

RESOLUTION NO. R-96- 1949

RESOLUTION APPROVING ZONING PETITION CA94-46 (A)
CLASS A CONDITIONAL USE
PETITION OF BELLSOUTH MOBILITY INC.
BY KIERAN KILDAY, AGENT
(CALLERY JUDGE TOWER)

12/43/96

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, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; 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 CA94-46 (A) was presented to the Board of County Commissioners at a public hearing conducted on December 2, 1996; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; 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 (ULDC) 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 Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, 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 Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. This Class A Conditional Use, 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 Class A Conditional Use, 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 CA94-46(A), the petition of Bellsouth Mobility Inc., by Kieran Kilday, agent, for a Class A Conditional Use (CA) Commercial communication tower (200 feet) in the Agricultural Residential Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on December 2, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Foster moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on December 2, 1996.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

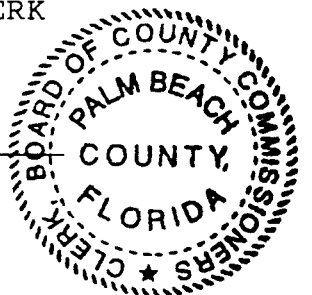


EXHIBIT A
LEGAL DESCRIPTION

BELL SOUTH MOBILITY ACRE CELL SITE

Legal Description of Lease Site:

A portion of Section 12, Township 43 South, Range 40 East, in Palm Beach County, in Palm Beach County, Florida, being more particularly described as follows:

COMMENCE at the Southwest Corner of said Section 12 as shown on Sheet 6 of 7 of the Right-of-way Map of SEMINOLE-PRATT WHITNEY ROAD as recorded in Road Book 4, Page 39 of the Public Records of Palm Beach County, Florida, said Corner having State Plane Coordinate values of N 874321.6509 and E 724095.7462; thence **S.89°12'54"E.**, along the South Line of said Section 12 as shown on said Right-of-way Map, for 1691.95 feet to the East Right-of-way Line of SEMINOLE-PRATT WHITNEY Road; thence **N.01°42'54"E.**, along said Right-of-Way Line for 2794.71 feet; thence **S.88°34'47"E.** for 386.74 feet to a point of curvature of a circular curve to the left, concave Northerly; thence Easterly and Northeasterly along the arc of a curve, having a radius of 100.00 feet, a central angle of 40°53'35" for an arc distance of 71.37 feet to a point of tangency; thence **N.50°31'38"E.** for 135.43 feet to a point of curvature of a circular curve to the left, concave Northwesterly; thence **Northeasterly** and **Northerly** along the arc of a curve, having a radius of 100.00 feet, a central angle of 49°14'17" for an arc distance of 85.94 feet to a point of tangency; thence **N.01°17'21"E.** for 69.61 feet to the POINT OF BEGINNING of the hereinafter described parcel; thence **N.88°42'39"W.** for 45.00 feet; thence **N.01°17'21"E.** for 130.00 feet; thence **S.88°42'39"E.** for 65.00 feet; thence **S.01°17'21"W.** for 130.00 feet; thence **N.88°42'39"W.** for 20.00 feet to the POINT OF BEGINNING.

All of the above land being and lying in Palm Beach County, Florida and containing 0.194 acre, more or less. State Plane Coordinates and Bearings are based on NAD 27 and refer to Section Data as published by the Survey Section of Palm Beach County, Florida.

NOTE:

- 1.) See *Boundary Survey under File No. B-1425, Dated 7-15-96, by this FIRM, for a detailed Sketch of the Legal Description described hereon.*

BELL SOUTH MOBILITY ACRE CELL SITE

Legal Description of Access & Utility Easement:

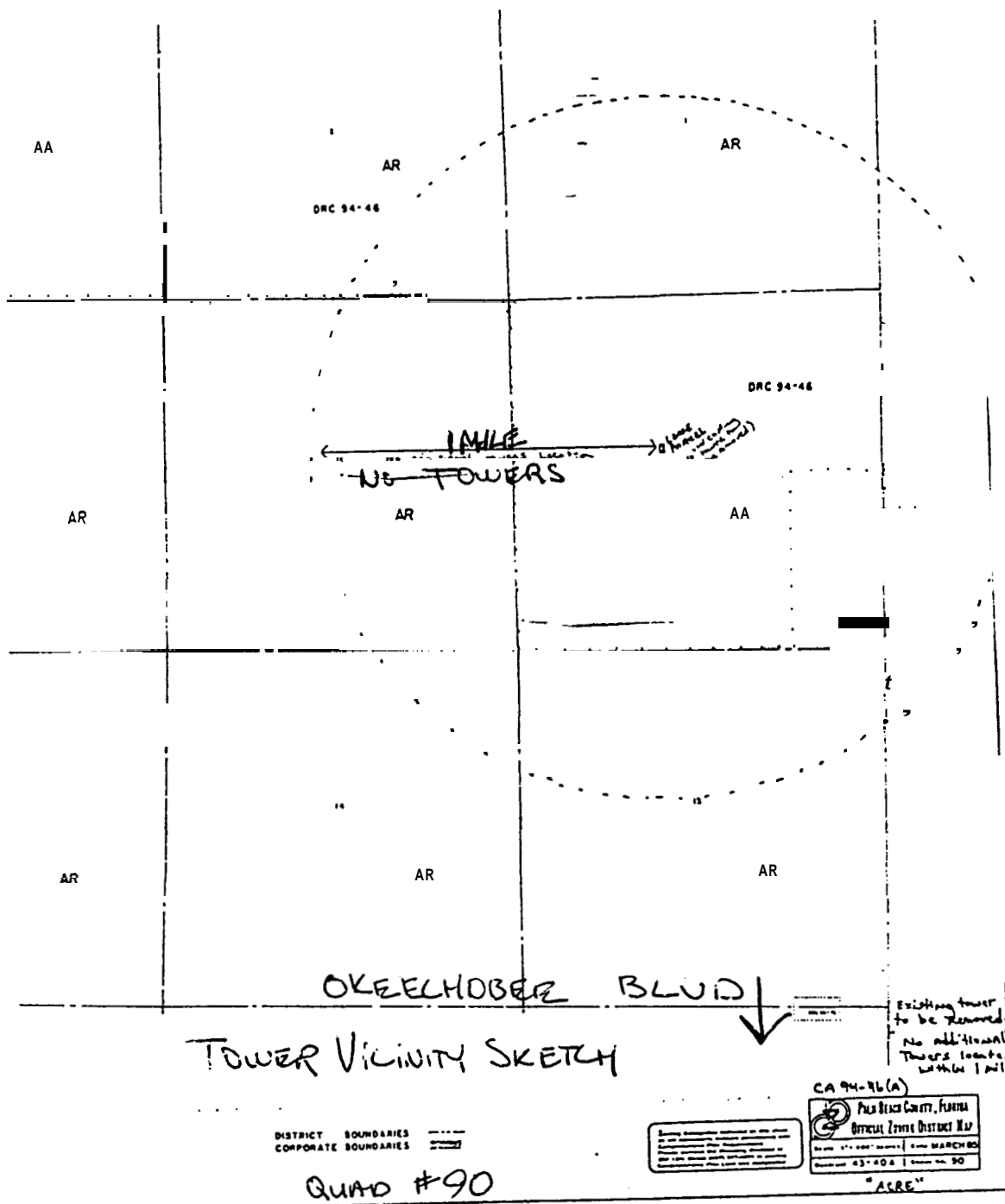
A portion of Section 12, Township 33 South, Range 40 East, in Palm Beach County, Florida, being more particularly described as follows:

COMMENCE at the Southwest Corner of said Section 12 as shown on Sheet 6 of 7 of the Right-of-way Map of SEMINOLE-PRATT WHITNEY ROAD as recorded in Road Book 4 Page 39 of the Public Record of Palm Beach County, Florida, said Corner having State Plane Coordinate values of N 874321.6509 and E 724095.7462; thence **S.89°12'54"E.**, along the South Line of said Section 12 as shown on said Right-of-way Map, for 1691.95 feet to the East Right-of-way Line of said SEMINOLE-PRATT WHITNEY ROAD; thence **N.01°42'54"E.**, along said Right-of-way Line for 2774.71 feet to the POINT OF BEGINNING of the hereinafter described parcel; thence continue **N.01°42'54"E.**, along said Right-of-way Line for 20.00 feet; thence **S.88°34'47"E.** for 355.05 feet to a point of curvature of a circular curve to the left, concave Northerly; thence Easterly and Northeasterly along the arc of a curve, having a radius of 100.00 feet, a central angle of 40°53'35" for an arc distance of 71.37 feet to a point of tangency; thence **N.50°31'38"E.** for 135.43 feet to a point of curvature of a circular curve to the left, concave Westerly; thence **Northeasterly** and **Northerly** along the arc of a curve, having a radius of of 100.00 feet, a central angle of 49°14'17" for an arc distance of 85.94 feet to a point of tangency; thence **N.01°17'21"E.** for 69.61 feet; thence **S.88°42'39"E.** for 20.00 feet; thence **S.01°17'21"W.** for 69.61 feet to a point of curvature of a circular curve to the right, concave Westerly; thence **Southerly** and **Southwesterly** along the arc of a curve, having a radius of 120.00 feet, a central angle of 49°14'17" for an arc distance of 103.12 feet to a point of tangency; thence **S.50°31'38"W.** for 135.43 feet to a point of curvature of a circular curve to the right, concave Northerly; thence **Southwesterly** and **Westerly** along the arc of a curve, having a radius of 120.00 feet, a central angle of 40°53'35" for an arc distance of 85.65 feet to a point of tangency; thence **N.88°34'47"W.** for 355.15 feet to the POINT OF BEGINNING.

All of the above land being and lying in Palm Beach County, Florida and containing 0.340 acre, more or less. State Plane Coordinates and Bearings are based on NAD 27 and refer to Section Data as Published by the Survey Section of Palm Beach County, Florida.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH/ ZONING



CHERRY JUDGE GROVES TOWER



Petition Number: 94-46 A

Zoning Quad Page _____

Date: 11/1/96



NORTH

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. 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)

B. LANDSCAPE

1. The petitioner shall provide a minimum ten (10) foot wide Alternative 3 landscape buffer around the tower lease parcel except as permitted in Section 6.4.D.22.h. (Communication Tower/Landscape and Buffering) of the ULDC. (DRC: LANDSCAPE - Zoning)
2. Canopy trees shall be planted twenty (20) feet on center around the tower lease parcel in the landscape buffer. (CO: LANDSCAPE - Zoning)

C. SIGNS

1. No point of purchase or freestanding signs shall be permitted on the lease parcel or parent tract identifying the commercial communication tower or users. (CO: BLDG - Zoning)

D. TOWER

1. Palm Beach County and the State of Florida shall have the right to co-locate communication equipment on the subject tower provided the placement of County or State equipment does not interfere with the petitioner's equipment or operations. (ONGOING: PREM)
2. Prior to site plan certification by the DRC, the petitioner shall comply with the shared use provisions of the ULDC, Section 6.4.D.22.k. (shared use), as may be amended. 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)
3. The minimum setback for the tower shall be one hundred (100) feet from all property lines. (DRC: ZONING)
4. The communication tower shall be limited to a self-support structure, maximum height of 200 feet measured from finished grade to highest point. (DRC: ZONING - Bldg)
5. The liquid propane tank shall be double walled and installed underground in accordance with Palm Beach County Fire Rescue and Environmental Resource Management requirements. (BLDG PERMIT: FIRE/ERM)

6. The existing 160 foot guyed tower on site shall be removed on or before (December 2, 1998). (DATE:MONITORING/ Building Permit - Zoning)
7. Additional access to the communication tower shall be prohibited from Pratt Whitney Road. (DRC: ZONING)

E. ENGINEERING

No conditions.

F. 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)