or Planning and Land Development Regulation Board, as applicable, shall either grant or deny the application at its next regularly scheduled meeting, or, otherwise, the application shall be deemed automatically approved; accordingly, the Land Use Administrator or designee may by letter to the applicant extend the timeframe for a decision until the next available scheduled meeting date of the City Council or Planning and Land Development Regulation Board as to whether to grant or deny an application for a permit. To be effective, a waiver of the timeframes set forth herein must be voluntarily agreed to by the applicant and the City. The City may request, but not require, a waiver of the timeframes by the applicant, except that, with respect to a specific application, the City may require a one-time waiver in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the City. Notwithstanding the foregoing, the City and an applicant may voluntarily agree to waive the timeframes set forth above.

This application is subject to the expedited review timelines codified in Florida Statute 365.172 (13) (d) and the Telecom Act of 1996 as interpreted by FCC rules 18-133 and 20-75.

- D. *Appeals.* Any person aggrieved by an administrative decision rendered by the Land Use Administrator regarding the provisions of this Section 4.20 may appeal such decision to the Planning and Land Development Regulation Board in accordance Section 2.16.01 of the LDC.

Noted.

4.20.11. *Interference with public safety communications.*

- A. The City adopts a policy of requesting prior notification of activation or modification of WCF facilities as provided for in 47 C.F.R. § 22.973 and 47 C.F.R. § 90.675 and in accordance with those provisions, WCF providers shall notify the Land Use Administrator or designee prior to a new site activation or existing site modification and provide the information required by the federal regulations.

Diamond will comply.

- B. Whenever the City has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more WCFs, the following steps shall be taken:
1. The City shall provide notification to all WCF service providers operating within 5,000 feet of the public safety communications equipment at issue, in accordance with the procedures indicated in 47 C.F.R. § 22.972 and 47 C.F.R. § 90.674, using the website www.PublicSafety800MHzInterference.com. Upon such notification, the owners shall use their best efforts to cooperate and coordinate with the City and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in 47 C.F.R. § 22.972 and 47 C.F.R. § 90.674 and following the applicable FCC adopted Best Practices Guide, as may be amended or revised by the FCC from time-to-time.
 2. If any WCF owner fails to cooperate with the City in complying with the owner's obligations under this section and if the FCC makes a determination of radio frequency interference with the City public safety communications equipment, an owner who fails to cooperate and/or the owner of the WCF which caused the interference, shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the City for all reasonable costs associated with ascertaining and resolving the interference including, but not limited to, any engineering studies obtained by the City to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in 47 C.F.R. § 22.972 and 47 C.F.R. § 90.674.

Noted.

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4.20.13. *Abandonment.* Any WCF and equipment compound that is not operated for a continuous period of 210 days shall be considered abandoned. The Land Use Administrator may require removal of the WCF and equipment compound under the following circumstances, which are deemed detrimental to the health, safety and welfare interests of the City:

1. The WCF has not been operated for a continuous period of 210 days, except for periods caused by force majeure, in which case, repair or removal shall commence within 90 days or within such other reasonable time approved by the Land Use Administrator;

2. The WCF creates a public health or safety hazard, which shall be deemed a nuisance per se; or
3. The WCF has been located, constructed, or modified without obtaining all permits and approvals required by law, or located, constructed, or modified in a manner inconsistent with applicable permit requirements and state or federal law. .

If the Land Use Administrator makes such a determination the owner of such WCF and equipment compound shall remove the same, at the owner's expense, within 90 days of receipt of notice from the City notifying the owner of such abandonment. An owner may apply to extend the time for removal or reactivation by submitting an application stating the reason for such extension. The City may extend the time for removal or reactivation up to 90 days upon a showing of good cause. If the WCF or equipment compound is not removed in accordance with the requirements of this section, the City may give notice that it will contract for removal within 90 days following written notice to the owner. Thereafter, the City may cause removal of the WCF and equipment compound with all costs being borne by the owner. The City may record a lien against the property in the amount of all costs and expenses of the City. Upon removal of the WCF, the equipment compound and the foundations, including two feet below ground level, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current use of the land at the time of removal. The cost of rehabilitation shall be borne by the owner. Except as provided herein, the abandonment of WCFs within public rights-of-way shall be managed in accordance with the procedures set forth in Section 42-123, City Code of Ordinances. Any special exception approval for a WCF shall automatically expire 210 days from the date of abandonment without reactivation, or upon completion of dismantling and removal, whichever is first, or pursuant to the notice required by Section 42-123 of the City Code of Ordinances.

Noted.

4.20.14. *Code enforcement.*

- A. The City may enforce the provisions of this section in accordance with the provisions of applicable state law and pursue any and all available legal remedies.
- B. The City shall engage in a program of periodic inspections to ensure continuing adherence to the standards of this section and to ensure that WCFs are being appropriately maintained.

Noted.

4.20.15. *Compliance with state and federal regulations; preemption.* In implementing this section and the provisions set forth herein, the City shall comply with applicable state and federal regulations, and the provisions of this section shall be given force to the maximum amount and greatest extent permissible under state and federal law. Except as authorized pursuant to state and federal law, in the event of any conflict between the terms of this section and state or federal law, state and federal law shall control. In the event any provision of this section is specifically preempted, or judicially determined to be preempted by state or federal law, then the preempted

provision shall automatically be deemed null and void and the superseding provision of state or federal law shall prevail.

Noted.

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Sec. 2-299. Special exceptions.

The board shall hear applications for such special exceptions as are specifically authorized under this Code, in the following manner:

...

- (7) Reasons for denial. The board may deny any application for a special exception for one or more of the following reasons:
 - a. It is inconsistent with the purpose or intent of any applicable land development regulation.

The purpose of the land development code is to balance the federal mandate to provide reliable wireless service with protection of the local community through promulgation of objective standards in land development code. The Monopole complies with all the objective standards of the land development code therefore the Monopole is consistent with the purpose and intent of the LDR.

- b. It is inconsistent with the City's comprehensive plan.

The tower code is the implementation of the City's comprehensive plan in regard to communication towers. The Monopole complies with the tower code, therefore is consistent with the City's Comprehensive Plan.

- c. It will adversely affect the public interest.

The contrary is true, the Monopole will support the public interest through the provision of reliable wireless service in the area. In 2021, over 89.2% of 911 calls were made via wireless phones in neighboring Orange County. This shows the reliable wireless service is no longer a luxury but a necessity. Please see the enclosed RF Package and 911 call statistics.

- d. It will generate undue traffic congestion.

The Monopole will be unstaffed and typically serviced by one pick-up sized vehicle, per carrier, per month. Therefore, the Monopole will not generate undue traffic conditions.

- e. It will create a hazard or public nuisance, or be dangerous to individuals or to the public.

The Monopole will be designed will fall zone technology. In the unlikely event a structural failure, the Monopole will not collapse. Rather, it will fold over upon itself and be completely contained in an 28' radius on the parent parcel. Further, the Monopole will support the public safety and welfare through the provision of reliable wireless service. In 2021, over 89.2% of 911 calls were made via wireless phones in neighboring Orange County. This shows the reliable wireless service is no longer a luxury but a necessity. Please see the enclosed RF Package and 911 call statistics.

- f. It will materially alter the character of surrounding neighborhoods or adversely affect the value of surrounding land, structures or buildings.

The Monopole will be sited on a City-owned property that is developed as a sewage lift station and is located immediately adjacent to a telecom switching facility and support yard. The Monopole will be sited in the center of the parcel, maximizing separation from residential uses to the East and the West. Mature vegetation and urban canopy exist throughout the area breaking up viewsheds, which will help buffer the Monopole from off-site uses. Therefore, the slim grey Monopole, which will be completely dark at night, will appear as an extension of these utility-oriented parcels. As such, the Monopole will not materially alter the character of the surrounding neighborhood or adversely affect the value of the surrounding land, structures, or buildings. Please see Sheet C-1 of the Site Plan Set as well as the enclosed Photo-Simulations

- g. It will adversely affect the natural environment, natural resources or scenic beauty, or cause excessive pollution.

The Monopole is proposed on disturbed property developed as a Sewage Lift Station and is located immediately adjacent to a telecom switching facility and support yard. The Monopole will be sited in the center of the parcel, maximizing separation from residential uses to the East and the West. Mature vegetation and urban canopy exist throughout the area breaking up viewsheds, which will help buffer the Monopole from off-site uses. Therefore, the slim grey Monopole, which will be completely dark at night, will appear as an extension of these utility-oriented parcels. As such, the Monopole will not materially alter the character of the surrounding neighborhood or adversely affect the value of the surrounding land, structures, or buildings. Please see Sheet C-1 of the Site Plan Set as well as the enclosed Photo-Simulations

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Thank you in advance for your assistance in this matter. Please do not hesitate to contact me if I am able to provide you with additional information.

Sincerely,

A handwritten signature in blue ink that reads "Mattaniah S. Jahn". The signature is written in a cursive style with a large initial "M".

Mattaniah S. Jahn, Esq.

Enclosures