

RESOLUTION NO. R-91-367

RESOLUTION APPROVING ZONING PETITION NO. 90-44  
SPECIAL EXCEPTION PETITION OF SLEEP-O-RAMA, INC.

WHEREAS, the Board of County Commissioners, as the governing body, 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 notice and hearing requirements, as provided for in Chapter 402.5 of the Palm Beach County Zoning Code, have been satisfied; and

WHEREAS, Petition No. 90-44 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on October 25, 1990; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, has considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 90-44, the petition of SLEEP-O-RAMA, INC., BY LEE STARKEY, AGENT, for a SPECIAL EXCEPTION FOR A COMMERCIAL AM/FM RADIO, TELEVISION, MICROWAVE TRANSMISSION AND RELAY STATIONS AND TOWERS, AND ACCESSORY EQUIPMENT BUILDINGS (BELLSOUTH MOBILITY COMMUNICATION TOWER) on a parcel of land lying in the south  $\frac{1}{2}$  of the north  $\frac{1}{2}$  of the east  $\frac{1}{4}$  of the northeast  $\frac{1}{4}$  of the southeast  $\frac{1}{4}$  of the southwest  $\frac{1}{4}$  of section 24, township 44 south, range 42 east described as follows: Commencing at the southeast corner of the southwest  $\frac{1}{4}$  of said section 24, thence north  $01^{\circ} 37' 36''$  east along the east line of said southwest  $\frac{1}{4}$  of section 24, 1,005.21 feet; thence north  $87^{\circ} 30' 58''$  west, 333.04 feet; thence north  $01^{\circ} 38' 27''$  east, 14.72 feet; thence south  $88^{\circ} 21' 33''$  east, 19.00 feet to the Point of Beginning; thence north  $01^{\circ} 38' 27''$  east, 66.00 feet; thence south  $88^{\circ} 21' 33''$  east, 21.00 feet; thence south  $01^{\circ} 38' 27''$  west, 66.00 feet; thence north  $88^{\circ} 21' 33''$  west, 21.00 feet to the Point of Beginning.

ORIGINAL

PARENT TRACT

The south  $\frac{1}{4}$  of the north  $\frac{1}{4}$  of the east  $\frac{1}{4}$  of the northeast  $\frac{1}{4}$  of the southeast  $\frac{1}{4}$  of the southwest  $\frac{1}{4}$  of section 24, township 44 south, range 42 east. Less the east 53.00 feet thereof for Road Right-of-Way of Military Trail (State Road No. 809). Described as follows: Commencing at the southeast corner of the southwest  $\frac{1}{4}$  of said section 24, township 44 south, range 42 east; thence north  $01^{\circ} 37' 36''$  east along the east line of said southwest  $\frac{1}{4}$  of section 24, 1,005.21 feet; thence north  $87^{\circ} 30' 58''$  west, 53.00 feet to the west right-of-way line of Military Trail (State Road No. 809) and the Point of Beginning of this description; thence continue north  $87^{\circ} 30' 58''$  west, 280.04 feet; thence north  $01^{\circ} 38' 27''$  east, 167.50 feet; thence south  $87^{\circ} 31' 14''$  east, 279.99 feet to the said west right-of-way line of Military Trail (State Road No. 809); thence south  $01^{\circ} 37' 36''$  west along said west right-of-way line of Military Trail (State Road No. 809), 167.57 feet to the Point of Beginning, and being located on the W. SIDE OF MILITARY TRAIL, .2 MILE N. OF LAKE WORTH RD. IN THE CG Zoning District, was approved on October 25, 1990, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.
2. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review).

B. ADVERTISING

1. All on site signs shall comply with the Palm Beach County Sign Code, Ordinance No. 72-23, and shall indicate principal uses only. Specifically, no snipe signs, banners, balloons or other prohibited types of advertisement shall be permitted on site.
2. No objects, gimmicks or advertising designed to attract the public's attention off site shall be displayed outdoors, or upon any building, vehicle or wall, other than inside a window except as may be permitted by the Sign Code.

C. DUMPSTER

1. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind an enclosure having an architectural treatment compatible with the principal building. The open end of the enclosure shall have an obscuring, opaque gate.

D. HEALTH

1. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency

responsible for sewage works are constructed and used by project tenants or owners generating such effluents.

2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
4. No portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10-D-6 F.A.C.

E. LANDSCAPE

1. Landscaping along the west property line, where the facility abuts residentially zoned property, shall be upgraded to:
  - a. Provide a minimum of a ten (10) foot wide landscape strip.
  - b. Provide fourteen (14) foot tall native canopy trees, placed fifteen (15) feet on center and one (1) native palm tree for each thirty (30) linear feet.
  - c. Provide a six (6) foot high concrete fence.
2. A six (6) foot tall hedge, at planting, shall be provided on the outside of the chain link fence surrounding the tower.

F. LIGHTING

1. Outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent properties and streets.

G. RADIO TOWER

1. Simultaneously with submittal to the Site Plan Review Committee, the petitioner shall submit two copies of the required one-hundred ten percent break-point calculations. The calculations and tower location shall be subject to approval by the Planning, Zoning & Building Department.
2. Prior to Site Plan certification, the petitioner shall provide documentation that the tower does not encroach into any public or private airport approach pattern as established by the Federal Aviation Administration. This documentation shall be approved by the Palm Beach County Department of Airports.
3. Palm Beach County shall have the right to co-locate County communication equipment on the subject tower provided that the placement of County equipment does not interfere with the petitioner's equipment or operations.

H. RECYCLE SOLID WASTE

1. The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products, programs are available.

I. SIGN

1. Signs fronting on Military Trail shall be limited as follows:
  - a. Maximum sign height - fifteen (15) feet.
  - b. Maximum sign area - 80 square feet.
  - c. Maximum number of signs - two (2)
  - d. Prior to Site Plan Review Committee approval, a Master Sign Program shall be submitted, which specifies: sign location, sign size, and unified graphics and color.
2. In the event the Sign Code is amended prior to issuance of a building permit for the project to be more restrictive than the conditions of approval, the petitioner shall comply with the revised Sign Code.

J. COMPLIANCE

1. As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:
  - a. The denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property; and/or
  - b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
  - c. A requirement of the development to conform with updated standards of development, applicable 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.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Foster moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	ABSENT
Carol A. Roberts	--	ABSENT
Carol J. Elmquist	--	ABSENT
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 26th day of March, 1991.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY:

  
COUNTY ATTORNEY

JOHN B. DUNKLE, CLERK

BY:

  
DEPUTY CLERK

