

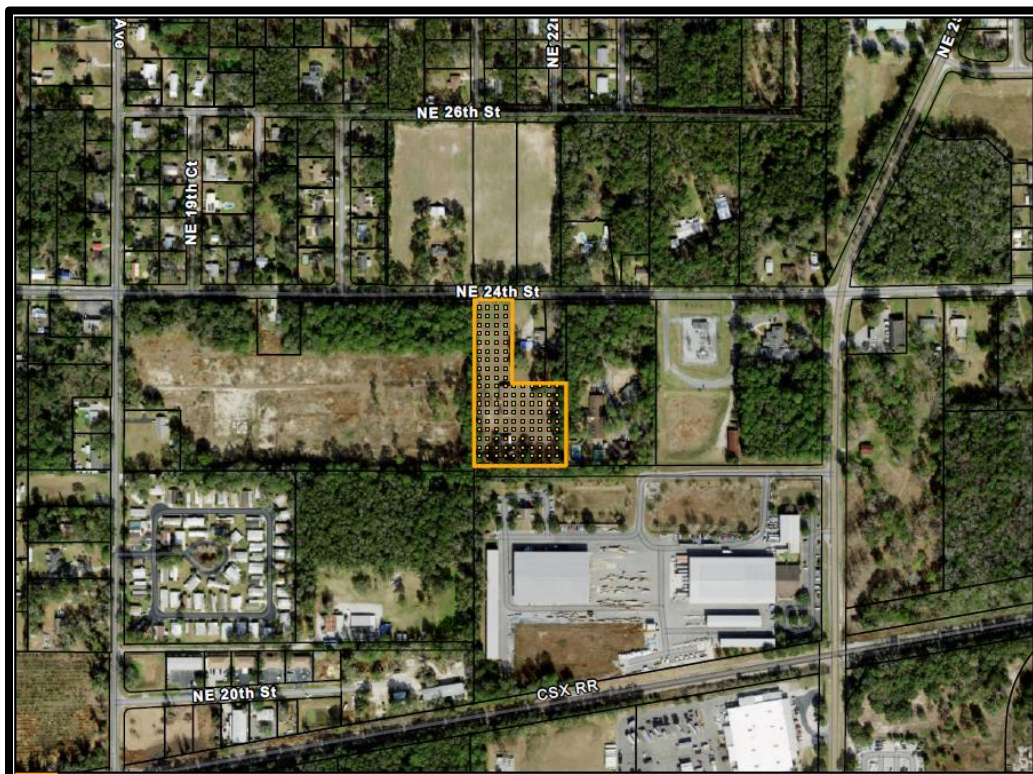


Applicant: Myron Loss, Encouragement Ministries Corp.
Property Owner: Freewill Baptist Church
Project Planner: Emily W. Johnson, AICP, Senior Planner
Applicant Request: Special Exception to allow a 100-foot-tall telecommunications tower in the R-1A, Single-Family Residential District.

Parcel Information

Acres: ± 3.03 acres
Parcel(s) #: 24569-001-00
Location: 2210 NE 24th Street
Existing use: Church/place of worship and single-family residence
Future Land Use: Neighborhood
Zoning Designation: R-1A, Single-Family Residential
Special District(s)/Plans(s): N/A
Overlay(s): N/A

Figure 1. Aerial Location Map



Adjacent Property Information

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning District</u>	<u>Current Use</u>
North	Neighborhood	R-1A, Single Family District	Single-family residence, undeveloped residential adjacent to NE 24 th Street
East	Neighborhood	R-1A, Single Family District	Single-family residence
South	Employment Center	M-3, Heavy Industrial	Manufacturing and warehouse (Manning Building Supply/Truss Plant)
West	Neighborhood	R-1, Single Family District	Single family residences of Hilltop Manor

Applicant Request

The Applicant is requesting a special exception to allow a 100-foot-tall telecommunications tower in the R-1A, Single-Family Residential District.

Background

The subject property, identified by Parcel Identification Number 24569-001-00, was annexed in 1964. Marion County Property Appraiser’s records indicate that the existing single-family residence was constructed in 1960, and the church/place of worship building was constructed in 1972. A special exception has not been approved for the church/place of worship, which has existed as a nonconforming use on this property since the early 1970s.

The Applicant operates an existing radio station broadcasting from the subject property utilizing an existing 40-foot tower, as an accessory use to the existing nonconforming church/place of worship. Telecommunications towers measuring less than 50-feet in height are exempt from permitting requirements, pursuant to Code of Ordinances Subsection 122-1054(c).

Staff Analysis

Section 122-1041 establishes the purpose and intent of Article VII, which regulates Telecommunications within the City of Ocala. This article regulates the placement, construction, and modification of towers and antennas in any part of the City in order to protect the health, safety, and welfare of the public, while at the same time not prohibiting the provision of wireless telecommunications services or unreasonably interfering with the development of the competitive telecommunications business.

This request does not meet the location requirements outlined under Section 122-1043, which only permits telecommunications towers to be located in residential zoning districts when there are no towers within one-half mile radius available for co-location.

Pursuant to Code of Ordinances Section 122-1043, new telecommunications towers are permitted as a principal or accessory use within residential zoning districts only upon receipt of a special exception from the board of adjustment, and upon meeting the following requirements:

- a. There are no available sites in non-residential zoning districts, or available towers or antenna support structures, within a one-half mile radius of the proposed tower; and
- b. Denying a permit for the proposed tower would prohibit or have the effect of prohibiting the provision of "personal wireless service," as defined in the Telecommunications Act.

Federal Communication Commission (FCC) records indicate that an existing telecommunications tower owned by American Towers LLC is located approximately one-quarter of a mile from the subject property on Parcel 26403-001-00. American Towers LLC has confirmed that the tower is available for co-location. This tower location with co-location availability falls within the one-half mile radius identified in Sec. 122-1043.

Additionally, the existing church/place of worship on the subject property is currently operating as a non-conforming use without an approved special exception. Pursuant to Subsection 122-173(1): *"No such nonconforming use shall be enlarged or increased, or extended, or occupy a greater area of land than was occupied at the effective date of the ordinance from which this chapter is derived, before the date of adoption of this chapter, or the effective date of an amendment of this chapter."*

The non-conforming provisions contained under Section 122-173 only allow for continuation of the church/place of worship in its current state. The proposed installation of a radio tower exceeding 50 feet in height constitutes an expansion of the non-conforming use. As such, this action would trigger the requirement for the subject property to come into full compliance with the Code of Ordinances, including obtaining a special exception and meeting applicable requirements for access, screening, buffering, and site plan approval. It is noted that the applicant does not propose any improvements to the existing church/place of worship or site but solely intends to increase the height of the telecommunications tower for radio broadcasting purposes.

Special Exception Standards for Approval (Section 122-73(5)):

The Code states that the Board of Adjustment shall consider and weigh the following factors and standards, among others, and shall show in its record these factors and the disposition made thereof. Further, the board shall find in the case of any of these factors and standards, where they may be relevant and applicable, that the purposes and requirements for granting the special exception have been met by the applicant:

- A. Ingress and egress to the property and the proposed structures thereon, if any, including such considerations as automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

Staff Comment: The subject property is accessed via an existing unpaved driveway connecting to NE 24th Street, which is not proposed to be altered with this request.

- B. Off-street parking and loading areas, where required, including consideration of ingress and egress to the property, and the economic, noise, glare, or odor effects of the location of such off-street parking and loading areas on adjacent and nearby properties and properties generally in the district.

Staff Comment: Additional off-street parking and loading areas are not anticipated as a result of the request for an unmanned telecommunications tower. The existing church was constructed in 1972 and utilizes a grass parking lot.

- C. Refuse and service areas, and how these areas correspond with both the off-street parking area, and the ingress and egress to the site.

Staff Comment: Additional refuse is not anticipated as a result of the request for an unmanned telecommunications tower.

- D. Utilities, including such considerations as hook-in locations and availability and compatibility of utilities for the proposed use.

Staff Comment: Electric, Potable Water, and Sanitary Sewer utility services are available to the site and will continue to be provided.

- E. Screening and buffering, including consideration of such relevant factors as type, dimensions and character to preserve and improve compatibility and harmony of use and structure between the proposed special exception and the uses and structures of adjacent and nearby properties and properties generally in the district.

Staff Comment: The subject property is zoned R-1A, which typically does not require buffering from adjacent residential uses. The existing church is currently screened from surrounding properties with a natural vegetation buffer of unknown width along the perimeter of the subject property.

Pursuant to Subsection 122-1050(a), the provider of a new tower is required to plant (1) a row of ornamental trees a minimum of eight feet tall and a maximum of ten feet on center around the perimeter of the fence; and (2) A continuous hedge at least 30 inches in height at planting and capable of growing to at least 36 inches in height within 18 months between the trees. The concept plan does not identify the location of the fenced area nor the required landscaping buffer for the proposed tower. The applicant is not proposing to include the required buffering previously stated above.

- F. Signs, if any, and proposed exterior lighting, if any, with reference to glare, traffic safety and economic effects of signs and lighting on properties in the district and compatibility and harmony with other properties in the district.

Staff Comment: An existing freestanding sign is located on the subject property for the church use. Additional signage is not permitted unless a special exception for the church is processed and signage addressed through that process. Pursuant to Subsection 122-1050(e), no signage shall be allowed on any tower, except as required for public safety purposes, or by the FCC.

- G. Required yards and open spaces.

Staff Comment: Setbacks for telecommunications towers are established by Section 122-1047. In 122-1047(2), residential districts, a tower shall be set back the greater of: the minimum setback requirements of the applicable zoning district as set forth in this chapter; or a distance of one foot for every five feet in height of the proposed tower.

Based on the 100-foot height of the proposed tower, the tower must be set back a minimum of 20-feet from any property line. The concept plan identifies that the base of the proposed tower will be set back a minimum of 125-feet from the closest property line.

- H. Height of structure where related to uses and structures on adjacent and nearby properties and properties generally in the district.

Staff Comment: Section 122-1044 establishes a maximum height of 125-feet for telecommunications towers in residential districts. The applicant is proposing a maximum height of 100-feet.

- I. Economic effect on adjacent and nearby properties and properties generally in the district of the grant of the special exception.

Staff Comment: The subject property and neighboring residentially-zoned properties are developed primarily with single-story residences. A 100-foot telecommunications tower would not be consistent with the existing development pattern along NE 24th Street; however, the proposed tower would not be expected to have an adverse economic effect on adjacent or nearby properties with the proper screening and buffering in place. It is noted that this request does not address proper screening and buffering.

It is additionally noted that, American Towers LLC has confirmed that the existing tower located within one-quarter mile on Parcel 26403-001-00 (zoned M-2, Medium Industrial) is available for co-location for a monthly fee.

- J. Visual, physical, and economic impact of the proposed project or use on a historically designated property and district.

Staff Comment: This site is not located within a designated historic district.

Staff Findings and Recommendation

- The current use of the property as a church/place of worship is a non-conforming use requiring a special exception in the R-1A zoning district.
- The request **does not** meet the locational criteria for a telecommunications tower within a residential district, as established by Section 122-1043.
- An existing tower is located within one-quarter mile of the subject property and is available for co-location.
- The request does not meet the standards for approval of a Special Exception pursuant to Ocala Code of Ordinances Section 122-73(5).

Staff Recommendation: Denial

Recommended Conditions of Approval:

Staff recommend **denial** of the special exception request. Should the Board decide to grant approval, the following conditions are recommended:

1. A Special Exception for the church shall be submitted and processed within 6-months of this approval, or this Special Exception shall expire. If the church special exception request is denied then tower special exception shall also expire.
2. This Special Exception shall be granted for and run with the subject property located at 2210

NE 24th Street (PID #24569-001-00).

3. A site plan shall be submitted to the City within 6-months of the first condition meeting the following criteria, or the Special Exception shall expire:
 - a. The telecommunications tower shall not exceed 100-feet in height. The height shall be measured from grade and shall include the tower structure itself, the base pad, and any antenna.
 - b. The telecommunication tower shall be located on a parcel in such a manner that in the event of collapse, the tower structure and its supporting devices shall be contained within the confines of the property lines of the parcel.
 - c. The telecommunications tower shall be setback a minimum of 20-feet from any property line.
 - d. Structural supports for the telecommunications tower shall be setback a minimum of 10-feet from any property line.
 - e. The telecommunications tower shall be screened in a manner consistent with Subsection 122-1050(a).
4. A Certificate of Completion shall be issued within 2 years of the first condition, or this Special Exception shall expire.