

RESOLUTION NO. ZR-2020-047

RESOLUTION APPROVING ZONING APPLICATION CB-2020-00722
(CONTROL NO. 2019-00170)
a Class B Conditional Use
Application of Nibodh Patel, Tarpon Towers, LLC.
By Martohue Land Use Law, PA, Agent
(Lychee Grove)

WHEREAS, the Zoning Commission, pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC) Ordinance 2003-067, Supplement 27, is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the ULDC have been satisfied;

WHEREAS, Zoning Application CB-2020-00722 was presented to the Zoning Commission at a public hearing conducted on December 3, 2020;

WHEREAS, the Zoning Commission considered the evidence and testimony presented by the Applicant and other interested parties, and the recommendations of the various County Review Agencies;

WHEREAS, the Zoning Commission hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Class B Conditional Use;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC requires that action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Application CB-2020-00722, the Application of Nibodh Patel, Tarpon Towers, LLC., by Martohue Land Use Law, PA, Agent, for a Class B Conditional Use to allow a Stealth Commercial Communication Tower, on a parcel of land generally described as shown on the legal description 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 3, 2020, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Beatty moved for the approval of the Resolution.

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

Sheri Scarborough, Chair	- Yes
Vacant Chair	- N/A
Amir Kanel	- Yes
John Kern	- Yes
Michael Kelley	- Yes
Marcelle Griffith Burke	- Yes
Alex Brumfield III	- Absent
Mark Beatty	- Yes
Jess Sowards	- Yes

The Chair thereupon declared the resolution was duly passed and adopted on December 3, 2020.

This resolution is effective when filed with the Palm Beach County Zoning Division on December 3, 2020

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY

BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

LEASE PARCEL

A PORTION OF SECTION 34, TOWNSHIP 42 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 34; THENCE NORTH 00°25'09" WEST, ALONG THE WEST LINE OF SAID SECTION 34, A DISTANCE OF 1994.62 FEET; THENCE DEPARTING SAID WEST LINE, SOUTH 89°58'23" EAST, A DISTANCE OF 39.01 FEET; THENCE NORTH 01°43'43" WEST, A DISTANCE OF 313.92 FEET; THENCE NORTH 00°21'32" WEST, A DISTANCE OF 176.88 FEET; THENCE NORTH 88°40'34" EAST, A DISTANCE OF 113.72 FEET TO THE POINT OF BEGINNING; THENCE NORTH 01°19'26" WEST, A DISTANCE OF 35.00 FEET; THENCE NORTH 88°40'34" EAST, A DISTANCE OF 100.00 FEET; THENCE SOUTH 01°19'26" EAST, A DISTANCE OF 100.00 FEET; THENCE SOUTH 88°40'34" WEST, A DISTANCE OF 100.00 FEET; THENCE NORTH 01°19'26" WEST, A DISTANCE OF 65.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.2295 ACRES OR 10000 SQUARE FEET, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

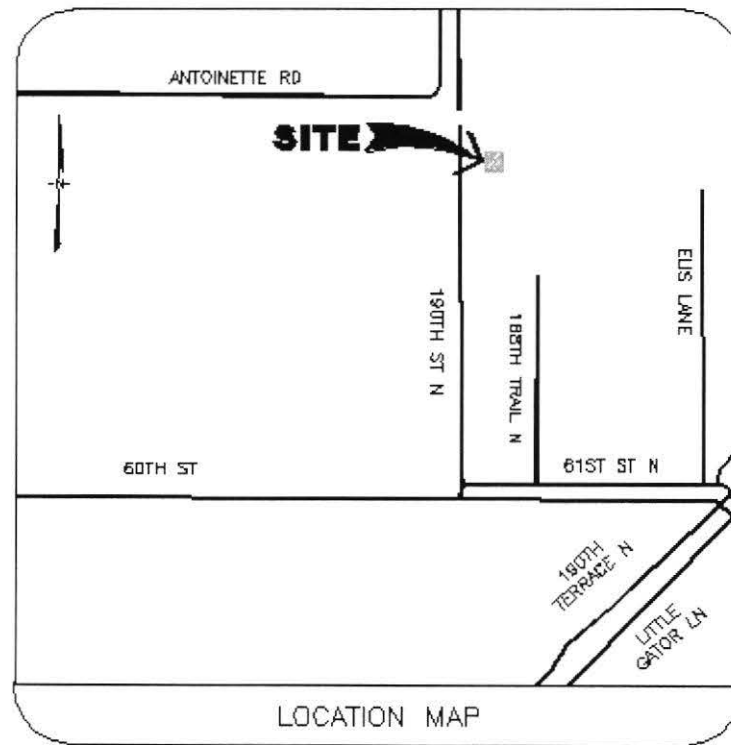


EXHIBIT C

CONDITIONS OF APPROVAL

Class B Conditional Use - (Stealth Communication Tower)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated October 26, 2020. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

1. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for the ultimate section of 190th St along the entire frontage on an alignment approved by the County Engineer

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided within ninety (90) days of a request by the County Engineer. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. The County Engineer has the right to mark this condition complete in the event the County does not assume maintenance of the roadway and the right-of-way is dedicated to the maintaining authority. (ONGOING: ENGINEERING - Engineering)

2. The Property Owner shall submit an access easement to the County that provides access to this site from 190th Street North.

a. The easements shall be approved by the County Attorney and Land Development prior to recordation. The easements shall be recorded by the Property Owner prior to the final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. If alternative development-suitable access becomes available to either of the parcels above, the Property Owner may abandon the portion of the easement which is not needed to serve as access for the parcel. (ONGOING: ENGINEERING - Engineering)

SITE DESIGN-TOWER REMOVAL AGREEMENT

1. Prior to Final Approval by the Development Review Officer, the Property Owner shall submit a signed and notarized Commercial Communication Tower Removal Agreement to the Zoning Director for review and approval. (DRO: ZONING - Zoning)

SITE DESIGN-SURETY FOR TOWER REMOVAL

1. Prior to issuance of a Building Permit, Surety shall be submitted by the Property Owner or Tower Operator to ensure the removal of abandoned communication towers. The form of Surety shall be subject to approval by the Executive Director of PZB and the County Attorney. (BLDGPM: BUILDING DIVISION - Zoning)

COMPLIANCE

1. In Granting this Approval, the Zoning Commission relied upon the oral and written representations of the Property Owner/Applicant 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 Zoning Commission for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. 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; the 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 Unified Land Development Code 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 of Approval; 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 the Code Enforcement Special Master 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 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.