

RESOLUTION NO. R-91-1077

RESOLUTION APPROVING ZONING PETITION NO. 91-10
SPECIAL EXCEPTION PETITION OF BRUCE A. BEDNER

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. 91-10 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on May 31, 1991; 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. 91-10, the petition of BRUCE A. BEDNER, BY LEE STARKEY, AGENT, for a SPECIAL EXCEPTION TO ALLOW A COMMUNICATION TOWER AND ACCESSORY EQUIPMENT BUILDING on a parcel of land lying in Tract 47, Block 18, the Palm Beach Farms Co. Plat No. 1, recorded in Plat Book 2, Pages 26 through 28, as in Section 18, Township 46 South, Range 42 East, (Bell South-Mobility Site) a portion of Tract 47, Block 18, the Palm Beach Farms Co. Plat No. 1, recorded in Plat Book 2, Pages 26 through 28, being more particularly described as follows: COMMENCING at the northeast corner of said Tract 47, thence run South 89°30'55" West, 22.00 feet along the north line of said Tract 47 to a point; thence run South 00°54'04" East, 90.00 feet to a point, thence run South 25°30'32" West, 235.24 feet to the POINT OF BEGINNING; thence run North 48°02'58" West, 35.00 feet to a point; thence run South 41°57'01" West, 70.00 feet to a point; thence run South 48°02'58" East, 70.00 feet to a point; thence run North 41°57'02" East, 70.00 feet to a point; thence run North 48°02'58" West, 35.00 feet to the POINT OF BEGINNING, and being located on the S. SIDE OF 142 PL. S. (HAPPY HOLLOW RD.), APPROXIMATELY .1 MILE E. OF U.S. 441, IN THE AR ZONING DISTRICT, was approved on May 31, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.
2. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit 22). 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).

B. HEALTH

1. Use of the communications tower site shall be limited to an unmanned facility with no plumbing, potable water supply or sewage treatment and disposal.

C. LANDSCAPING AND BUFFERING

1. The petitioner shall landscape the perimeter of the radio tower lease parcel. All landscaping shall be placed on the exterior of a required fence (Condition G.3.) and shall include:
 - a. Twelve (12) foot tall native canopy trees, placed twenty (20) feet on center.
 - b. One twelve (12) foot tall native palm tree for each twenty (20) linear feet of frontage.
 - c. A forty-eight (48) inch tall native hedge.

D. SITE SPECIFIC

1. The site plan shall be amended prior to Site Plan certification to include:
 - a. A minimum twenty-five (25) foot ingress/egress easement.
 - b. Required landscaping.
2. 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.

E. ENGINEERING

1. 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 on-site 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.

2. Prior to December 1, 1991 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to the public by road right-of-way warranty deed for Happy Hollow Road, 30 feet from centerline 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.
3. 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 \$220.00 (4 trips X \$55.00 per trip).

F. VEGETATION PRESERVATION AND PROTECTION

1. The petitioner shall preserve/relocate existing native vegetation on site and shall incorporate it into the project design. Clearing of the vegetation shall be limited to the building pad areas, retention areas and vehicular use areas. The areas of preservation 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.
2. All oaks, cypresses, native palms and slash palms shall be preserved or relocated to open space areas.
3. Prior to issuance of a Vegetation Removal Permit for this site, the following shall be completed:
 - a. All trees to be relocated, preserved, or removed shall be identified in the field and tagged.
 - b. Trees to be preserved shall receive appropriate protection during site development. Protection devices shall be in place and approved by the Zoning Division prior to commencing any clearing activity; and,
 - c. No vegetation removal or development activity such as trenching, grade changes or grubbing that may cause injury to the vegetation shall be permitted in required buffer areas or preservation areas.

Prior to removal of any vegetation, the petitioner shall schedule a pre-clearing inspection with the Zoning Division.

G. COMMUNICATIONS TOWER

1. Simultaneously with submittal of the site plan to the 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 & Building Department.
2. 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. This documentation shall be approved by the Palm Beach County Department of Airports.
3. The lease parcel shall be surrounded by a wooden opaque fence a minimum of eight (8) feet high from the finished grade.
4. If high voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every twenty (20) feet and attached to the fence shall display in large bold letters the following: "High Voltage Danger".
5. No equipment, mobile or immobile, not used in direct support of the transmission relay facility shall be stored or parked on the site unless repairs to the facility are being made.

H. 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 non-compliance, 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 Roberts moved for approval of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted this 20th day of August, 1991.

APPROVED AS TO **FORM**
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

JOHN B. DUNKLE, CLERK

BY:


DEPUTY CLERK