

RESOLUTION NO.R-99- 1684

RESOLUTION DENYING REQUEST FOR WAIVER W99-039  
FROM REQUIRED DIMENSIONAL CRITERIA  
PETITION OF THOMAS B. NEWMAN  
BY ANDY ZITMAN, AGENT  
(UNISITE, NEWMAN PROPERTY)

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 W99-039 was presented to the Board of County Commissioners at a public hearing conducted on September 23, 1999; 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, the Board of County Commissioners made the following findings of fact:

1. This request for Waivers from the minimum separation requirement to residential structures is denied because no evidence has been submitted by the petitioner indicating other tower alternatives (i.e. stealth or camouflage towers) that can be utilized without a waiver.
2. This request for Waivers from the minimum separation requirement to residential structures is denied because the petitioner has not provided adequate information to determine whether the request is based solely upon or in large measures due to costs associated with complying with all requirements of section 6.4.0.22. No evidence was submitted by the petitioner indicating that alternative sites would be cost prohibitive.
3. This request for Waivers from the minimum separation requirement to residential structures will result in an incompatibility (visual impact) between the proposed tower and the adjacent residential uses. The petitioner has not provided any other alternatives to mitigate the visual impact.
4. This request for Waivers from the minimum separation requirement to residential structures is not necessary within the defined search or propagation study area as all other waiver alternatives have not been exhausted.
5. This request for Waivers from the minimum separation requirement to residential structures is not the minimum waiver required that will make possible the reasonable use of the parcel of land, building or structure. The petitioner has not explored alternative locations within the subject site that would reduce the waivers.

6. This request for Waivers from the minimum separation requirement to residential structures is not consistent with the purposes, goals, objectives, and policies of Palm Beach County Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code (ULDC). The petitioner's justification for the waiver failed to meet all of the criteria, therefore, not consistent with the ULDC objectives.

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 W99-039, the petition of Thomas B. Newman, by Andy Zitman, agent, for a Wavier(W) from the required dimensional criteria 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 denied on September 23, 1999.

Commissioner Masilotti moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on September 23, 1999.

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

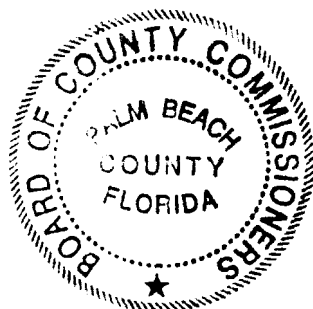


EXHIBIT A  
LEGAL DESCRIPTION

A PARCEL OF LAND LYING WITHIN TRACT 9, BLOCK '1', REPLAT OF LOXAHATCHEE GROVES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 9;

THENCE SOUTH 0136'24" WEST ALONG THE EASTERLY LINE OF SAID TRACT 9 AND ALONG THE WESTERLY RIGHT-OF-WAY LINE OF "D" ROAD AS NOW LAID OUT AND IN USE. A DISTANCE OF 456.05 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE SOUTH 01'38'24" WEST ALONG SAID LINE, A DISTANCE OF 294.36 FEET;

THENCE NORTH 88'26'46" WEST, ALONG A LINE 1349.60 FEET NORTH OF, AS MEASURED AT RIGHT ANGLES TO, AND PARALLEL WITH THE ORIGINAL NORTH RIGHT-OF-WAY LINE OF STATE ROAD 80, A DISTANCE OF 468.03 FEET;

THENCE SOUTH 02'10'14" WEST ALONG A LINE 491.82 FEET EASTERLY OF, AS MEASURED AT RIGHT ANGLES TO, AND PARALLEL WITH THE WESTERLY LINE OF TRACT 9. A DISTANCE OF 749.91 FEET;

THENCE NORTH 88'26'46" WEST, ALONG A LINE 599.73 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO, AND PARALLEL WITH SAID NORM RIGHT-OF-WAY LINE OF STATE ROAD 80 A DISTANCE OF 491.85 FEET TO THE WESTERLY UNE OF SAID TRACT 9;

THENCE NORTH 02'10'14" EAST, ALONG THE WEST UNE OF SAID TRACT 9. A DISTANCE OF 1031.53 FEET;

THENCE SOUTH 89'12'34" EAST ALONG A LINE 456.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, AND PARALLEL WITH ME NORTH UNE OF SAID TRACT 9. A DISTANCE OF 957.25 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 14.80 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B  
VICINITY SKETCH

