

RESOLUTION NO. R-89-1323

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING FLORIDA POWER AND LIGHT COMPANY TO RETAIN ITS NON-CONFORMING STATUS- AND TO RELOCATE ITS BUILDING PURSUANT TO PALM BEACH COUNTY'S CONDEMNATION OF CERTAIN PROPERTY FOR RIGHT-OF-WAY.

WHEREAS, Palm Beach County has filed an eminent domain action, Palm Beach County v. Nicholas P. and Joan E. Wellman, et al, Case No. CL 89-2784 AH, seeking the condemnation of property owned by Florida Power and Light Company ("FPL"), located on the west side of Military Trail, south of Lake Worth Road, for the widening and improvement of Military Trail; and

WHEREAS, the FPL parcel is a valid non-conforming use pursuant to Section 404.2 of the Palm Beach County Zoning Code, situated in the General Commercial Zoning District but lacking the required special exception; and

WHEREAS, Section 404.2 provides that such non-conforming use shall be terminated if part or all of the use ,is moved to another portion of the lot or parcel; and

WHEREAS, the County Attorney and the Palm Beach County Department of Planning, Zoning and Building have determined that in certain specific instances involving the taking of property against the owner's will by condemnation, the intent of the Palm Beach County Zoning Code is served by allowing the relocation of certain non-conforming uses to another portion of the lot; and

WHEREAS, in this specific case, the County Attorney and Department of Planning, Zoning and Building recommend the following:

1. That the property owners be allowed to relocate the existing business to another portion of the lot.
2. That the use of the site will continue to retain its non-conforming use status.
3. That the relocation shall be accomplished by the reestablishment of an equivalently styled business and ancillary improvements.
4. That Landscape Ordinance 73-1 shall remain in effect.
5. That paved parking and turn-around shall be reestablished.

6. That there shall be no backout onto Military Trail and a turn around shall be provided.

7. That safe site corners and safe access shall be provided onto Military Trail.

8. That the County shall reestablish necessary water and sewer services to the premises.

9. That any applicable road impact fees and building permit fees shall be waived.

10. That the relocated building shall meet the minimum setback requirements of the district.

11. That a 4 foot hedge, planted 36 inches on center, shall be installed and shall be maintained at a minimum height of 8 feet along the rear and side property lines and 6 feet along the front property line.

12. That the 6 foot hedge, which shall be planted along the front property line, shall not be planted along that portion of said property line where the presence of the hedge would interfere with the use and operation of three swinging gates, each of which is 20 feet in width; that at these locations the hedge shall be planted within the right-of-way, subject to the approval of the County Engineer. In the event that landscaping may not be planted in the right-of-way, then FP&L shall construct an opaque fence.

13. That the gates shall be constructed and maintained to obstruct the view of the equipment situated in the enclosed area behind them, which shall be accomplished through the use of blinds or screening of a neutral or subdued color incorporated into the gate fencing.

14. That the structure to be relocated shall be subject to all applicable construction/fire ordinances and all applicable permitting/inspection procedures.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, **THAT:**

1. This Board adopts and ratifies those matters as set forth in the foregoing recitals.

2. The County Engineer, County Attorney and Department of Planning, Zoning and Building are authorized to testify at the trial of this matter to bind the County to the foregoing and to any specific actions necessary to implement the intent of reestablishing the business

ability in keeping herewith and that the County Engineer is allowed to testify and bind the County to its construction plans.

The foregoing resolution was offered by Commissioner Marcus who moved its adoption. The motion was seconded by Commissioner Howard and upon being put to a vote, the vote was as follows:

CAROL J. ELMQUIST	- Aye
KAREN T. MARCUS	- Aye
CAROL A. ROBERTS	- Aye
RON HOWARD	- Aye
CAROLE PHILLIPS	- Absent

The Chair thereupon declared the resolution duly passed and adopted this 11th day of July, 1989.

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

John B. Dunkle, Clerk

By Susan L. Lutz
County Attorney

By Judith Croshaw
Deputy Clerk

