



Pinellas County

Legislation Details (With Text)

File #: 22-2143A **Version:** 1
Type: County Attorney Item **Status:** Public Hearing
File created: 11/17/2022 **In control:** Board of County Commissioners
On agenda: 12/13/2022 **Final action:**
Title: Proposed settlement in the case of Vertex Development, LLC v. Pinellas County, Florida; Federal District Court Case No. 8:22-cv-02012-VMC-CPT.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board of Adjustments and Appeals staff report for August 3, 2022 meeting, 2. Minutes of Board of Adjustment and Appeals meeting, 3. Board of Adjustments and Appeals denial letter dated August 10, 2022, 4. Summary of Federal Telecommunications Act, 5. TY-22-11-correspondence received, 6. Letters of Opposition received after hearing, 7. TY2-22-11 (Christ the King Lutheran Church, Inc.), 8. TY2-22-11 Aerial Map 2, 9. TY2-22-11 Current Zoning Map 1, 10. Agenda Item 57 Opposed, 11. correspondence, 12. Late filed Comments opposed

Date	Ver.	Action By	Action	Result
12/13/2022	1	Board of County Commissioners	denied	Pass

Subject:

Proposed settlement in the case of Vertex Development, LLC v. Pinellas County, Florida; Federal District Court Case No. 8:22-cv-02012-VMC-CPT.

Recommended Action:

Approve the proposed settlement by authorizing conditional approval to allow construction of the camouflaged communications tower proposed in Case No. TY2-22-11, Board of Adjustment and Appeals with a height limitation of 100 feet.

Strategic Plan:

N/A

Summary:

The Board of Adjustment and Appeals denied an application for Type-2 Use Approval submitted by Vertex Development, LLC seeking to allow the construction of a 120-foot-tall, camouflaged communication tower and related support facilities on the property of Christ the King Lutheran Church, Inc., located at 11220 Oakhurst Road in unincorporated Largo. A lawsuit was subsequently filed in federal court claiming a violation of the Federal Telecommunications Act for wrongful denial of the requested approval. Cell towers that are camouflaged, such as the one proposed by the Plaintiff, are allowed at the proposed site as a matter of right under the Land Development Code at a height of 75 feet. The Plaintiff has proposed the same camouflaged communication tower and related support facilities, but at a lower height of 100 feet to settle the lawsuit. All other conditions, such as setbacks from neighboring properties, would remain as proposed in the application before the Board of Adjustment and Appeals.

Since Type-2 Use Approvals under the Land Development Code may only be granted after a public hearing, it is recommended that a public hearing be conducted on the proposed settlement. This matter has been advertised as a public hearing as required by the Land Development Code, including mailed notices to nearby residents. Staff is also reaching out to those citizens who appeared at the Board of Adjustment and Appeals hearing.

Background Information:

This matter was previously brought before the Board on October 25, 2022, under Legistar item no. 22-1695A, County Attorney Receipt and File Report.

Fiscal Impact:

Unknown.

Staff Member Responsible:

Jewel White, County Attorney
Christy Donovan Pemberton, Managing Assistant County Attorney
Andrew Keefe, Assistant County Attorney
Carol Stricklin, Department Director, Planning

Partners:

N/A

Attachments:

Board of Adjustment and Appeals staff report for August 3, 2022 meeting
Minutes of Board of Adjustment and Appeals meeting
Board of Adjustment and Appeals denial letter dated August 10, 2022
Summary of Federal Telecommunications Act
TY-22-11-correspondence received
Letters of Opposition received after hearing