

RESOLUTION APPROVING **ZONING** PETITION CA82-23(A)
CLASS A CONDITIONAL USE
PETITION OF BELL SOUTH MOBILITY INC.
BY KIERAN KILDAY, AGENT
(BELL SOUTH SITE "A")

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 CA82-23(A) was presented to the Board of County Commissioners at a public hearing conducted on January 6, 1997; 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 CA82-23(A), the petition of Bellsouth Mobility Inc., by Kieran Kilday, agent, for a Class A Conditional Use (CA) for a commercial communication tower (180 feet) in the General Commercial (CG) 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 January 6, 1997, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 6, 1997.

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

Petition CA82-23(A)
Project No.

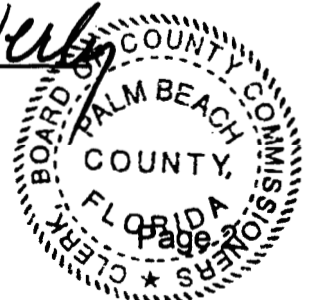


EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

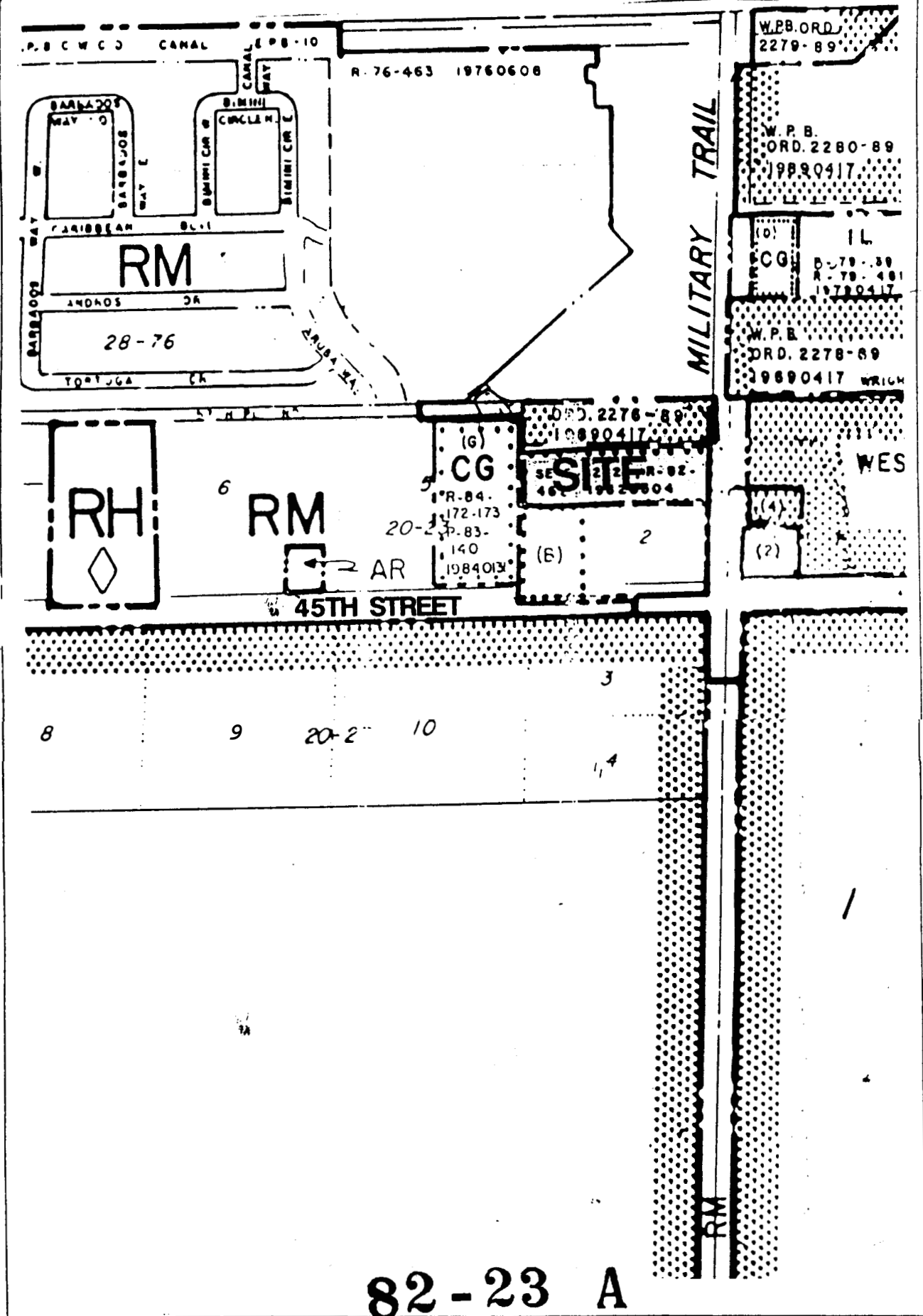
THE SOUTH **165** FEET OF TRACT NO. 1, ADAMS SUBDIVISION OF THE SOUTH **1320** FEET ~~OF~~ GOVERNMENT LOTS 1 AND 2, IN SECTION 1, TOWNSHIP **42** SOUTH, RANGE **42** EAST, LYING WEST OF THE MILITARY TRAIL, ACCORDING TO **THE** PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK ~~OF~~ THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, AND RECORDED ~~IN~~ PLAT BOOK 20, AT **PAGE 23**.

SUBJECT TO RESTRICTIONS, RESERVATIONS AND EASEMENTS OF RECORD.

CONTAINING 2.27 ACRES MORE OR LESS.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



Petition Number: _____
 Zoning Quad Page _____
 Date: SEP 18 1996



EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: ~~All~~ previous conditions of approval are *shown* in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-82469 (Petition 82-23), have been consolidated **as** contained herein. The petitioner shall comply with all previous conditions of approval and deadlines **previously** established by **Section 5.8** of the **ULDC** and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)
2. Development of the site is limited to the uses and site design as approved **by** the Board of County Commissioners. the approved site plan is dated October 25, 1996. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions **of** approval or are in accordance with the ULDC. (ONGOING: ZONING)

B. BUILDING AND SITE DESIGN

1. **Petitioner shall provide an 8 ft. chain link fence around the tower.** (Previously Condition C of Resolution R-82469, Petition 82-23)

C. 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)

D. LANDSCAPE

1. The petitioner shall provide a minimum ten (10) foot wide **Alternative 3** landscape buffer around the tower and accessory structures, except as permitted in Section 6.4.D.22.h. (Communication Tower/Landscape and Buffering) **of** the ULDC. (DRC: LANDSCAPE - Zoning)
2. Canopy trees shall be planted twenty (20) feet on center around the tower and accessory structures in the landscape buffer. (CO: LANDSCAPE - Zoning)
3. The petitioner shall provide a ten (10) foot wide right-of-way landscape buffer with trees to be planted twenty feet on center. (CO: LANDSCAPE - Zoning)

E. ENGINEERING

1. The petitioner shall:

- a. **Convey to Palm Beach County within ninety (90) days of Special Exception approval 60 ft. from centerline for the ultimate right-of-way for Military Trail.** (Previously Condition A.1 of Resolution R-82-469, Petition 82-23)
- b. **Reserve for future right-of-way for Military Trail is required in the Thoroughfare Right-of-way Protection Map. 16 ft. in addition to the 60 ft. from centerline to be conveyed pursuant to paragraph 1 above.** (Previously Condition A.2 of Resolution R-82-469, Petition 82-23)
- c. **Submit calculations substantiating the position of the one hundred and ten percent (110%) fall area before.** (Previously Condition A3 of Resolution R-82-469, Petition 82-23)

2. **Petitioner shall install landscape buffer between tower and Military Trail.**(Previously Condition B. of Resolution R-82-469, Petition 82-23)

3. LANDSCAPE WITHIN MEDIAN

- A. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards and shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng)
- B. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assigns or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy. (CO: MONITORING - Eng)

- C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (CO: MONITORING - Eng)

F. 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 - Zoning)

G. TOWER

1. Palm Beach County and the State of Florida shall have the right to 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 by the DRC, the petitioner shall comply with the shared use provisions of the ULDC, Section 6.4.D.22.k. (shared use), as may be amended. Additional square footage on the site of the tower approval, to accommodate additional unmanned users only, may be permitted administratively subject to approval by the DRC. (DRC: ZONING)
3. 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)
4. The communication tower shall be limited to a maximum 180 foot high self support or monopole structure, measured from finished grade to highest point. (DRC: ZONING - Bldg)

H. 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)