

RESOLUTION NO. R-2003-1984

RESOLUTION APPROVING ZONING PETITION DOA1996-015B
DEVELOPMENT ORDER AMENDMENT
PETITION OF NORTHSTAR HOLDING AT B&A AND CENTERLINE HOLDING
BY KILDAY & ASSOCIATES, INC., AGENT
(WEST BOYNTON FARM TOWER (WP-35))

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 DOA1996-015B was presented to the Board of County Commissioners at a public hearing conducted on December 4, 2003; 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 has considered the findings in the staff report and 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 DOA1996-015B, the petition of Northstar Holding at B&A and Centerline Holding, by Kilday & Associates, Inc., agent, for a Development Order Amendment to delete land area from an existing tower and to reconfigure property boundaries 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 December 4, 2003, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Koons moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	-	Aye
Tony Masilotti, Vice Chairman	-	Absent
Jeff Koons	-	Aye
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on December 4, 2003.

Filed with the Clerk of the Board of County Commissioners on 6 day of January, 2004.

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
FLORIDA



EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION:

TRACT 114 AND THE EAST 91.20 FEET OF TRACT 113, LESS THE NORTH 52 FEET THEREOF AND LESS RIGHT OF WAY FOR BOYNTON BEACH BOULEVARD (STATE ROAD NO. 804), BLOCK 50, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; ALSO DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID TRACT 114; THENCE N00°57'00"W, ALONG THE EAST LINE OF TRACT 114, A DISTANCE OF 88.32 FEET TO THE POINT OF BEGINNING; THENCE WESTERLY, ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE SOUTH, AT WHICH POINT THE RADIUS BEARS S01° 21'25"W, HAVING A RADIUS OF 3,314.25 FEET, A CENTRAL ANGLE OF 2° 18'14", A DISTANCE OF 133.27 FEET; THENCE S89°03'11"W A DISTANCE OF 287.92 FEET; THENCE N00°57'00"W A DISTANCE OF 516.89 FEET; THENCE N89°02'55"E A DISTANCE OF 421.15 FEET; THENCE S00°57'00"E A DISTANCE OF 519.60 FEET TO THE POINT OF BEGINNING. CONTAINING 5.00 ACRES, MORE OR LESS.

LEASE PARCEL LEGAL DESCRIPTION:

A PARCEL OF LAND CONTAINED IN BLOCK 50 OF PALM BEACH COUNTY FARMS COMPANY PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS; COMMENCE AT THE SOUTHEAST CORNER OF TRACT 114 OF SAID BLOCK 50 OF PALM BEACH FARMS COMPANY PLAT NO. 3; THENCE WESTERLY, ALONG THE SOUTH LINE OF SAID TRACT 114, A DISTANCE OF 201.43' TO A POINT; THENCE NORTHERLY 90°00'00" A DISTANCE OF 118.10' TO A POINT AND THE TRUE POINT OF BEGINNING; CONTINUING AT THE POINT OF BEGINNING; THENCE WESTERLY 90°00'00" A DISTANCE OF 60.00' TO A POINT; THENCE NORTHERLY 90°00'00" A DISTANCE OF 110.00' TO A POINT; THENCE EASTERLY 90°00'00" A DISTANCE OF 60.00' TO A POINT; THENCE SOUTHERLY 90°00'00" A DISTANCE OF 110.00 FEET TO A POINT BEING THE POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

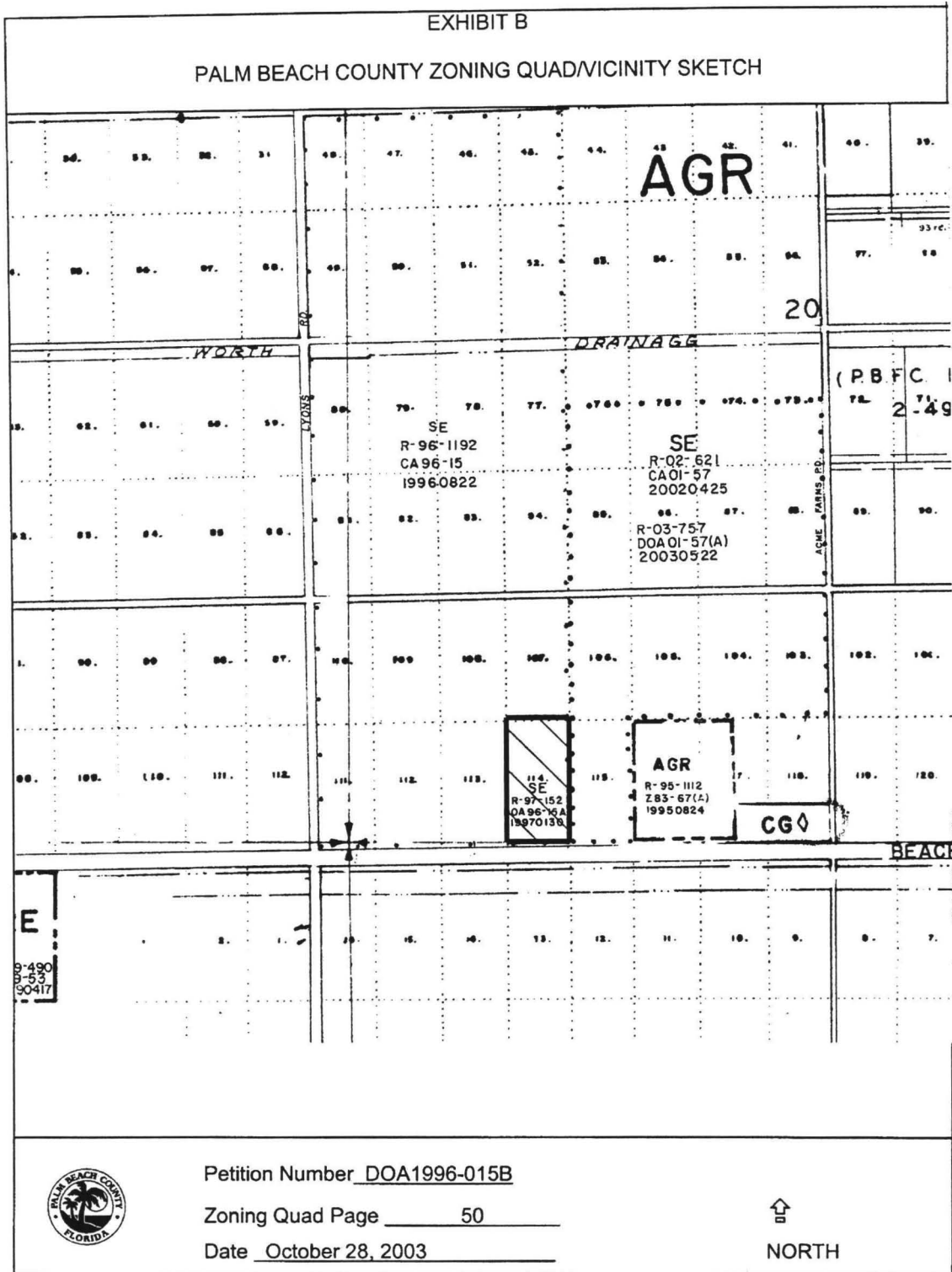


EXHIBIT C

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 R-97-152, Petition 96-15A), which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-96-1192 (Petition 96-15), 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.

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-97-0152 (Petition 96-015), 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/AIRPORTS – Zoning)

2. 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 September 12, 2003. 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 – Zoning)

B. FAA

1. **Prior to site plan certification, the petitioner shall submit documentation to the Zoning Division, which demonstrates that the proposed facility does not violate FAA Regulations and/or advisory circulars of the Palm Beach County Airport Zoning Regulations. This documentation shall be subject to approval by the Palm Beach County Department of Airports.** (Previous Condition B.1 of Resolution R-97-152, Petition 96-15(A)) (DRC: AIRPORTS)

C. LANDSCAPE

1. **The petitioner shall provide a minimum ten (10) foot wide Alternative 3 landscape buffer around the tower lease parcel except as permitted in Section 6.4.D.22.h. (Communication Tower/Landscape and Buffering) of the ULDC.** (Previous Condition C.1 of Resolution R-97-152, Petition 96-15(A)) (DRC: LANDSCAPE – Zoning)
2. **Canopy trees shall be planted twenty (20) feet on center around the tower lease parcel in the landscape buffer.** (Previous Condition C.2 of Resolution R-97-152, Petition 96-15(A)) (CO: LANDSCAPE – Zoning)

D. SIGNS

1. **No point of purchase or freestanding signs shall be permitted on the lease parcel or parent tract identifying the commercial communication tower or users.** (Previous Condition D.1 of Resolution R-97-152, Petition 96-15(A)) (CO: BLDG - Zoning)

E. ENGINEERING

1. Prior to November 1, 2004, the property owner shall plat the subject and the parent property in accordance with provisions of Article 8 of the Unified Land Development Code. (DATE: MONITORING – Eng)
2. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG – Eng)

F. TOWER

1. **Palm Beach County and the State of Florida shall have the right to co-locate communication equipment on the tower, subject to an acceptable lease agreement, provided that the placement of the equipment does not interfere with the petitioner's equipment or operations.** (Previous Condition F.1 of Resolution R-97-152, Petition 96-15(A)) (ONGOING: PREM – PREM)
2. **Prior to site plan certification by the DRC, the petitioner shall comply with the shared use provisions of the ULDC, Section 6.4.D.22.k. (shared use), as may be amended. 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.** (Previous Condition F.2 of Resolution R-97-152, Petition 96-15(A)) (DRC: ZONING – Zoning)
3. **Prior to site plan certification, the petitioner shall provide documentation that the tower does not encroach into any public or private airport runway protection zone as established by the Federal Aviation Administration. This documentation shall be approved by the Palm Beach County Department of Airports.** (Previous Condition F.3 of Resolution R-97-152, Petition 96-15(A)) (DRC: AIRPORTS)
4. **The communication tower shall be limited to a maximum 150 foot high monopole structure, measured from finished grade to highest point.** (Previous Condition F.4 of Resolution R-97-152, Petition 96-15(A)) (DRC/BLDG PRMT: ZONING/BLDG – Zoning)
5. **The minimum side setback for the tower shall be two hundred and twenty (220) feet from the east property line.** (Previous Condition F.5 of Resolution R-97-152, Petition 96-15(A)) (DRC/BLDG PRMT: ZONING/BLDG – Zoning)

G. 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 G.1 of Resolution R-97-152, Petition 96-015(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.

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 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 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. (ONGOING: MONITORING – Zoning)