

RESOLUTION NO. R-90- 820

RESOLUTION APPROVING ZONING PETITION NO. 89-87  
SPECIAL EXCEPTION PETITION OF LUCINDA AND JOHN W. NIEBEL

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. 89-87 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on November 30, 1989; 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 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, 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. 89-87, the petition of LUCINDA AND JOHN W. NIEBEL, BY LEE STARKEY, AGENT, for a SPECIAL EXCEPTION TO PERMIT A COMMERCIAL RADIO, TELEVISION, MICROWAVE TRANSMISSION AND RELAY STATION AND TOWERS AND ACCESSORY EQUIPMENT BUILDINGS (COMMUNICATIONS TOWER FOR MOBILE PHONES) being a parcel of land in the Northeast 1/4 of Section 1, Township 46 South, Range 41 East, Palm Beach County, Florida, said parcel being delineated on the Adair & Brady, Inc. survey drawing No. FP-1298 as revised June 17, 1982, said parcel being more particularly described as follows:

Commencing at the Northeast corner of Section 1 as marked by an 8" round concrete monument with a disk marked "Precise Survey City of West Palm Beach" as set by Brockway, Weber & Brockway; thence South 00 Degrees 54' 32" East (State Plane Grid Datum) along the East line of Section 1, a distance of 1707.62 feet to an iron rod; thence South 89 Degrees 28' 34" West, 88.85 feet to the Point of Beginning being a 4" x 4" concrete monument on the West right-of-way line of State Road No.7 as recorded in Road Book 1, Page 38, thence South 89 Degrees 28' 34" West, 1328.85 feet to a 4" x 4" concrete monument; thence South 01 Degrees 04' 52" East, 330.02 feet to a 1" pipe in concrete; thence North 89 Degrees, 28', 34" East, 1329.37 feet to a 1" pipe in concrete on said West right-of-way line of S.R. 7;

thence North 01 Degrees 10' 14" West along said right-of-way line, 330.02 feet to the Point of Beginning, containing 10.07 acres, more or less. Subject to the Florida Power & Light right-of-way easements as recorded in Deed Book 1013, Page 249 and in Official Record Book 1793, Page 1279, being located on the West side of U.S. Highway 441 (SR 7), approximately 2.5 miles North of Delray West Road, in a AR-Agricultural Residential Zoning District, was approved on November 30, 1989 as advertised, subject to the following conditions:

1. Simultaneously with submittal to Site Plan Review Committee, the petitioner shall submit the required one-hundred ten percent break-point calculations (2 copies). The calculations and tower location shall be subject to approval by the Planning, Zoning and Building Department.
2. Prior to Site Plan Certification, the site plan shall be amended to indicate:
  - a. Tabular data required by section 401.2 of the Zoning Code;
  - b. Required fencing around the tower and signage pursuant to Section 500.10 of the Zoning Code; and,
  - c. The required two-way access dimension at the street.
3. Prior to Site Plan Certification, the petitioner shall provide documentation that the tower does not encroach into any public or private airport approach pattern as established by the Federal Aviation Administration.
4. All native vegetation shall be preserved except for the minimum removal necessary to construct the twelve (12) foot asphalt drive.
5. Prior to site plan certification, the petitioner shall submit documentation that substantiates the location of the Levee-Midway 500 KV transmission corridor as being off site. Should this corridor be found to traverse the site, the petitioner shall submit documentation from Florida Power and Light that the tower has been relocated to their satisfaction.
6. Prior to Site Plan Certification, the site plan shall be revised to satisfy Palm Beach County Land Development Regulations.
7. Prior to Site Plan Certification, the petitioner shall demonstrate the use is conforming or discontinue operation.
8. 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.

9. Prior to February 1, 1990 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for State Road 7, 240 feet west of the existing East right-of-way line of State Road 7 free of all encumbrances and encroachments. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer.
10. The Property owner shall convey to Palm Beach County prior to February 1, 1990 adequate road drainage easements through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of State Road 7 along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along State Road 7. Said easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District the ultimate Thoroughfare Plan Road Section(s) of the included segment.
11. Off premise signs shall not be permitted on site.
12. 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 Marcus 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:

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

The Chair thereupon declared the resolution was duly passed and adopted this 22nd day of May, 1990.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: *Richard A. Allen*  
COUNTY ATTORNEY

BY: *John B. Dunkle*  
DEPUTY CLERK