

ORIGINAL

RESOLUTION NO. R-92- 435

RESOLUTION APPROVING ZONING PETITION NO. 92-2
SPECIAL EXCEPTION PETITION OF PAUL D. HIMMELRICH

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. 92-2 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on January 30, 1992; 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. 92-2, the petition of PAUL D. HIMMELRICH, BY LEE STARKEY, AGENT, for a SPECIAL EXCEPTION TO ALLOW A COMMERCIAL RADIO, TELEVISION, AND MICROWAVE TRANSMISSION RELAY STATION AND TOWER AND ACCESSORY EQUIPMENT BUILDING (COMMUNICATION TOWER) on a parcel of land lying in Tract 11, LESS the West 495.00 feet thereof, and the West 330.00 feet of Tract 10, LESS the North 36.00 feet of said Tracts 10 and 11, and LESS the right-of-way for State Road No. 804 as shown on State Road Department Right-of-way Map Number 9364-152, Sheet 1, Block 53, PALM BEACH FARMS COMPANY, PLAT NO. 3, recorded in Plat Book 2, Pages 45 through 54; ACCESS EASEMENT being an ingress and egress easement, 20 feet in width, lying in Tract 10, according to PALM BEACH FARMS COMPANY, PLAT NO. 3, as recorded in Plat Book 2, Pages 45 through 54, being more particularly described as follows; COMMENCING at the Northwest corner of said Tract 10, thence North 89°02'44" East along the north line of said Tract 10, being the South Right-of-way line of Boynton Road (Basis of Bearings, State Plane Grid Bearing Datum) 85.02 feet to the POINT OF BEGINNING; thence South 00°02'00" East, 95.00 feet; thence North 89°02'44" East, 225.00 feet; thence South 00°22'00" East, along a line 20.00 feet west of and parallel with the east line of the west 330.00 feet of Tract 10, a distance of 419.66 feet; thence South 89°38'00"

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West, 35.00 feet; thence South 00°22'00" East, 20.00 feet; thence North 89°38'00" East, 55.00 feet to the east line of the west 330.00 feet of Tract 10; thence North 00°22'00" West, along said east line, 459.86 feet; thence South 89°02'44" West, 225.00 feet; thence North 00°22'00" West, 75.00 feet to the north line of Tract 10; thence South 89°02'44" West, 20.00 feet to the POINT OF BEGINNING, LESS the north 36.00 feet of Tract 10; AND, BELLSOUTH LEASE PARCEL being a portion of Tract 10, according to PALM BEACH FARMS COMPANY, PLAT NO. 3, as recorded in Plat Book 2, Pages 45 through 54, being more particularly described as follows: COMMENCING at the Northwest corner of said Tract 10, thence North 89°02'44" East, along the North line of Tract 10, thence North 89°02'44" East, along the north line of said Tract 10 and the South Right-of-way line of Boynton Road (Basis of Bearing, State Plane Grid Bearing Datum) 85.02 feet; thence South 00°22'00" East, 95.00 feet; thence North 89°02'44" East, 225.00 feet; thence South 00°22'00" East, along a line 20.00 feet west of and parallel with the east line of the west 330.00 feet of Tract 10, a distance of 419.66 feet; thence South 89°38'00" West, 35.00 feet to the POINT OF BEGINNING; thence South 00°22'00" East, 55.00 feet; thence South 89°38'00" West, 90.00 feet; thence North 00°22'00" West, 60.00 feet; thence North 89°38'00" East, 90.00 feet; thence South 00°22'00" East, 5.00 feet to the POINT OF BEGINNING, in Section 30, Township 45 South, Range 42 East, and being located on the S SIDE OF BOYNTON BEACH BLVD., APPROX. .3 MILES E OF SR 7, IN THE AR DISTRICT, was approved on January 30, 1992, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County.
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 (Exhibit No. 3). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Zoning Code Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval contained herein.
3. The petitioner shall submit an application to the Site Plan Review Committee for the certification of the site plan approved by the Board of County Commissioners for this site prior to April 7, 1992.

B. BUILDING AND SITE DESIGN

1. The lease parcel shall be limited to 314 square feet of total gross floor area and a 180 foot high radio tower, subject to Section 402.7 of the Zoning Code.

C. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

D. COMMUNICATIONS TOWER

1. Palm Beach County (i.e., Sheriff's Department/Fire Department/Emergency Medical Services and/or other appropriate county affiliated departments or agencies) shall have the right to co-locate communication equipment on the subject tower at no cost to Palm Beach County provided that the placement of such equipment does not interfere with the petitioner's equipment or operations.
2. If possible, the petitioner shall accommodate the equipment of other commercial communication ventures on the subject tower, provided that the placement of their equipment does not interfere with the petitioner's equipment or operations.
3. Simultaneously with submittal to Site Plan Review Committee, the petitioner shall submit two copies of one-hundred ten percent break-point calculations for the tower. The calculations and tower location shall be subject to approval by the Planning, Zoning & Building Department.
4. 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.

E. ENGINEERING

1. The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.

F. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation preservation conditions of approval.
2. All required trees in landscape buffer strips shall at a minimum meet the following standards:
 - a. Tree species: 100% native canopy.
 - b. Tree height: fourteen (14) feet minimum.

- c. Trunk diameter: 3.5 inches at 4.5 feet above grade.
- d. Canopy diameter: seven (7) feet minimum. The 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.

G. LANDSCAPING ALONG SOUTH BOUNDARY LINE

- 1. Landscaping and buffering along the south boundary line of the lease parcel shall be upgraded to include:
 - a. One native canopy tree planted every twenty (20) feet on center.
 - b. One native palm tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees shall supersede the requirement for a native canopy tree in that location.
 - c. Thirty (30) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches.

H. SIGNS

- 1. No signs, other than any required hazard notification, shall be permitted on the lease parcel.

I. VEGETATION

- 1. All prohibited species shall be removed from the subject property prior to the issuance of a Certificate of Occupancy (C.O.).
- 2. No removal of native plant material shall be permitted on the site until the site plan has been certified by the Site Plan Review Committee.

J. COMPLIANCE

- 1. As provided in Zoning Code Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in one or more of the following:
 - a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
 - b. The revocation of any special exception for the property, as well as any previously granted certifications of concurrency or exemptions therefrom;
 - c. Rezoning of the property;

- d. The addition or modification of conditions, including a requirement that the development conform with updated standards ~~of~~ development applicable at the time of the finding of non-compliance;
 - e. Citation of the property owner for violation ~~of~~ the Zoning Code.
2. 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 Commissioners decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Roberts moved for approval of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted this 24th day of March, 1992.


APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:

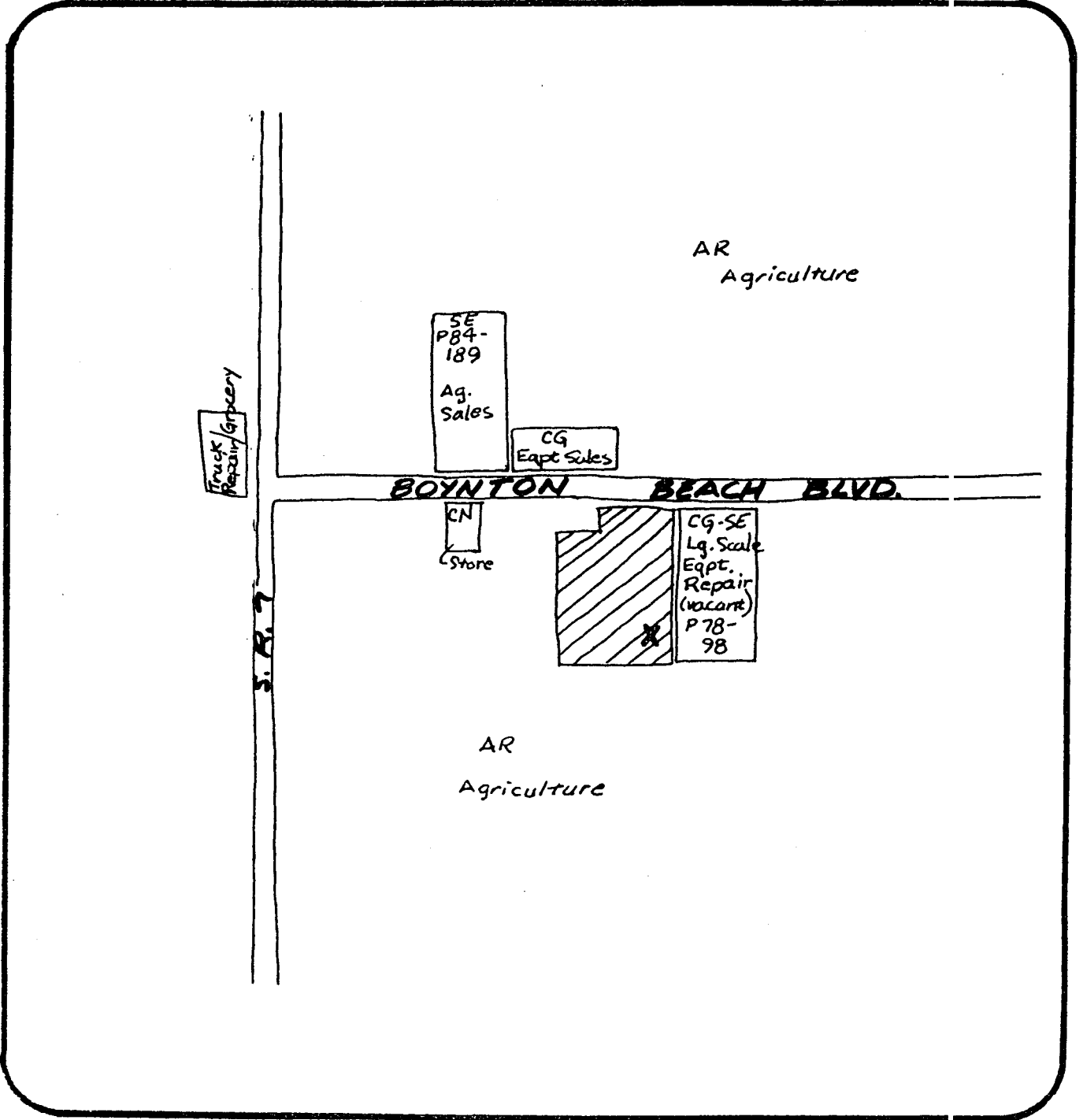

COUNTY ATTORNEY

BY:


DEPUTY CLERK

Sec. 30 Twp. 45 Rng. 42
Quadrant Sheet: 50
Aerial Page: 301

Vicinity Sketch



Request:

SPECIAL EXCEPTION: COMMERCIAL RADIO, TELEVISION, MICROWAVE TRANSMISSION AND RELAY STATIONS AND TOWERS AND ACCESSORY EQUIPMENT BUILDING (COMMUNICATION TOWER).

PETITION No: 92-2

BCC DISTRICT: 5