

RESOLUTION NO. R-98- 306

RESOLUTION APPROVING ZONING PETITION EAC94-46(B)
DEVELOPMENT ORDER AMENDMENT
PETITION OF BELL SOUTH MOBILITY
BY KILDAY & ASSOCIATES, AGENT
(CALLERY JUDGE TOWER)

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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; 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 EAC94-46(B) was presented to the Board of County Commissioners at a public hearing conducted on February 26, 1398; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; 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 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 Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, 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 Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, 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 Development Order Amendment, 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 EAC94-46(B), the petition of BellSouth Mobility, by Kilday & Associates, agent, for a Development Order Amendment/Expedited Application Consideration (EAC) to Delete Condition D.5 (storage tanks) of R-96-1949 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on February 26, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on February 26, 1998.

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

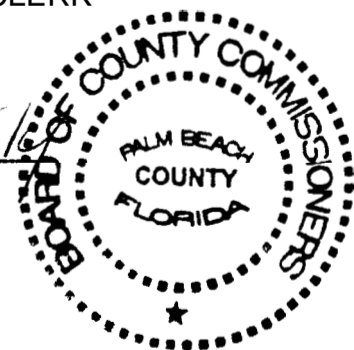


EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION OF LEASE PARCEL

A portion of Section 12, Township 43 South, Range 40 East, in Palm Beach County, Florida, being more particularly described as follows:

COMMENCE at the Southwest Corner of said Section 12 as shown on Sheet 6 of 7 of the Right of Way Map of SEMINOLE PRATT WHITNEY ROAD as recorded in Road Book 4, Page 39 of the Public Records of Palm Beach County, Florida, said Corner having State Plane Coordinate values of N874321.6509 and E 724095.7462; thence S89°12'54"E., along the South Line of said Section 12 as shown on said Right of Way Map, for 1691.95 feet to the East Right of Way line of SEMINOLE-PRATT WHITNEY Road; thence N01°42'54"E., along said Right of Way Line for 794.71 feet; thence S88°34'47"E. for 386.74 feet to a point of curvature on a circular curve to the left, concave Northerly; thence Easterly and Northeasterly along the arc of a curve, having a radius of 100.00 feet, a central angle of 40°53'35" for an arc distance of 71.37 feet to a point of tangency; thence N50°31'38"E for 135.43 feet to a point of curvature on a circular curve to the left, concave Northeasterly; thence Northeasterly and Northerly along the arc of a curve, having a radius of 100.00 feet, a central angle of 49°14'17" for an arc distance of 85.94 feet to a point of tangency; thence N01°17'21"E for 69.61 feet to the POINT OF BEGINNING of the hereinafter described parcel. thence N88°42'39"W for 45.00 feet; thence N01°17'21"E for 130.00 feet; thence S88°42'39"E for 65.00 feet; thence S01°17'21"W for 130.00 feet; thence N88°42'39"W for 20.00 feet to the POINT OF BEGINNING.

All of the above land being and lying in Palm Beach County, Florida and containing 0.194 acres, more or less. State Plane Coordinates and Bearings are based on NAD 27 and refer to Section Data as published by the Survey Section of Palm Beach County, Florida.

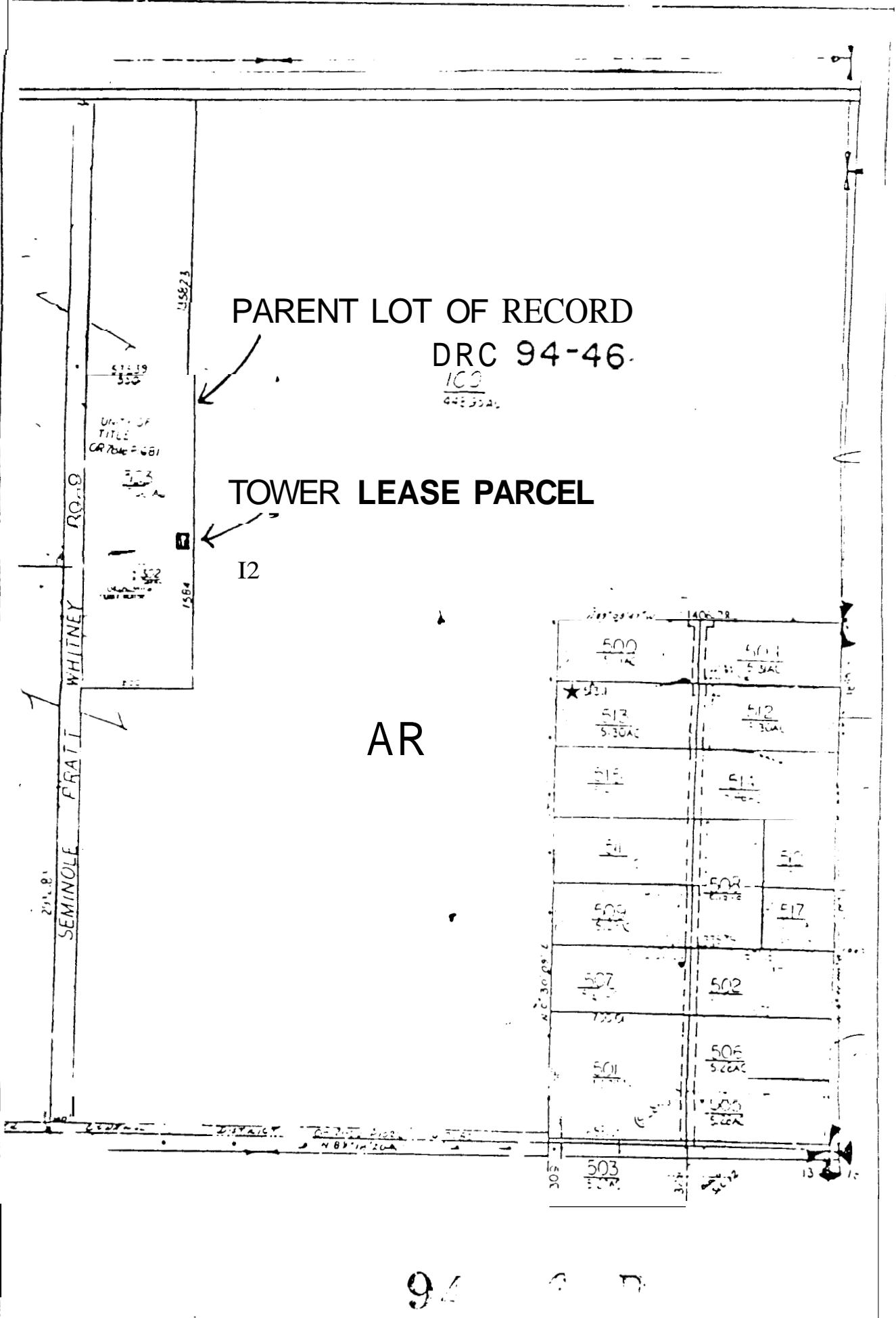
LEGAL DESCRIPTION OF ACCESS AND UTILITY EASEMENT

A portion of Section 12, Township 43 South, Range 40 East, in Palm Beach County, Florida, being more particularly described as follows:

COMMENCE at the Southwest Corner of said Section 12 as shown on Sheet 6 of 7 of the Right of Way Map of SEMINOLE PRATT WHITNEY ROAD as recorded in Road Book 4, Page 39 of the Public Records of Palm Beach County, Florida, said Corner having State Plane Coordinate values of N874321.6509 and E 724095.7462; thence S89°12'54"E., along the South Line of said Section 12 as shown on said Right of Way Map, for 1691.95 feet to the East Right of Way line of SEMINOLE-PRATT WHITNEY Road; thence N01°42'54"E., along said Right of Way line for 2774.71 feet to the POINT OF BEGINNING of the hereinafter described parcel; thence continue N01°42'54"E, along said Right of Way Line for 20.00 feet; thence S88°34'47"E for 355.05 feet to a point of curvature on a circular curve to the left, concave Northerly; thence Easterly and Northeasterly along the arc of a curve, having a radius of 100.00 feet, a central angle of 40°53'35" for an arc distance of 71.37 feet to a point of tangency; thence N50°31'38"E for 135.43 feet to a point of curvature of a circular curve to the left, concave Westerly; thence Northeasterly and Northerly along the arc of a curve, having a radius of 100.00 feet, a central angle of 49°14'17" for an arc distance of 85.94 feet to a point of tangency; thence N01°17'21"E for 69.61 feet; thence S88°42'39"E for 20.00 feet; thence S01°17'21"W for 69.61 feet to a point of curvature on a circular curve to the right, concave Westerly; thence Southerly and Southwesterly along the arc of a curve, having a radius of 120.00 feet, a central angle of 49°14'17" for an arc distance of 103.12 feet to a point of tangency; thence S50°31'38"W for 135.43 feet to a point of curvature on a circular curve to the right, concave Northerly; thence Southwesterly and Westerly along the arc of a curve, having a radius of 120.00 feet, a central angle of 40°53'35" for an arc distance of 85.65 feet to a point of tangency; thence N88°34'47"W for 355.15 feet to the POINT OF BEGINNING.

All of the above land being and lying in Palm Beach County, Florida and containing 0.340 acres, more or less. State Plane Coordinates and Bearings are based on NAD 27 and refer to Section Data as published by the Survey Section of Palm Beach County, Florida.

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



94



	Petition Number <u>CA94-46(A)</u>	 NORTH
	Zoning Quad Page <u>90</u>	
	Date: <u>1/15/97</u>	

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 DRC 94-46, and Resolutions R-96-1949 (Petition 94-46-A), 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 December 17, 1997. **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. 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. (Previously Condition A.1 of Resolution R-96-1949, Petition CA94-46(A) (DRC: AIRPORTS))

C. LANDSCAPE

1. The petitioner shall provide a minimum ten **(10)** foot wide Alternative **3** landscape buffer around the tower lease parcel except as permitted in Section 6.4.D.22.h. (Communication Tower/Landscape and Buffering) of the ULDC. (Previously Condition B.1 of Resolution R-96-1949, Petition CA94-46(A)(DRC: LANDSCAPE - Zoning))
2. Canopy trees shall be planted twenty **(20)** feet on center around the tower lease parcel in the landscape buffer. (Previously Condition **B.2** of Resolution R-96-1949, Petition CA94-46(A)(CO: LANDSCAPE - Zoning))

D. 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. (Previously Condition C.1 of Resolution R-96-1949, Petition CA94-46(A)(CO: BLDG - Zoning))

E. ENGINEERING

No conditions.

F. TOWER

1. Palm Beach County and the State of Florida shall have the right to co-locate communication equipment on the subject tower provided the placement of County or State equipment does not interfere with the petitioner's equipment or operations. (Previously Condition D.1 of Resolution R-96-1949, Petition CA94-46(A)(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. (Previously Condition D.2 of Resolution R-96-1949, Petition CA94-46(A)(DRC: ZONING)
3. The minimum setback for the tower shall be one hundred (**100**) feet from all property lines. (Previously Condition D.3 of Resolution R-96-1949, Petition CA94-46(A)(DRC: ZONING)
4. The communication tower shall be limited to a self-support structure, maximum height of **200** feet measured from finished grade to highest point. (Previously Condition D.4 of Resolution R-96-1949, Petition CA94-46(A)(DRC: ZONING - Bldg)
5. Condition D.5 of Resolution R-96-1949, Petition CA94-46(A) which currently states:

The liquid propane tank shall be double walled and installed underground in accordance with Palm Beach County Fire Rescue and Environmental Resource Management requirements.

Is hereby deleted. [REASON: Petitioner's request]
6. The existing **160** foot guyed tower on site shall be removed on or before (December 2, **1998**). (Previously Condition D.6 of Resolution R-96-1949, Petition CA94-46(A) (DATE: MONITORING/ Building Permit - Zoning)
7. Additional access to the communication tower shall be prohibited from Pratt Whitney Road. (Previously Condition D.7 of Resolution R-96-1949, Petition CA94-46(A) (DRC: ZONING)

G. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Condition F.1 of Resolution R-96-1949, Petition 94-46(A) which currently states:

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.

Is hereby amended to read:

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; revocation of any concurrency; 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 noncompliance, 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.

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

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)