

RESOLUTION NO. R-99- 1225

RESOLUTION APPROVING ZONING PETITION DOA93-035(B)  
DEVELOPMENT ORDER AMENDMENT  
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, 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 DOA93-035(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 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 DOA93-035(B), the petition of Delray Palm View Inc., by Kilday & Associates, agent, for a Development Order Amendment to convert a 400 foot self-support tower to a 300 foot guyed tower 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 22, 1999, 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 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

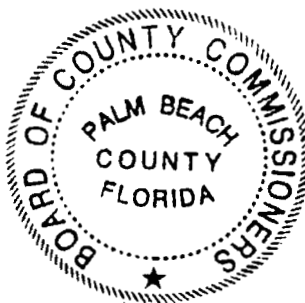


EXHIBIT A  
LEGAL DESCRIPTION

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.

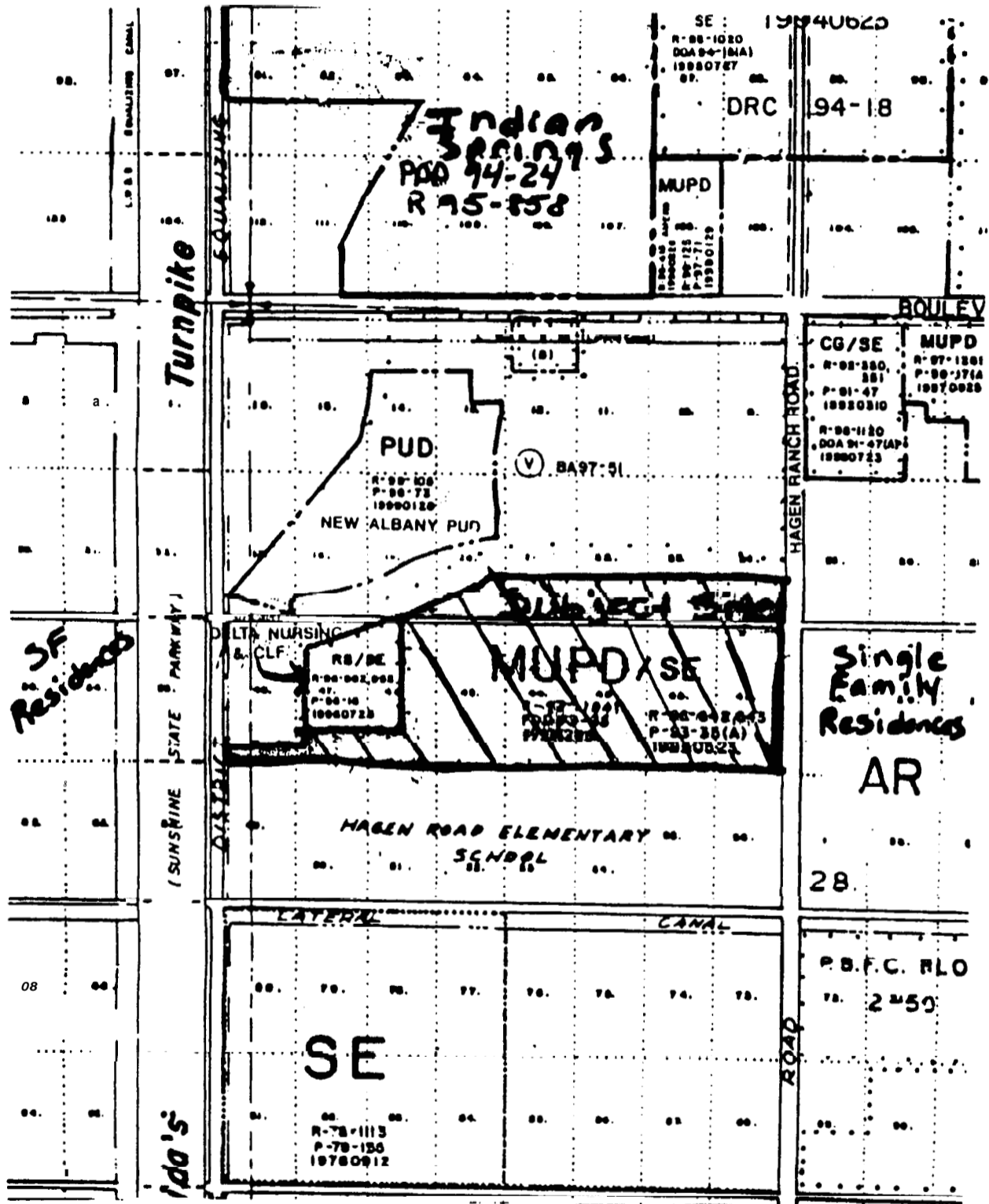
TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

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 N0.3, 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 74, 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 LME, A DISTANCE OF 790.54 FEET TO THE POINT OF BEGINNING.

CONTAINING IN TOTAL 40.183 ACRES MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



93-035B

## 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. Condition A.1 of Resolution 96-643, Petition 93-35(A) which currently states:

All previous conditions **of** approval applicable to the subject property, as contained in Resolution R-93-154 (Petition 93-35), have been consolidated 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: MONITORING - Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-96-643 (Petition 93-35(A)), 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: MONITORING-Zoning)

2. Condition A.2 of Resolution 96-643, Petition 93-35 (A) which currently states:

Development **of** the site is limited to the uses and site design approved by the Board **of** County Commissioners (site plan dated March 28, 1996). All modifications must be approved by the Board **of** County Commissioners unless the proposed changes are required to meet conditions **of** approval or are in accordance with the ULDC. (ONGOING: ZONING)

Is hereby amended to read:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated April 21, 1999. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)

#### B. CONCURRENCY

1. To ensure the development satisfies the Countywide **Traffic Standards** as required under Article **11** and **12 of** the ULDC, prior to certification **of** the Preliminary Development Plan, the petitioner shall execute and record the Development Agreement approved by the Board **of** county Commissioners. (Previously condition H.1 of Resolution R-96-643, Petition DOA93-35(A) (PLANNING)

~~Is~~ hereby deleted. [Reason: completed]

C. HEALTH

1. Condition F.1 of Resolution R-96-643, Petition DOA93-35(A) which currently states:

Sewer service is available to the property. Therefore, no septic tank shall be permitted on this site. **All** existing onsite sewage disposal systems must be abandoned in accordance with Chapter 10D-6, F.A.C., and Palm Beach County ECR-I. (HEALTH)

Is hereby deleted. [REASON: Code Requirement]

2. Condition F.2 of Resolution R-96-643, Petition DOA93-35(A) which currently states:

Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. **All** existing onsite potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II.

Is hereby deleted. [REASON: Code Requirement]

D. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within **500** feet of the **property**, the petitioner shall connect to the system subject to permitting **and/or** requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (Previously condition D.1 of Resolution R-96-643, Petition DOA93-35(A) (UTILITIES))

E. ENGINEERING

1. The property owner has voluntarily agreed to convey to Palm Beach County Land Development Division by road right-of-way warranty deed additional right-of-way required for a right turn lane north approach on Hagen Ranch Road at the project's entrance prior to July 1, 1994 or prior to the issuance of the first Building Permit, whichever shall first occur. This right of way shall be a minimum of 150 feet in length, 12 foot in width and a taper length of 180 feet, free of all encumbrances and encroachments. Property owners 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 (Previously condition E.1 of Resolution R-96-643, Petition DOA93-35(A) (MONITORING/BUILDING - Eng))
2. The Property owner shall construct concurrent with Phase 1 of the project:
  - a. left turn lane, south approach on Hagen Ranch Road at the project's entrance road.

- b. a right turn lane, north approach on Hagen Ranch Road at the project's entrance road.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but not limited to, utility relocations, maintenance of existing drainage patterns and acquisition of any additional required right-of-way. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (Previously Condition E.2 of Resolution R-96-643, Petition DOA93-35(A) (BUILDING - Eng)

3. The Developer shall install signalization if warranted as determined by the County Engineer at Boynton Beach Boulevard and Hagen Ranch Road. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition (Previously Condition E.3 of Resolution R-96-643, Petition DOA93-35(A) (ENG - Building).
4. The Developer shall plat the entire 40.2 acre tract as one parcel property in accordance with provisions of Article 8 of the Unified Land Development Code. (BLDG PERMIT: Monitoring - Eng.) (Previously Condition E.4 of Resolution R-96-643, Petition DOA93-35(A)
5. Prior to Preliminary Development Plan (PDP) certification by the Development Review Committee, the property owner shall amend the PDP to indicate paved access to the loop road to the north. When this roadway has been constructed, the property owner shall provide the paved connection. (Previously Condition E.5 of Resolution R-96-643, Petition DOA93-35(A) (ENG)
6. The Developer 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 presently is **\$225,170 (4,094 trips X \$55.00 per trip)**. The cost of signalization as required in Condition E.3. above shall be credited against the impact fee established herein if a suitable request is approved by the Board of County Commissioners per ULDC Section 10.8.G. (Special Provisions for Road Credits) (Previously condition E.6 of Resolution R-96-643, Petition DOA93-35(A) (IMPACT FEE COORDINATOR)
7. On or before September 1, 1999, the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system and into legal positive outfall. This drainage easement shall accommodate 2.5 acres of road right of way for Hagen Ranch Road. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as

well as the South Florida Water Management District. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. (DATE: MONITORING-Eng)

F. LANDSCAPE

1. Type C perimeter landscape buffer shall be relocated to the new western perimeter property line upon the issuance of a building permit for the communication tower. In addition, all trees within the new land area shall meet the standards of condition **8.2** below. (BLDG - Zoning) (Previously Condition B.1 of Resolution 96-643, Petition 93-35(A))
2. To ensure adequate buffering with adjacent properties, all trees required to be planted on site by this approval shall meet the following minimum standards at installation:
  - a. Tree height: fourteen (14) feet.
  - b. Trunk diameter: **3.5** inches measured 4.5 feet above grade.
  - c. Canopy diameter: seven (**7**) feet. Diameter shall be determined by the average canopy radius at **3** points measured from the trunk to the outermost branch tip. Each radius shall measure at least **3.5** feet in length.
  - d. Clear trunk: five (**5**) feet. (Previously Condition B.1 of Resolution R-96-643, Petition DOA93-35(A) (ZONING))

G. LANDSCAPING ALONG ALL PROPERTY LINES

1. To ensure adequate buffering with adjacent properties, landscaping along all property lines shall be upgraded to include:
  - a. One (1) native canopy tree planted every twenty (**20**) feet on center;
  - b. One (1) native palm tree for each thirty (**30**) linear feet. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location. **No** more than twenty five percent of the required trees may be superseded by this requirement; and
  - c. Thirty (**30**) inch high shrub or hedge material spaced twenty four (**24**) inches on center at installation to be maintained a minimum of sixty (**60**) inches in height. (Previously Condition C.1 of Resolution R-96-643, Petition DOA93-35(A) (ZONING))

H. LANDSCAPING ALONG 560 FEET OF THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL/CLF & THE TOWER PARCEL)

1. Landscaping and buffering along the 560 feet of the west property line shall be upgraded to include:
  - a. A minimum fifteen (15) foot wide landscape buffer strip;



- b. One (1) canopy tree planted every twenty (20) feet on center. A group of three (3) or more palm or pine trees may supersede the requirement for a canopy tree in that location. A maximum twenty-five (25) percent of the required canopy trees within the buffer may be replaced by the palm or pine tree clusters;
- c. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet between clusters; and
- d. Seventy-two (72) 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. (CO: LANDSCAPE:)

I. SIGNS

- 1. To ensure consistency with the proposed development, entry or project identification signs shall be limited as follows:

- a. Point of purchase sign:

- (1) Maximum sign height, measured from finished grade to highest point - ten (10) feet;
- (2) Maximum total sign face area per side - 100 square feet;
- (3) Maximum number of signs - one on Hagen Ranch Road; and,
- (4) Type - monument style only.

- b. Entry wall sign:

- (1) Maximum sign height, measured from finished grade to highest point - five (5) feet;
- (2) Maximum total sign face area per side - 50 square feet;
- (3) Maximum number of signs - two (2) on Hagen Ranch Road.; and,
- (4) Type - monument style only. (Previously condition G 1 of Resolution R-96-643, Petition DOA93-35(A) (BUILDING'

J. SITE DESIGN

- 1. Street lights a maximum of twenty (20) feet in height, measured from average finished grade to highest point, shall be installed, maintained and operated by the property owner along all entry roads. (Previously condition 1.1 of Resolution R-96-643, Petition DOA93-35(A) (ZONING/ENG)
- 2. Street trees shall be planted no more than fifty (50) feet on center along both sides of all entry roads that are interior to the MUPD, subject to approval by the County Engineer. All required landscaping shall be installed prior to release of the performance bond or issuance of a certificate of completion, whichever occurs first, for the road intended to be landscaped. (Previously condition 12 of Resolution R-96-643, Petition DOA93-35(A) (ENG)
- 3. All utilities shall be underground pursuant to Article 6.8.23.d(5) of the Palm Beach County Unified Land Development Code. (Previously Condition 13 of Resolution R-93-154, Petition DOA93-35(A) (ZONING/ENG)

K. TOWER

1. Palm Beach County and the State of Florida shall have the right to co-locate communication equipment on the subject tower at no charge, provided the placement of County or State equipment does not interfere with the petitioner's equipment or operations. (ONGOING: PREM)
2. 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. All liquid propane tanks associated with the use of the communication tower shall be double walled and installed underground in accordance with Palm Beach County Fire Rescue and Environmental Resource Management requirements. (BLDG PERMIT: FIRE/ERM)
4. Temporary diesel powered generators shall only be permitted on site in the event of natural disaster and shall be removed once power and operations are restored to the tower. (ONGOING: FIRE/ERM/HEALTH)
5. If tower lighting is required by the requisite authority such as the FAA, the lighting shall include a screening device to direct light away from the ground. The lighting shall also include a dual lighting system consisting of red lights for nighttime and high or medium intensity flashing white lights for daytime and twilight. (CO: BLDG - Zoning/FAA)
6. The communication tower shall be limited to a guyed structure, a maximum of 300 feet high, measured from finished grade to highest point. Only one tower shall be permitted on the subject property. (DRC: ZONING - Bldg)

L. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. Condition J.1 of Resolution R-96-643, Petition DOA93-035(A) which currently states:

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)

Is hereby amended to read:

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; revocation of any concurrency; 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.

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

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)