

RESOLUTION NO. R-92-57

RESOLUTION APPROVING ZONING PETITION NO. 83-66(A)
SPECIAL EXCEPTION PETITION OF FLORIDA CELLULAR TELEPHONE CO.

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. 83-66(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on September 26, 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. 83-66(A), the petition of FLORIDA CELLULAR TELEPHONE CO., BY ROSE KENNEY AND FRED FAULKNER, 111, AGENTS, for a SPECIAL EXCEPTION TO ALLOW A COMMERCIAL AM/FM RADIO, TELEVISION, MICROWAVE, TRANSMISSION, AND RELAY TOWER AND ACCESSORY EQUIPMENT AND BUILDINGS on a parcel of land lying in Section 18, Township 46 south, Range 42 East; a portion of Tract 117, PALM BEACH FARMS COMPANY PLAT NO. 1, Plat Book 2, Page 27, described as follows: COMMENCING at the Northeast corner of said Tract 117; thence South 00°49'10" East (assumed) along the east line of said Tract 117, a distance of 363.90 feet to the POINT OF BEGINNING; thence South 00°49'10" East along the east line of said Tract 117, a distance of 341.16 feet; thence South 89°55'00" West parallel with and being 30.00 feet north of as measured at right angles to the south line of said Tract 117, a distance of 162.80 feet to a point on the east line of that parcel described in Official Record Book 1139, Page 165, and the west line of that parcel described in Official Record Book 6315, Page 1015; thence North 00°50'26" West along the line common to those parcels aforementioned, a distance of 341.28 feet to a

point on the south line of that parcel described in Official Record Book 1205, Page 191; thence North 89°57'28" East along said South line, a distance of 162.94 feet to the POINT OF BEGINNING, and being located ON THE N SIDE OF ATLANTIC AVE., APPROX. .3 MILE E OF U.S. 441, IN THE IL ZONING DISTRICT, was approved on September 26, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The petitioner shall comply with all previous conditions of approval, including original deadlines for Zoning Code Section 402.9 compliance, unless expressly modified herein.
2. Prior to site plan certification, the leased tower site shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County. The site plan shall be amended to indicate compliance with all conditions of approval.
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 (Exhibit No. 34). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Zoning Code Section 402.7(E) 2(b) (Site Plan Review Committee Powers and Standards of Review) or the conditions of approval.
4. The petitioner shall submit the site plan approved by the Board of County Commissioners for this site to the Site Plan Review Committee prior to January 7, 1992.

B. BUILDING AND SITE DESIGN

1. Prior to site plan certification, the petitioner shall revise the site plan to indicate the total square footage of all existing and proposed structures.
2. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material.
3. At such time the petitioner is required to vacate the ultimate right-of-way for West Atlantic Avenue, pursuant to Conditions E.2. (Engineering), the petitioner shall submit an amended site plan within 60 days to the Site Plan Review Committee for certification.

C. COMMUNICATIONS TOWER

1. Palm Beach County (i.e. Sheriff's Department/Fire Department/Emergency Medical Services and/or other appropriate county affiliated departments or agencies) shall have the right to co-locate communication equipment on the subject tower at no cost to Palm Beach County provided that the placement of such equipment does not interfere with the petitioner's equipment or operations.
2. Prior to site plan certification, the site plan shall be amended to reorient the position of the tower to the recommended location stipulated in the breakpoint study.

3. 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"**.
4. 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.
5. If possible, the petitioner shall accommodate the equipment of other commercial communication ventures on the subject tower, provided that the placement of their equipment does not interfere with the petitioner's equipment or operations.

D. DUMPSTER

1. All areas or receptacles for the storage and **disposal** of trash, garbage or vegetation, such as dumpsters and trash compactors, shall:
 - a. be designated on the site plan, prior to site plan certification, and
 - b. be concealed behind an opaque fenced enclosure. The open end of the enclosure shall have an **opaque** gate.

E. ENGINEERING

1. The Developer shall provide discharge control and treatment for the stormwater runoff for the proposed tower lease area and access drive only 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 15, 1991 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Roadway Production Division by road right-of-way warranty deed for West Atlantic Avenue, 80 feet from centerline for West Atlantic Avenue. 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 encumbrance; and encroachments. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. The

County shall permit the use of this property for landscaping and parking at the property owners's sole risk and liability. The County will provide the property owner with sixty (60) days notice to vacate this use when the property is required for road widening. At such time, a revised site plan shall be submitted to the Site Plan Review Committee which meets minimum landscaping and parking requirements for the site to the maximum extent possible.

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. HEALTH

1. The application and engineering plans to construct on site potable water supply and/or on-site sewage disposal system must be submitted to the Health Unit prior to site plan approval.
2. The applicant shall secure a septic tank operating psrmit prior to site plan approval.

G. IRRIGATION OUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

H. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements for tree count and perimeter landscaping and all landscape/vegetation preservation conditions of approval.
2. Perimeter landscaping and buffering shall be installed prior to the issuance of the Certificate of Occupancy for the 320 square foot equipment building.

I. LANDSCAPING - INTERIOR

1. One landscape island shall be provided for every twelve (12) parking spaces. Each landscape island shall be planted with one native canopy tree or two (2) native palm trees and appropriate ground cover.
2. All trees within the interior parking area shall be a minimum of twelve (12) feet in height.
3. Prior to site plan certification, the site plan shall be amended to provide one tree for every 2,500 square feet of the entire project. Credit shall be given for existing native trees preserved or relocated on site meeting the intent of this condition.

J. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING WEST ATLANTIC AVENUE)

1. Landscaping within the required fifteen (15) foot buffer along the south property line shall be upgraded to include the following:
 - a. One twelve (12) foot tall native canopy tree planted every thirty (30) feet on center; and
 - b. Twenty-four (24) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches.

K. LANDSCAPING ALONG THE NORTH, EAST AND WEST PROPERTY LINES

1. Landscaping within the required five (5) foot buffer along the east and west property lines shall be upgraded to include the following:
 - a. One twelve (12) foot tall native canopy tree planted every thirty (30) feet on center.
 - b. Twenty-four (24) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches.
2. Landscaping within a required ten (10) foot buffer along the north property line shall be upgraded to include the following:
 - a. A six (6) foot high fence, except as noted in L.1.
 - b. One twelve (12) foot tall native canopy tree planted every thirty (30) feet on center on the exterior side of the required fence.

L. LANDSCAPING AROUND THE TOWER SITE

1. The petitioner shall provide an eight (8) foot high fence around the leased parcel.
2. Landscaping on the exterior sides of the south and west portions of the fence shall be upgraded to include the following:
 - a. One twelve (12) foot tall native canopy tree planted every fifteen (15) feet on center; and
 - b. Twenty-four (24) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches.

M. LIGHTING

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

2. Lighting fixtures shall not exceed twenty (20) feet in height.
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement.

N. PARKING

1. Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles shall be permitted in landscaped areas, right-of-way or interior drives.
2. When the tower facility is not open, the parking area shall be locked and gated.
3. Prior to site plan certification, the petitioner shall amend the site plan to indicate the number and configuration of parking spaces for the existing building located in the south portion of the site.

O. RECYCLE SOLID WASTE

1. The petitioner shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products.
2. Prior to site plan certification, an area for the placement of receptacles for recycled material shall be designated on the site plan, located in the parking areas or adjacent to the dumpster locations.

P. RECYCLE OIL

1. The owner, occupant or tenant of the facility shall participate in a oil recycling program which insures proper re-use or disposal of waste oil.

Q. SIGNS

1. Signs fronting on West Atlantic Avenue shall be limited as follows:
 - a. Maximum sign height - ten (10) feet.
 - b. Maximum total sign face area - 100 feet.
 - c. Maximum number of signs - one (1).
2. No signs shall encroach into the perimeter landscape buffers or vegetation preservation areas.
3. All on site signs shall comply with the Palm Beach County Sign Code and shall indicate principal uses only. No snipe signs, balloons, banners or other prohibited types of advertisement or signs shall be permitted on-site.
4. 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 all sign-related conditions of approval.

R. USE LIMITATION

- 1. No outdoor loudspeaker system audible off site shall be permitted.
- 2. No outdoor storage or placement of any material, refuse, equipment or debris shall be permitted on site.

S. COMPLIANCE

- 1. As provided in 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 Foster 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 | -- | aye |
| Ken Foster | -- | absent |
| Maude Ford Lee | -- | aye |

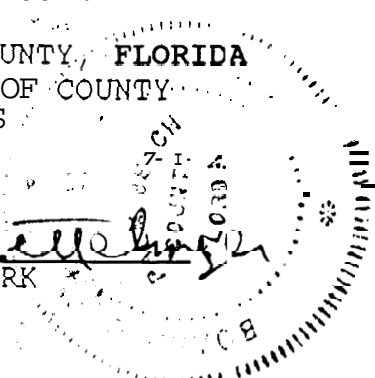
The Chair thereupon declared the resolution was duly passed and adopted this 7th day of January, 1992.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: [Signature]
COUNTY ATTORNEY

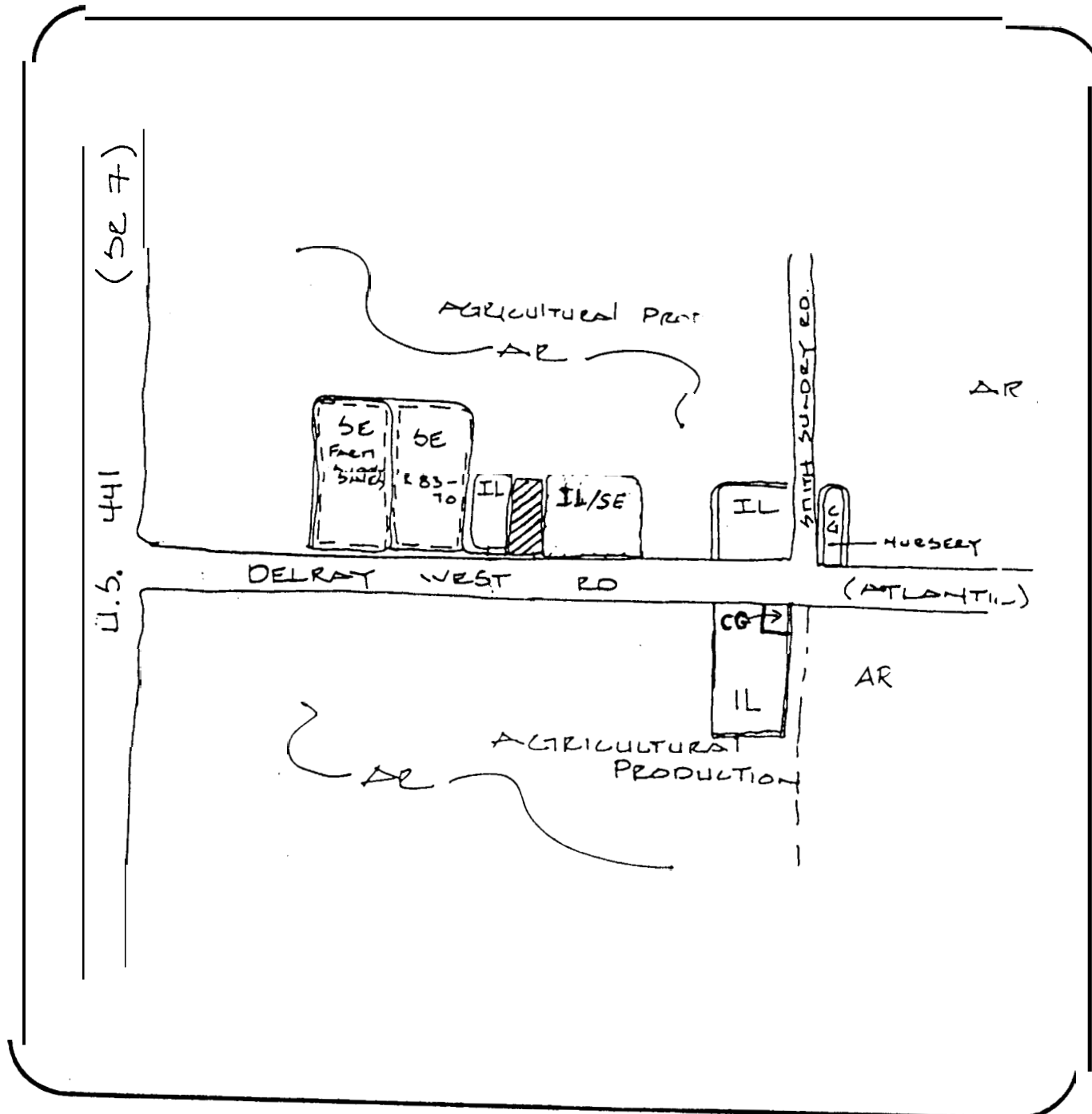
BY: [Signature]
DEPUTY CLERK



Sec. 18 Twp. 46 Rng. 42
Quadrant Sheet: 51
Aerial Page: 324

appealed 9/26/91

Vicinity Sketch



Request:

SPECIAL EXCEPTION: COMMERCIAL RADIO, TELEVISION, MICROWAVE TRANSMISSION AND RELAY STATION AND TOWER AND AN ACCESSORY EQUIPMENT BUILDING

PETITION NO: 83-66 (A)

BCC DISTRICT: 5