

RESOLUTION NO. R-91- 1718

RESOLUTION APPROVING ZONING PETITION NO. 91-41
SPECIAL EXCEPTION PETITION OF THOMAS L. & LEONORA D. SALMON

WHEREAS, the Board of County Commissioners, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Chapter 402.5 of the Palm Beach County Zoning Code, have been satisfied; and

WHEREAS, Petition No. 91-41 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on August 29, 1991; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, has considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 91-41, the petition of THOMAS L. AND LEONORA D. SALMON, BY LEE STARKEY, AGENT., for a SPECIAL EXCEPTION TO ALLOW A COMMERCIAL AM/FM RADIO, TELEVISION, MICROWAVE TRANSMISSION AND RELAY STATION AND TOWER AND ACCESSORY EQUIPMENT BUILDING (UNMANNED) lying on a parcel of land in Section 1, Township 44 South, Range 42 East, described as follows: The South 1/2 of the West 100.00 feet of the East 400.00 feet of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 1, Township 44 South, Range 42 East; LESS, the right-of-way for Gun Club Road, in Official Record Book 1783, Page 353; TOGETHER WITH an easement for ingress and egress over the East 15.00 feet of the West 100.00 feet of the East 400.00 feet to the North 1/2 of said Northwest 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 1, as recorded in Official Record Book 1783, Page 354, and being located ON THE APPROX. .02 MILE S AND E OF THE INTERSECTION OF GUN CLUB RD. AND S. MILITARY TR., IN THE CG ZONING DISTRICT, was approved on August 29, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County.
2. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 23). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Zoning Code Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review) or the conditions of approval.
3. The petitioner shall submit the site plan approved by the Board of County Commissioners for this site to the Site Plan Review Committee prior to December 7, 1991.

B. BUILDING AND SITE DESIGN

1. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material.

C. COMMUNICATIONS TOWER

1. Palm Beach County shall have the right to co-locate County communication equipment on the subject tower provided that the placement of County equipment does not interfere with the petitioner's equipment or operations.
2. Simultaneously with submittal to Site Plan Review Committee, the petitioner shall submit two copies of one-hundred ten percent break-point calculations for the tower. The calculations and tower location shall be subject to approval by the Planning, Zoning & Building Department.
3. If high voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every twenty (20) feet and attached to the fence shall display in large, bold letters the following: "High Voltage Danger".
4. No equipment, mobile or immobile, not used in direct support of the transmission relay facility shall be stored or parked on the site unless repairs to the facility are being made.

D. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall:
 - a. Be designated on the site plan, prior to site plan certification.
 - b. Be concealed behind a solid enclosure. The open end of the enclosure shall have an obscure, opaque gate.

E. ENGINEERING

1. The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain on-site the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.
2. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project at the time of the Building Permit presently is \$220.00 (4 trips X \$55.00 per trip).

F. FAA

1. Prior to site plan certification, the petitioner shall submit documentation to the Zoning Division which demonstrates that the proposed facility does not violate FAA Regulations or the Palm Beach County Airport Zoning Regulations. This documentation shall be subject to approval by the Palm Beach County Department of Airports.

G. HEALTH

1. The application and engineering plans to construct on site potable water supply and/or on-site sewage disposal system must be submitted to the Health Unit prior to site plan approval or prior to issuance of Building Permit for straight rezoning.
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
3. The use of the site shall be limited to an unmanned, communications tower. All existing uses including, but not limited to, automotive repair shall cease to operate within thirty (30) days from site plan approval.

H. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

I. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements (for tree count and perimeter) and all landscape/vegetation preservation conditions of approval.
2. Perimeter landscaping and buffering shall be installed prior to the issuance of the Certificate of Occupancy (C.O.) for the 1,800 square foot equipment building.
3. All perimeter buffer trees shall be a minimum of fourteen (14) feet in height at installation with a minimum diameter of three and one-half (3.5) inches measured at a point which is at least four and one-half (4.5) feet above existing grade level.
4. Perimeter buffer trees shall have a minimum of five (5) feet of clear trunk and a minimum seven (7) foot canopy spread.

J. LANDSCAPING - INTERIOR

1. Prior to site plan certification, the site plan shall be amended to indicate a terminal landscape island on the south side of the two required parking spaces. Each landscape island shall be planted with one native canopy tree or native palm tree and appropriate ground cover.
2. All trees within the interior parking area shall be a minimum of twelve (12) feet in height.

K. LANDSCAPING ALONG EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping within the required five (5) foot buffer along the east property line shall be upgraded to include:
 - a. An eight (8) foot high concrete wall along the entire length of the property line directly abutting the project site (approximately 146.78 feet).
 - b. A six (6) foot high concrete wall along the ingress/egress easement serving the project site. A six (6) foot high fence may be substituted for the wall only if the conditions of the easement agreement prohibit the construction of a wall. The applicant shall provide an Affidavit indicating this limitation prior to substitution of a fence for the wall.
 - c. One fourteen (14) foot tall native canopy tree planted every twenty (20) feet on center on the exterior side of the required walls/fence.
2. The exterior side of the walls/fence shall be given a finished architectural treatment which is compatible and harmonious with abutting development.

L. LANDSCAPING ALONG THE NORTH, SOUTH AND WEST PROPERTY LINES

1. Landscaping within the required five (5) foot buffer along the north, south and west property lines shall be upgraded to include:
 - a. An eight (8) foot high opaque fence.
 - b. One fourteen (14) foot tall native canopy tree planted every thirty (30) feet on center on the exterior side of the required fence.

M. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed downward and away from adjacent properties and streets.
2. Lighting fixtures shall not exceed twenty (20) feet in height. Lighting fixtures within fifty (50) feet of residential areas shall not exceed a height of twelve (12) feet in height.
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement.
4. There shall be no rooftop lighting allowed on-site. Lighting fixtures shall be limited to the minimum needed for essential lighting of the site and structures.

N. PARKING

1. Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles shall be permitted in landscaped areas, right-of-way or interior drives.
2. When the tower facility is not open, the parking area shall be locked and gated.

O. RECYCLE SOLID WASTE

1. The petitioner shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products.
2. Prior to site plan certification, receptacles for recycled material shall be designated on the site plan, located in the parking area or adjacent to the dumpster location.

P. SIGNS

1. No free-standing point-of-purchase signs shall be permitted fronting on Gun Club Road or elsewhere on the project site.
2. All other on site signs shall comply with the Palm Beach County Sign Code and shall indicate principal uses only. No snipe signs, balloons, banners or other prohibited types of advertisement or signs shall be permitted.
3. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive

than the conditions of approval, the regulations of the amended Sign Code shall supersede all sign-related conditions of approval.

Q. USE LIMITATION

1. No outdoor loudspeaker system audible off site shall be permitted.
2. No outdoor storage or placement of any material, refuse, equipment or debris shall be permitted on site.

R. COMPLIANCE

1. As provided in Zoning Code Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:
 - a. The denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
 - c. A requirement of the development to conform with updated standards of development, applicable at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Elmquist moved for approval of the Resolution.

The motion was seconded by Commissioner Roberts and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	AYE
Carol A. Roberts	--	AYE
Carol J. Elmquist	--	AYE
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 26th day of November, 1991.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY :


COUNTY ATTORNEY

BY:


DEPUTY CLERK