

RESOLUTION NO. R-89-1250

RESOLUTION APPROVING ZONING PETITION NO. 88-136
SPECIAL EXCEPTION PETITION OF HUGO NICHOLLS

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 Ordinance No. 73-2 have been satisfied; and

WHEREAS, Petition No. 88-136 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on March 9, 1989; and

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 88-136 the petition of HUGO NICHOLLS, by Robert E. Basehart, Agent, for a SPECIAL EXCEPTION TO PERMIT COMMERCIAL AM/FM RADIO, TELEVISION, MICROWAVE TRANSMISSION AND RELAY STATIONS AND TOWERS AND ACCESSORY EQUIPMENT BUILDINGS (3 RADIO TOWERS) on a parcel of land lying in Section 16, Township 42 South, Range 41 East, being more particularly described as follows: The South 650.00 feet of the West 550.00 feet of the Southeast 1/4 of said Section 16, Together with: An easement for ingress and egress 20.00 feet in width and described as follows: The West 20.00 feet of the Southeast 1/4 of said Section 16, lying North of the North Right-of-Way line of Lake Park Road, less therefrom the North 650.00 feet, being located approximately .3 mile north of Lake Park West Road and approximately 2.5 miles east of Seminole-Pratt Whitney Road, in an AR-Agricultural Residential Zoning District, was approved as advertised, subject to the following conditions:

1. Prior to certification, the site plan shall be amended to indicate:

- a. Required 300 foot frontage dimension or obtain variance relief: and,
 - b. Location of all preserved vegetation and wetland areas.
2. Use of the site shall be limited to the construction of three (3) 189 foot high commercial radio towers and an accessory 200 square foot equipment building.
 3. The developer shall preserve existing native vegetation on site to the greatest extent possible and shall incorporate the vegetation into the project design.

Clearing shall be limited to the developable area, access road and tower pads. Areas of existing vegetation to be preserved shall be shown upon the approved development plan prior to Site Plan Review Committee certification. These preservation areas shall receive appropriate protection from damage and disturbance in accordance with Section 500.36 of the Zoning Code during the site development and construction phase.

4. Concurrent with Site Plan Review Committee submittal, the petitioner shall submit a revised detailed vegetation survey and analysis of the entire site. The content and degree of analysis shall be subject to approval by the Zoning Division.
5. Prior to site plan certification, the petitioner shall redesign the site to accommodate the existence of any on-site wetland areas to the greatest extent possible. Viable wetland areas shall be preserved and incorporated into the project's surface water management system. If it is determined that viable wetland areas do exist, the boundaries shall be incorporated into the project's vegetation removal permit.

In the event that it is determined that the redesign of the site cannot be accomplished to adequately accommodate the three towers out of the wetland area, the petitioner shall reduce the number of towers accordingly.

6. Prior to site plan certification, the petitioner shall document that the towers do not encroach into or through proposed and existing public or private airport approach plans as established by the Federal Aviation Administration and local government agencies.
7. 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 onsite 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.

8. The Developer 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 presently is \$54.00 (2 trips X \$26.79 per trip).
9. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Title on the subject property subject to approval by the County Attorney.
10. Prior to site plan certification, the petitioner shall contact Florida Department of Environmental Regulation and Army Corps of Engineers for jurisdiction determination. Copies of this determination shall be submitted to the Zoning Division.
11. Failure to comply with any conditions of approval may result in 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. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code.

Commissioner Howard moved for approval of the petition. The motion was seconded by Commissioner Phillips and upon being put to a vote, the vote was as follows:

Carol J. Elmquist, Chair	--	Absent
Ron Howard	--	Aye
Karen T. Marcus	--	Aye
Carole Phillips	--	Aye
Carol Roberts	--	Absent

The foregoing resolution was declared duly passed and adopted this 27th day of June, 1989 confirming action of March 9, 1989.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY :

Richard A. Stein
COUNTY ATTORNEY

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

JOHN B. DUNKLE, CLERK

BY :

June J. Hardy
DEPUTY CLERK

