

RESOLUTION NO. R-96- 657

RESOLUTION APPROVING ZONING PETITION CA95-118
CLASS A CONDITIONAL USE
PETITION OF BELLSOUTH MOBILITY
BY KIERAN KILDAY, AGENT
BELL SOUTH MOBILITY

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, 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 Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA95-118 was presented to the Board of County Commissioners at a public hearing conducted on May 23, 1996; and

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

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. This Class A conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition CA95-118, the petition of BellSouth Mobility, by Kieran Kilday, agent, for a Class A Conditional Use (CA) to allow a commercial communication tower in the Agricultural Residential (AR) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on May 23, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

Ken Foster, Chair	--	Aye
Burt Aaronson, Vice Chair	--	Aye
Maude Ford Lee	--	Aye
Karen T. Marcus	--	Aye
Mary McCarty	--	Absent
Warren Newell	--	Absent
Carol A. Roberts	--	Absent

The Chair thereupon declared that the resolution was duly passed and adopted on May 23, 1996.

APPROVED AS TO FORM
AND **LEGAL** SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

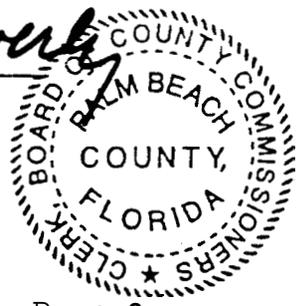


EXHIBIT A

LEGAL DESCRIPTION

PARENT TRACT LEGAL DESCRIPTION:

Lot 2, Tract 42, Township 44 1/2 South, Range 42 East, Palm Beach County, Florida, less the East ten (10) acres thereof; said ten acres being the easterly ten acres east of a line parallel to the East line of said Lot 2. (DESCRIPTION SUPPLIED BY CLIENT)

ALSO KNOWN AS:

Lot 2, Hiatus Tract **42**, PALM BEACH FARMS CO. PLAT NO 13, AMENDMENT TO SHEET NO. 4 OF PLAT NO. 3, according to the plat thereof as recorded in Plat Book 6, Page 98-99 of the Public Records of Palm Beach County, Florida, lying in Township **44** 1/2 South, Range **42** East, Palm Beach County, Florida, less the East ten (10) acres thereof, said ten acres being the easterly ten acres East of a line parallel to the East line of said Lot 2.

20' WIDE ACCESS EASEMENT LEGAL DESCRIPTION:

A 20.00 foot easement for access purposes lying in Lot 2, Tract 42, PALM BEACH FARMS CO. PLAT NO. 13, AMENDMENT TO SHEET NO. 4 OF PLAT NO. 3, according to the plat thereof as recorded in Plat Book 6, Page 98-99, of the Public Records of Palm Beach County, Florida, being in Township **44** 1/2 South, Range 42 East, Palm Beach County, Florida. The centerline of said easement being more particularly described as follows: Commencing at the North One-quarter corner of said Tract 42 and also being the Northwest corner of said Lot 2; thence S. 05°18'28"W. along the West line of said Lot 2, Tract 42, 40.30 feet to a point on the South right-of-way line of Lantana Road West, said point also being 40.00 feet south of the North line of said Tract 42; thence S.88°21'02"E. along said South right-of-way line, 699.69 feet to the Point of Beginning; thence S.04°35'41"W., 1,397.27 feet; thence S.84°47'03"E., 285.00 feet thence; S.88°18'47"E., 128.95 feet; thence N.01°41'13"E., 56.63 feet to the Point of Termination. Containing 37,357 square feet or 0.9 acres more or less.

60' X 50' LEASE SITE LEGAL DESCRIPTION:

A parcel of land in Lot 2, Tract 42, PALM BEACH FARMS CO. PLAT NO. 13, AMENDMENT TO SHEET NO. 4 OF PLAT NO. 3, according to the plat thereof as recorded in Plat Book 6, Page 98-99, of the Public Records of Palm Beach County, Florida, being in Township **44** 1/2 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the North One-quarter corner of said Tract 42 and also being the Northwest corner of said Lot 2; thence S.05°18'28"W. along the West line of said Lot 2, Tract 42, 40.30 feet to a point on the South right-of-way line of Lantana Road West, said point also being 40.00 feet south of the North line of said Tract 42; thence S.88°21'02"E. along said South right-of-way line, 699.69 feet; thence S.04°35'41"W., 1,397.27 feet; thence S.84°47'03"E., 285.00 feet; thence S.88°18'47"E., 128.95 feet; thence N.01°41'13"E., 56.63 feet to the Point of Beginning; thence N.88°18'47"W., 10.00 feet; thence N.01°41'13"E., 60.00 feet; thence S.88°18'47"E., 50.00 feet; thence S.01°41'13"W., 60.00 feet; thence N.88°18'47"W., 40.00 feet to the Point of Beginning. Containing 3,000 square feet or 0.07 acres more or less.

EXHIBIT B
VICINITY SKETCH

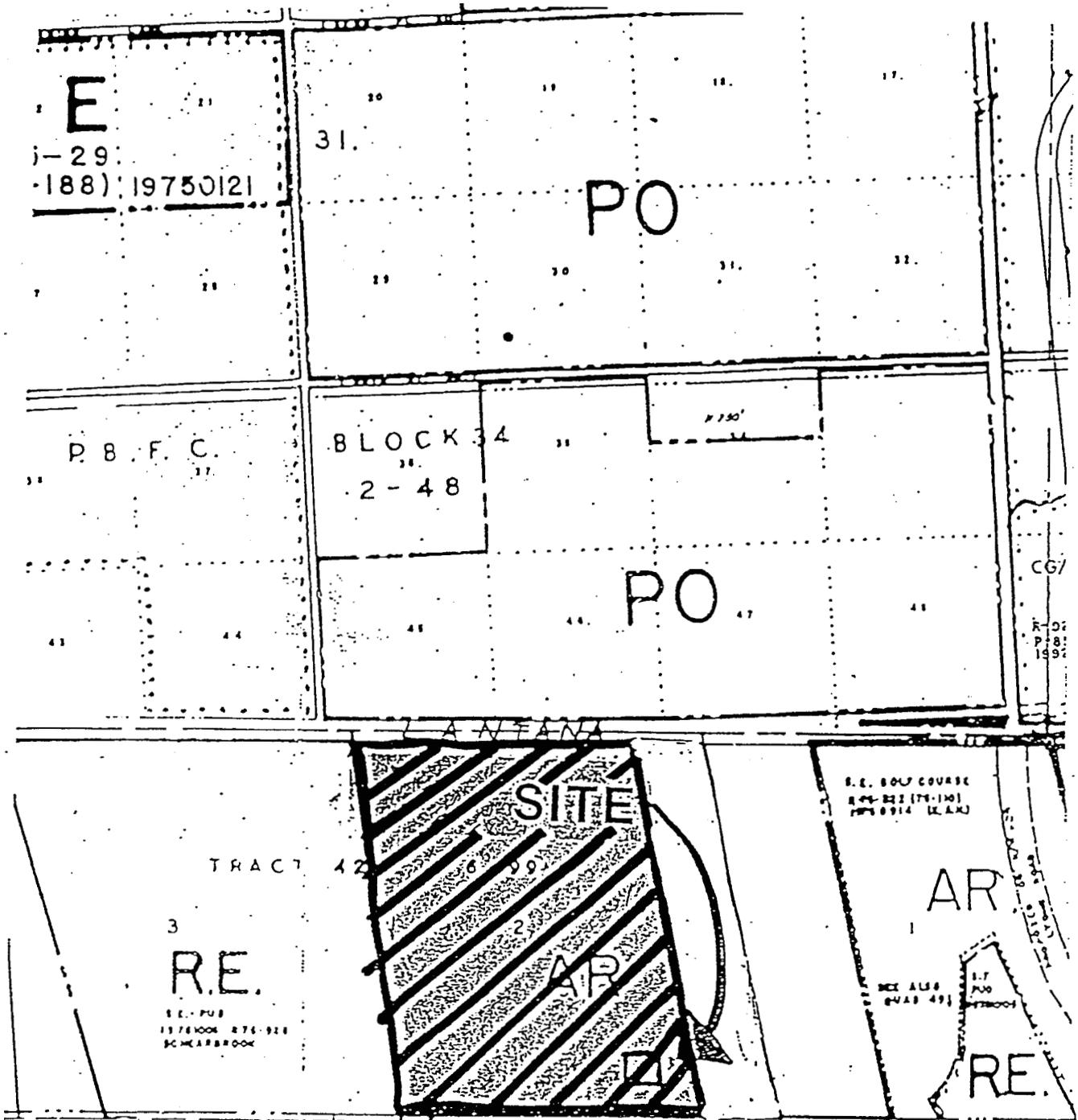


EXHIBIT C

CONDITIONS OF APPROVAL

A. SIGNS

1. No point of purchase or freestanding signs shall be permitted on the lease parcel or parent tract identifying the commercial communication tower or users. (CO: BLDG)

B. 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 and/or advisory circulars of the Palm Beach County Airport Zoning Regulations. This documentation shall be subject to approval by the Palm Beach County Department of Airports. (DRC: AIRPORTS)

C. RADIO TOWERS

1. Palm Beach County or the State of Florida shall have the right to co-locate communication equipment on the tower subject to an acceptable lease agreement provided that the placement of the equipment does not interfere with the petitioner's equipment or operations. (ONGOING: PREM)
2. Prior to site plan certification, the petitioner shall provide documentation that the tower does not encroach into any public or private airport runway protection zone as established by the Federal Aviation Administration. This documentation shall be approved by the Palm Beach County Department of Airports. (DRC: AIRPORTS)
3. The communication tower shall be limited to a maximum height of 150 feet. (DRC: ZONING - Bldg)

D. LANDSCAPE

1. The petitioner shall record a 40 foot wide landscape buffer easement adjacent to the south, east and west property lines of the .07 acre lease parcel. The buffer easement shall remain undeveloped and unencumbered from any encroachments, excluding an access easement to the site only. (DRC: LANDSCAPE - Zoning)

E. ENGINEERING

1. 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, Zoning Petition Number 95-118, to be paid at the time of issuance of the Building Permit presently is \$110.00 (2 trips X \$55.00 per trip). (BLDG PERMIT: IMPACT FEE COORDINATOR)

F. COMPLIANCE

1. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC 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; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity,

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.
(MONITORING)