

RESOLUTION NO. R-98-877

RESOLUTION APPROVING WAIVER REQUEST W97-91  
WAIVER FROM REQUIRED DIMENSIONAL CRITERIA  
PETITION OF BELLSOUTH MOBILITY  
BY KILDAY & ASSOC., AGENT  
(AYOW-3 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, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Waiver from Required Dimensional Criteria for Communication Towers; 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, Waiver Request W97-91 was presented to the Board of County Commissioners at a public hearing conducted on June 25, 1998; 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 (ULDC) 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 request for Waivers from required Setbacks from property lines reduction of 78 feet from the east. 32.5 feet from the west and 176 feet from the north and separation from residential structure reduction of 730.9 feet complies with the intent of Section 6.4.D.22 of the ULDC.
2. These Waivers from Required Setbacks from property lines and separation from residential structure, will not be injurious to the uses in the area adjacent to the structure and otherwise will not be detrimental to the public welfare.
3. These Waivers from Required Setbacks from property lines and separation from residential structure are not granted based solely upon or in large measures due costs associated with complying with all requirements of section 6.4.0.22.
4. These Waivers from Required Setbacks from property lines and separation from residential structure, will not result in an incompatibility between the proposed tower or communication facility and adjacent uses.
5. These Waivers from Required Setbacks from property lines and separation from residential structure are necessary within the defined search or propagation study area as all other waiver alternatives have been exhausted.

6. **These** Waivers from Required Setbacks from property lines and separation from residential structure, are the minimum waivers that will make possible the reasonable use of the parcel of land, building or structure.
7. These Waivers from Required Setbacks from property lines and separation from residential structure, are consistent with the purposes, goals, objectives, and policies of Palm Beach County Comprehensive Plan and with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
8. **These** Waivers from Required Setbacks from property lines and separation from residential structure, will not be injurious to the area involved or otherwise detrimental to the public welfare.
9. **These** Waivers from Required Setbacks from property lines and separation from residential structure based upon documentation submitted by the applicant are necessary within the defined search or propagation study area **so** as not to prohibit the provision of personal wireless, television, and related communication services as defined by the Telecommunications Act of 1996 and rules of the FCC.
10. These Waivers from Required Setbacks from property lines and separation from residential structure are required to comply with **locational** standards established by the Federal Aviation Administration (**FAA**).
11. These Waivers from Required Setbacks from property lines and separation from residential structure based upon documentation submitted by the applicant are necessary within the defined search or propagation study area and will allow a proposed tower location to reduce the impact on adjacent residential uses.

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 Waiver Request W97-91, the petition of Bellsouth Mobility, by Kilday & Assoc., agent, for a Waiver (W) of Setbacks from property lines (reduction of 78 feet from the east, 32.5 feet from the west and 176 feet from the north) and separation from residential structure [reduction of 730.9 feet] in the Agricultural Residential (AR) Zoning District, 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 **as** indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on June 25, 1998.

Commissioner Marcus moved for the approval of the Resolution.

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

Burt Aaronson, Chair	--	Aye
Maude Ford Lee, Vice Chair	--	Aye
Ken Foster	--	Absent
Karen T. Marcus	--	Aye
Mary McCarty	--	Aye
Warren Newell	--	Absent
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on June 25, 1998.

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

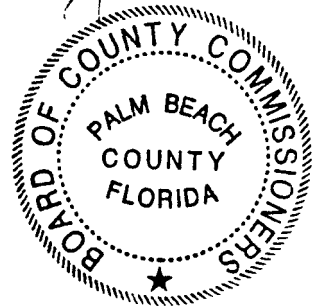


EXHIBIT A

LEGAL DESCRIPTION

**LEGAL DESCRIPTION**

A parcel of land in Section 2, Township 41 South, Range 41 East, Palm Beach County, Florida, more particularly described as follows: The East 1/2 of the East 1/2 of the SE 1/4 of said Section 2, less the North 1994.06 feet thereof and less also the South 66 feet of the East 66 feet thereof.

LESS: Canal and Road Right of Way as shown on "REPLAT OF JUPITER FARMS AND GROVES", according to the plat thereof as recorded in Plat Book 24, Page 7 of the Public Records of Palm Beach County, Florida.

The above parcel of land contains 431430 square feet (9.904 acres ) more or less

EXHIBIT B

PALM BEACH COUNTY  
VICINITY SKETCH / ZONING

