

RESOLUTION NO. R-2004-0150

RESOLUTION APPROVING WAIVER REQUEST W1982-056A
WAIVER FROM REQUIRED DIMENSIONAL CRITERIA
PETITION OF BEASLEY FM ACQUISITION CORP.
BY KILDAY & ASSOCIATES, AGENT
(BEASLEY BROADCASTING)

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 Waivers 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 W1982-056A was presented to the Board of County Commissioners at a public hearing conducted on January 29, 2004; 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 has considered the findings in the staff report and the following findings of fact:

1. This request for Waivers from the minimum setback requirements for a commercial communication tower (guyed) complies with the intent of Section 6.4.D.22 of the ULDC.
2. This request for Waivers from the minimum setback requirements to the north and south property lines for a commercial communication tower (guyed), 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. This request for Waivers from the minimum setback requirements to the north and south property lines for a commercial communication tower (guyed) is not granted based solely upon or in large measures due costs associated with complying with all requirements of section 6.4.D.22.
4. This request for Waivers from the minimum setback requirements to the north and south property lines for a commercial communication tower (guyed) will not result in an incompatibility between the proposed tower or communication facility and adjacent uses.
5. This request for Waivers from the minimum setback requirements to the north and south property lines for a commercial communication tower (guyed) is necessary within the defined search or propagation study area as all other waiver alternatives have been exhausted.

6. This request for Waivers from the minimum setback requirements to the north and south property lines for a commercial communication tower (guyed) is the minimum waiver that will make possible the reasonable use of the parcel of land, building or structure.
7. This request for Waivers from the minimum setback requirements to the north and south property lines for a commercial communication tower (guyed) is 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. This request for Waivers from the minimum setback requirements to the north and south property lines for a commercial communication tower (guyed) will not be injurious to the area involved or otherwise detrimental to the public welfare.
9. Based upon documentation submitted by the applicant, this request for Waivers from the minimum setback requirements to the north and south property lines for a commercial communication tower (guyed) is 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. Based upon documentation submitted by the applicant, this request for Waivers from the minimum setback requirements to the north and south property lines for a commercial communication tower (guyed) is necessary within the defined search or propagation study area due to interference that may be caused resulting from such factors as collocation on existing towers or structures, the nature of other communications equipment or signals, or other technical problems that would result in interference between providers.

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 W1982-056A, the petition of Beasley FM Acquisition Corp., by Kilday & Associates, agent, to allow for waivers from the setbacks for the north and south property lines in the Agricultural Residential/Special Exception 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 January 29, 2004.

Commissioner Koons moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 29, 2004.

Filed with the Clerk of the Board of County Commissioners on _____ day of MAR 15 2004, 200_.

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

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
FLORIDA

EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF SECTION 28, TOWNSHIP 47 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA. AZIMUTHS SHOWN HERON ARE BASED UPON TRUE NORTH AZIMUTH OBTAINED FROM ASTRONOMICAL OBSERVATION. SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 28; THENCE ON AN AZIMUTH OF 358°44'45" ALONG THE WEST LINE OF SAID SECTION 28, A DISTANCE OF 4,309.08 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF THE HILLSBORO CANAL; THENCE ON AZIMUTH OF 108°06'30" ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 31.80 FEET; THENCE ON AN AZIMUTH OF 178°44'45" AND ALONG A LINE PARALLEL WITH AND 30.00 FEET EAST OF AS MEASURED AT RIGHT ANGLES TO THE SAID WEST LINE OF SECTION 28, A DISTANCE OF 3,529.04 FEET; THENCE ON AN AZIMUTH OF 89°36'40" ALONG A LINE PARALLEL WITH AND 769.87 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF SAID SECTION 28, A DISTANCE OF 1,387.00 FEET; THENCE ON AN AZIMUTH OF 178°44'45" ALONG A LINE PARALLEL WITH AND 1416.84 FEET EAST OF AS MEASURED AT RIGHT ANGLES TO THE SAID WEST LINE OF, A SECTION 28, DISTANCE OF 769.96 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 28; THENCE ON AN AZIMUTH OF 269°36'40" ALONG THE SAID SOUTH LINE OF SECTION 28, A DISTANCE OF 1,417.00 FEET TO THE POINT OF BEGINING

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA. CONTAINING 1,196,930 SQUARE FEET OR 27.478 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS AND RIGHTS-OF-WAY OF RECORD.

