

RESOLUTION NO. R-91-375

RESOLUTION APPROVING ZONING PETITION NO. 81-20(A)
SPECIAL EXCEPTION PETITION OF FLORIDA CELLULAR TELEPHONE COMPANY

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. 81-20(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on November 29, 1990; 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 the 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, Chapter 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. 81-20(A), the petition of FLORIDA CELLULAR TELEPHONE COMPANY, BY ROSE M. KENNEY, AGENT, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A PREVIOUSLY APPROVED ELECTRONICS EQUIPMENT BUILDING AND EXISTING COMMERCIAL MICROWAVE TRANSMISSION RELAY STATION AND TO INCLUDE AN ACCESSORY EQUIPMENT BUILDING AND TO INCREASE THE BUILDING SQUARE FOOTAGE on a tract of land 400 feet square in the Northeast 1/4 of the Northeast 1/4 of the Northeast 1/4 of Section 35, Township 45 South, Range 42 East, beginning at the point of intersection of the West right-of-way line of Military Trail (State Route 809) and the North line of said Section 35; thence, West on the North boundary line of said Section 35, a distance of 400.00 feet to a point; thence South parallel to the West boundary of said Military Trail 400.00 feet to a point; thence East parallel to the North boundary line of said Section 35, a distance of 400.00 feet to a point on the West boundary line of said Military Trail; thence North on said West boundary line of said Military Trail, a distance of 400.00 feet to the Point of Beginning, Less the following described property: Beginning at a point on the North line of said Section 35, said point being 33.00 feet West of the Northeast corner of said Section 35, run thence along the following numbered

courses: (1) South 0°15'41" East, along a line parallel with and 33.0 feet West of (as measured at right angles to) the East line of said Section 35, a distance of 310.00 feet; thence, (2) South 89°17'49" West 27.0 feet to a point on a line parallel with and 60.0 feet West of (as measured at right angles to) the East line of said Section 35; thence, (3) North 0°15'41" West 310.0 feet to the North line of said Section 35; thence, (4) East along the North line of said Section 35, 27.0 feet to the POINT OF BEGINNING, and being located on the S.W. CORNER MILITARY TR. AND 110TH ST. S., IN THE AR ZONING DISTRICT., was approved on November 29, 1990, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The petitioner shall comply with all previous conditions of approval, unless expressly modified herein.
2. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.
3. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section 402.7 (E)2 (b) (Site Plan Review Committee Powers and Standards of Review).
4. Prior to site plan certification, the site plan shall be amended to reflect the following:
 - a. Elimination of two (2) parking stalls, and
 - b. Provision for a fifteen (15) foot landscape strip along Military Trail.
5. Palm Beach County shall have the right to co-locate County communication equipment on the subject tower provided that the placement of County equipment does not interfere with the petitioner's equipment or operations.

B. DUMPSTER

1. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind an enclosure having an architectural treatment compatible with the principal building. The open end of the enclosure shall have an obscure, opaque gate.

C. ENGINEERING

- E1. 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.

- E2. If required by the County Engineer, prior to June 1, 1991 or prior to the issuance of the first Building Permit, the Property owner shall convey to Palm Beach County adequate road drainage tract through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of Military Trail along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along Military Trail. 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. If required by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures. Elevations of all construction shall be approved by the County Engineer.
- E3. 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 at the time of the Building Permit presently is \$5,720.00 (104 trips X \$55.00 per trip).
- E4. Prior to June 1, 1991, the property owner shall convey to the Lake Worth Drainage District the North 45 feet of the subject property the required right-of-way for Lateral Canal No. 26.

D. HEALTH

1. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents.
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
4. No portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10-D-6 Florida Administrative Code.

E. LANDSCAPE

1. The petitioner shall install along the entire east property line adjacent to Military Trail, in the required fifteen (15) foot landscape strip, a continuous opaque hedge thirty six (36) inches high and twelve (12) foot tall native canopy trees spaced no more than twenty (20) feet on center.
2. The petitioner shall install a thirty-six (36) inch high continuous opaque hedge and ten (10) foot tall native canopy trees, spaced no more than twenty (20) feet on center, on the exterior side of a six (6) foot high opaque wooden fence on the north, south and west perimeters of the tower, equipment building and vehicle circulation area.

F. LIGHTING

1. outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent properties and streets.

G. RECYCLE SOLID WASTE

1. The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products, as programs are available.

H. SIGN

1. Signs fronting on Military Trail shall be limited as follows:
 - a. Maximum sign height - fifteen (15) feet.
 - b. Maximum total sign face area - 200 square feet..
 - c. Maximum number of signs - one (1).
2. No off-premise signs shall be permitted on site.
3. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supersede the sign-related conditions of approval.

I. VEGETATION PROTECTION

1. All prohibited species, including Australian pine, melaleuca, Brazilian pepper and acacia (Earleaf), shall be removed from the entire site.
2. The applicant shall submit prior to site plan certification:
 - a. An eradication program that specifies the planting program for any required landscaping and the time frames and methods of removal of the prohibited species, as well as treatment of the disturbed areas to prevent the re-establishment of prohibited species.

- b. A management plan that includes the monitoring of the treated areas from re-establishment of the prohibited species.
- c. The eradication program and the management plan shall be submitted to the Zoning Division and Environmental Resources Management for review and approval prior to Site Plan Certification.
- d. The applicant shall preserve and protect the existing mature native slash pines on site. The site plan shall be modified to reflect the specific location and diameter of each tree.

J. COMPLIANCE

- 1. **As** provided in the Palm Beach County Zoning Code, Sections **400.2** and **402.6**, failure to comply with any of these conditions **of** approval at any time may result in:
 - a. 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; and/or
 - b. The revocation **of** the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
 - c. **A** requirement **of** the development to conform with updated standards of development, applicable 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.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation **of** Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Foster moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	ABSENT
Carol A. Roberts	--	ABSENT
Carol J. Elmquist	--	ABSENT
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 26th day of March, 1991.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY :


COUNTY ATTORNEY

BY:


DEPUTY CLERK

