

RESOLUTION NO. R-99-1224

RESOLUTION APPROVING WAIVER REQUEST W93-035(B)
WAIVER FROM REQUIRED DIMENSIONAL CRITERIA
PETITION OF DELRAY PALM VIEW INC.
BY KILDAY & ASSOCIATES, AGENT
(BETHESDA HEALTH CITY TOWER)

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 Waiver from Required Dimensional Criteria for Communication Towers; 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, Waiver Request W93-035(B) was presented to the Board of County Commissioners at a public hearing conducted on July 22, 1999; 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 (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 request for Waiver from required setback from Residential Zoning District along south property line (± 65 feet); setback from Residential Zoning District along the west property line (± 260 feet); separation from a residential structure ($\pm 1,246$ feet), and tower separation ($\pm 3,406$ feet) complies with the intent of Section 6.4.D.22 of the ULDC.
2. This Waiver from required setback from Residential Zoning District along south property line (± 65 feet); setback from Residential Zoning District along the west property line (± 260 feet); separation from a residential structure ($\pm 1,246$ feet), and tower separation ($\pm 3,406$ feet) will not be injurious to the uses in the area adjacent to the structure and otherwise will not be detrimental to the public welfare.
3. This Waiver from required setback from Residential Zoning District along south property line (± 65 feet); setback from Residential Zoning District along the west property line (± 260 feet); separation from a residential structure ($\pm 1,246$ feet), and tower separation ($\pm 3,406$ feet) is not granted based solely upon or in large measures due to costs associated with complying with all requirements of section 6.4.D.22.

4. This Waiver from required setback from Residential Zoning District along south property line (± 65 feet); setback from Residential Zoning District along the west property line (± 260 feet); separation from a residential structure ($\pm 1,246$ feet), and tower separation ($\pm 3,406$ feet) will not result in an incompatibility between the proposed tower or communication facility and adjacent uses.
5. This Waiver from required setback from Residential Zoning District along south property line (± 65 feet); setback from Residential Zoning District along the west property line (± 260 feet); separation from a residential structure ($\pm 1,246$ feet), and tower separation ($\pm 3,406$ feet) is necessary within the defined search or propagation study area as all other waiver alternatives have been exhausted.
6. This Waiver from required setback from Residential Zoning District along south property line (± 65 feet); setback from Residential Zoning District along the west property line (± 260 feet); separation from a residential structure ($\pm 1,246$ feet), and tower separation ($\pm 3,406$ feet) is the minimum waiver that will make possible the reasonable use of the parcel of land, building or structure.
7. This Waiver from required setback from Residential Zoning District along south property line (± 65 feet); setback from Residential Zoning District along the west property line (± 260 feet); separation from a residential structure ($\pm 1,246$ feet), and tower separation ($\pm 3,406$ feet) is consistent with the purposes, goals, objectives, and policies of Palm Beach County Comprehensive Plan and with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
8. This Waiver from required setback from Residential Zoning District along south property line (± 65 feet); setback from Residential Zoning District along the west property line (± 260 feet); separation from a residential structure ($\pm 1,246$ feet), and tower separation ($\pm 3,406$ feet) will not be injurious to the area involved or otherwise detrimental to the public welfare.
9. This Waiver from required setback from Residential Zoning District along south property line (± 65 feet); setback from Residential Zoning District along the west property line (± 260 feet); separation from a residential structure ($\pm 1,246$ feet), and tower separation ($\pm 3,406$ feet) based upon documentation submitted by the applicant is necessary within the defined search or propagation study area due to governmental regulations or restrictive covenants which preclude location of tower.

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 Waiver Request W93-035(B), the petition of Delray Palm View Inc., by Kilday & Associates, agent, for Waivers (W) for setback from south property line; setback from west property line; separation from residential structure, and separation from other towers in the Multiple Use Planned Development (MUPD) 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 July 22, 1999, subject to the Conditions of Approval in EXHIBIT C of DOA93-035(B).

Commissioner Aaronson moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on July 22, 1999.

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

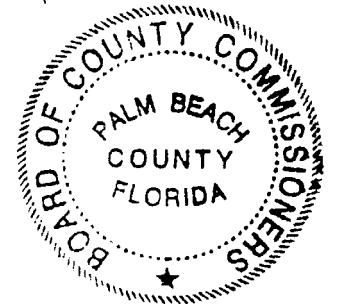


EXHIBIT A

LEGAL DESCRIPTION

ALL OF THE PLAT OF BETHESDA HEALTH CITY, AS RECORDED IN PLAT BOOK 74, PAGES 197 AND 198, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

BEING A PORTION OF TRACTS 46 THROUGH 48, A PORTION OF THE 30 FOOT ROADWAY ADJACENT TO THE NORTH LINE OF SAID TRACTS 46 THROUGH 48 AND A PORTION OF TRACT 19 ALL IN BLOCK 55, PALM BEACH FARMS COMPANY PLAT NO.3, PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE PLAT OF BETHESDA HEALTH CITY, PLAT BOOK 73, PAGES 198 AND 199, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, RUN THENCE SOUTH 89°59'57" WEST, A DISTANCE OF 928.85 FEET TO A POINT ON THE WEST LINE OF SAID BLOCK 55; THENCE NORTH 00°01'32" WEST ALONG SAID WEST LINE OF BLOCK 55, A DISTANCE OF 84.59 FEET; THENCE NORTH 89°59'57" EAST (DEPARTING FROM SAID WEST LINE OF BLOCK 55), A DISTANCE OF 368.88 FEET; THENCE NORTH 00°00'20" WEST, A DISTANCE OF 75.41 FEET; THENCE NORTH 89°59'57" EAST, A DISTANCE OF 460.00 FEET; THENCE NORTH 00°00'20" WEST A DISTANCE OF 559.80 FEET TO A POINT ON A CURVE CONCAVE NORTHWESTERLY (A RADIAL LINE PASSING THROUGH SAID POINT BEARS SOUTH 34°42'31" EAST) HAVING A RADIUS OF 1040.00 FEET; THENCE NORTHEASTERLY ALONG THE ARCH OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°57'45", A DISTANCE OF 17.47 FEET TO THE POINT OF TANGENCY; THENCE NORTH 54°19'44" EAST, A DISTANCE OF 68.64 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 960.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02°10'17", A DISTANCE OF 36.38 FEET TO A POINT ON THE WEST LINE OF SAID BETHESDA MEDICAL CITY; THENCE SOUTH 00°00'20" EAST ALONG SAID WEST LINE, A DISTANCE OF 790.54 FEET TO THE POINT OF BEGINNING.

CONTAINING IN TOTAL 40.183 ACRES MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

