

RESOLUTION NO. R-96-1182

RESOLUTION APPROVING ZONING PETITION DOA78-77(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF BELLSOUTH MOBILITY
BY ELLEN C. SMITH, AGENT
(BELLSOUTH ABOW)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA78-77(A) was presented to the Board of County Commissioners at a public hearing conducted on July 25, 1996; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code 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 Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition DOA78-77(A), the petition of BellSouth Mobility, by Ellen C. Smith, agent, for a Development Order Amendment (DOA) to allow a Commercial Communication Tower (requested use) on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on July 25, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

Ken Foster, Chair	--	Aye
Burt Aaronson, Vice Chair	--	Aye
Maude Ford Lee	--	Aye
Karen T. Marcus	--	Absent
Mary McCarty	--	Aye
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on August 22, 1996.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Richard Alter*
COUNTY ATTORNEY

BY: *Jean Hawley*
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

PARENT TRACT:

A Parcel of land in Block 29, PALM BEACH FARMS **COMPANY** PLAT NO. 3, according to the plat on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 2, Page 48, said parcel being more particularly described as follows:

Commencing at the Northwest corner of Tract 8 of said Block 29; thence run on an assumed bearing of Due South along the West line of said tract 8, a distance of 180.20 feet; thence run Due East a distance of 30.00 feet to the Point of Beginning; thence continue Due East a distance of 414.00 feet; thence run Due North a distance of 150.00 feet; thence run Due East, a distance of 631.00 feet; thence run Due South a distance of 327.02 feet to the beginning (P.C.) of a curve, concave to the West and having a radius of 200.00 feet; thence run Southerly and Southwesterly on the arc of said curve through a central angle of $S.63^{\circ}45'00''$ a distance of 222.53 feet to the end (P.T.) of said curve; thence run $S.63^{\circ}45'00''W.$, on the extension of the tangent of said curve a distance of 408.25 feet to the beginning (P.C.) of a curve, concave to the Southeast and having a radius of 300.00 feet; thence run Southwesterly on the arc of said curve, through a central angle of $22^{\circ}02'28''$ a distance of 115.41 feet to a point of reverse curvature with a curve concave to the North and having a radius of 25.00 feet; thence run Southwesterly to Northwesterly on the arc of said curve through a central angle of $80^{\circ}29'14''$, a distance of 35.12 feet to a point of reverse curvature with a curve concave to the Southwest and having a radius of 384.59 feet; thence run Northwesterly on the arc of said curve through a central angle of $32^{\circ}11'46''$ a distance of 216.11 feet to the end (P.T.) of said curve; thence run Due West on the extension of the tangent of said curve, a distance of 139.14 feet said extension of the tangent is parallel and 732.00 feet South of the North line of said Tract 8, thence run Due North a distance of 351.80 feet, thence run Due West a distance of 110.00 feet; thence run Due North a distance of 50.00 feet; thence run Due East a distance of 10.00 feet, thence run Due North a distance of 150.00 feet to the Point of Beginning.

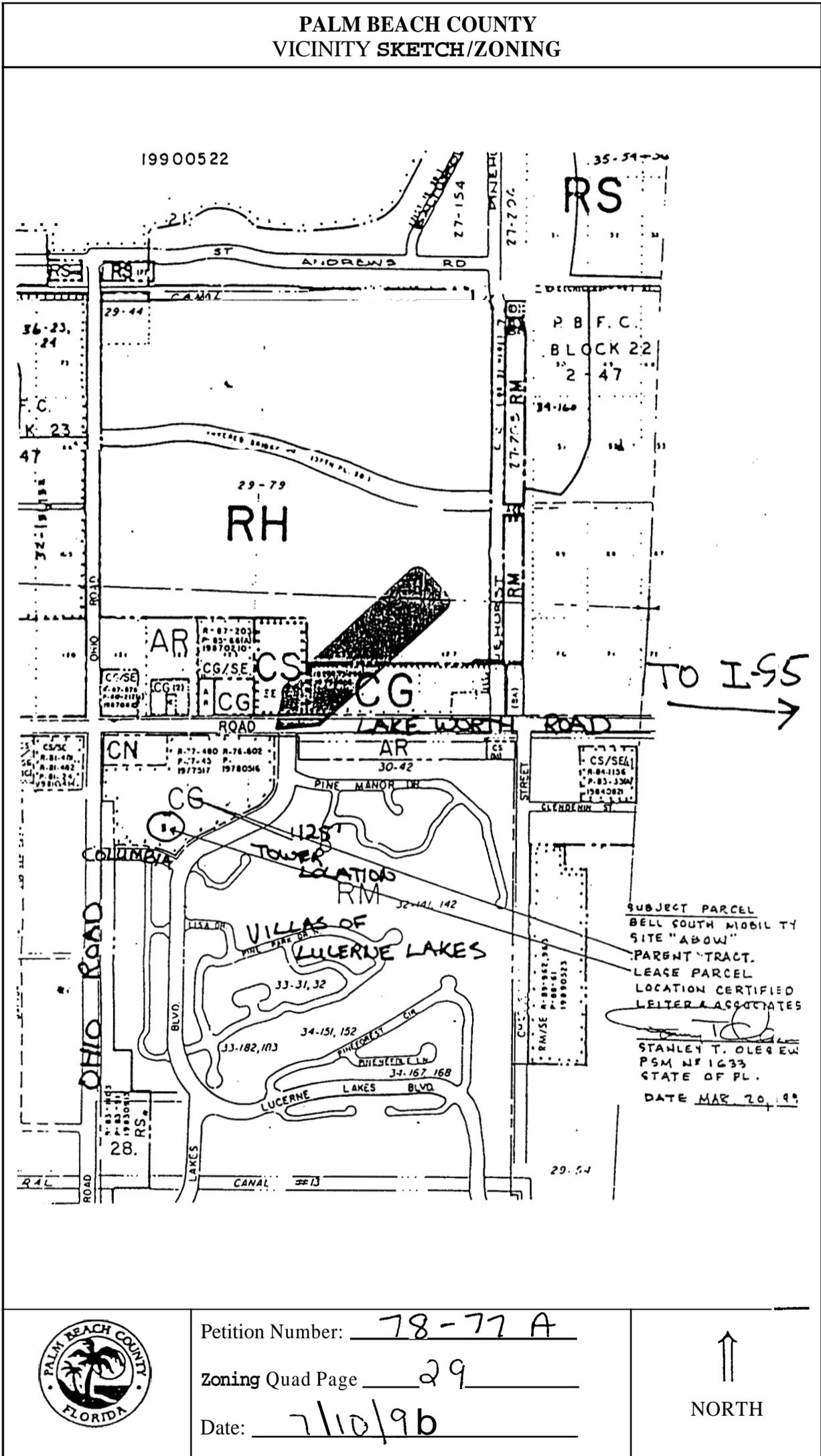
LEASE PARCEL:

A Parcel of land in Block 29, PALM BEACH FARMS COMPANY PLAT NO. 3, according to the plat on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 2, Page 48, said parcel being more particularly described as follows:

Commencing at the Northwest corner of Tract 8, of said Block 29; thence run on an assumed bearing of Due South along the West line of said tract 8, a distance of 626.66 feet; thence run Due East a distance of 441.96 feet to the Point of Beginning of the subject parcel; thence run Due North a distance of 63.00 feet, said course running along the centerline (and Southerly extension thereof) of an eight inch block wall, being the Westerly wall of unit #7388 of an existing building; thence run Due East, a distance of 20.00 feet; thence run Due South, a distance of 63.00 feet said course running along the centerline (and Southerly extension thereof) of a four inch wall, being the Easterly wall of the aforesaid Unit #7388 of an existing building; thence run Due West a distance of 20.00 feet to the Point of Beginning.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH/ZONING



Petition Number: 78-77 A
 Zoning Quad Page 29
 Date: 7/10/96



EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-73-566, Petition No.73-54), Resolution R-77-480, Petition No. 77-45), R-78-601, Petition No. 78-76), R-78-602, and Petition No. 78-77), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: XONITORING-Zoning)

B. FAA

1. Prior to site plan certification, the petitioner shall submit documentation to the Zoning Division which demonstrates that the proposed facility does not violate FAA Regulations and/or advisory circulars of the Palm Beach County Airport Zoning Regulations. This documentation shall be subject to approval by the Palm Beach County Department of Airports. (DRC: AIRPORTS)

C. COMMUNICATION TOWER

1. Palm Beach County or the State of Florida shall have the right to co-locate communication equipment on the tower subject to an acceptable lease agreement provided that the placement of the equipment does not interfere with the petitioner's equipment or operations. (ONGOING: PRM)
2. Prior to site plan certification, the petitioner shall provide documentation that the tower does not encroach into any public or private airport runway protection zone as established by the Federal Aviation Administration. This documentation shall be approved by the Palm Beach County Department of Airports. (DRC: AIRPORTS)
3. The communication tower shall be limited to a maximum height of 125 feet measured from finished grade to highest point. (DRC: ZONING - Bldg)
4. Prior to site plan certification by the DRC, the petitioner shall verify co-location of a minimum of one other user for the tower. Additional square footage on the site of the tower approval, to accommodate additional unmanned users only, may be permitted administratively subject to approval by the DRC. (DRC: ZONING)
5. No point of purchase or freestanding signs shall be permitted on the leased parcel or parent tract identifying the commercial communication tower or users. (CO: BLDG)

6. The antenna shall not cause interference with the communication signals of any electronic devices of existing or future residents within one (1) mile of the monopole. In the event there is a possibility that the antenna is causing interference, the owner of the antenna shall take all necessary steps to investigate, correct and eliminate such interference at their sole cost. This shall include removal of the antenna or monopole by the petitioner upon proof provided by a qualified state certified engineer, or other qualified expert, hired by the County and paid for by the petitioner to the Palm Beach County Zoning Division that the interference is caused by the antenna and has not been corrected within sixty (60) days of such discovery. (ONGOING: ZONING / Code Enf)

E. ENGINEERING

1. Prior to the issuance of any building permits the developer shall dedicate to Palm Beach County the additional right-of-way required to provide for:
 - a) a one hundred twenty (120) foot right-of-way for Lake Worth Road (S.R. 802);
 - b) an eighty (80) foot right-of-way for Ohio Road, 8nd [Not complied with.]
 - c) a seventy (70) foot right-of-way for Lake Worth Drainage District Lateral Canal lo. 12; (Previously Condition 1 of Resolution R-73-566, Petition No. 73-54).
2. Turn laneage shown on the site plan to be constructed by the developer 8nd coordinated with the developers of Poinciana Place Planned Unit Development 8nd Lucerne Lakes Planned Unit Development. (Previously Condition 2 of Resolution R-73-566, Petition No. 73-54). [This site has now been totally constructed.]
3. Developer shall construct a three (3) lane entrance from Lake Worth Road. (Previously Condition 1 of Resolution R-77-480, Petition No. 77-45). [Note: Survey indicates compliance with this condition.]
4. Prior to the issuance of any building permits, the developer shall dedicate to Palm Beach County the additional right-of-way required to provide for:
 - c) a thirty (30) foot right-of-way for Lake Worth Drainage District Canal Yo. 12; together with a maintenance easement for an additional forty (40) feet to be provided on the south side. (Previous Condition of Resolution R-78-601, Petition No. 78-76). (BLDG PERMIT: MONITORING - Eng)
5. Petitioner shall design the development's drainage system to accommodate the existing overland flow from the Ohio Road area with the third phase of development. (Previously Condition 1 of Resolution R-78-602, Petition No. 78-77).

[NOTE: The Shopping Center and the Entrance Raod have now been constructed]
6. Petitioner shall construct with the final phase of development a four (4) lane entrance road off of Lake

Worth Road if required by the County Engineer. (Previously Condition 2 of Resolution R-78-602, Petition No. 78-77).

[Note: Entrance road has already been constructed.]

7. 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, Zoning Petition 78-77 (A), to be paid at the time of issuance of the Building Permit presently is \$110.00. (2 additional trips X \$55.00 per trip). (BLDG PERMIT: BLDG - Fair Share Fee Coordinator)

F. LANDSCAPING ALONG 300 FEET OF SOUTH PROPERTY LINE (ABUTTING COLUMBIA DRIVE AND LUCERNE LAKES BOULEVARD - COMMUNICATION TOWER PETITION)

1. To screen the area most affected by the 125 foot communication tower, landscaping along 150 feet of Columbia Drive and 150 feet along Lucerne Lakes Boulevard shall be upgraded to include:
 - a. One (1) canopy tree planted every twenty (20) feet on center;
 - b. One (1) palm or pine tree for each twenty (20) linear feet of frontage;
 - c. Thirty (30) inch high shrub 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.
 - d. Credit may be given for existing or relocated trees or shrubs provided they meet current ULDC requirements. (DRC / BLDG PERMIT: ZONING / LANDSCAPE)

G. LANDSCAPING-COMMUNICATION TOWER LEASE PARCEL

- 1, All required landscaping shall be install in the communication tower lease parcel on the exterior of the required chain link fence and shall provide the following:
 - a. A minimum five (5) foot wide landscape buffer strip;
 - b. One (1) canopy tree planted every twenty (20) feet on center; and,
 - c. Thirty-six (36) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of seventy-two (72) inches. (DRC / CO: ZONING / LANDSCAPE)

H. UNITY/COMMUNICATION TOWER LEASE PARCEL

1. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record in the public record a unity of control for the 560 square foot leased parcel for the communication tower. The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

I. COMPLIANCE

1. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC 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; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.
(MONITORING)