

RESOLUTION NO. R-2004-0151

RESOLUTION APPROVING ZONING PETITION DOA1982-056A  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF BEASLEY FM ACQUISITION CORP.  
BY KILDAY & ASSOCIATES INC, AGENT  
(BEASLEY BROADCASTING - WHSR 980 AM RADIO 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, 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 DOA1982-056A 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 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 DOA1982-056A, the petition of Beasley FM Acquisition Corp., by Kilday & Associates Inc, agent, for a Development Order Amendment to add a fourth commercial communications tower 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 January 29, 2004, 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 Newell 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	- 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 15 day of March, 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



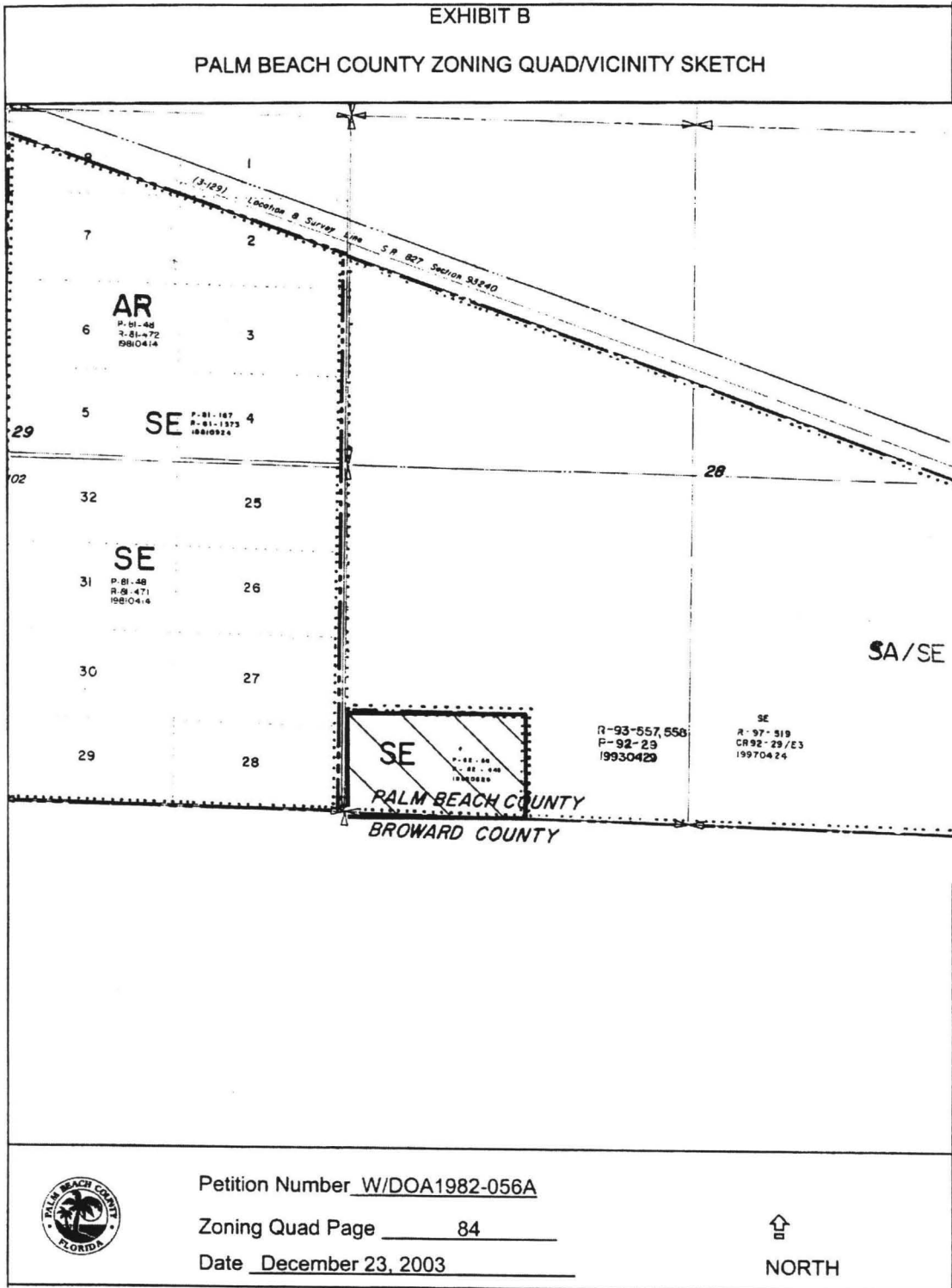
EXHIBIT A  
LEGAL DESCRIPTION

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.

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. All previous conditions of approval applicable to the subject property, as contained in Resolution R-82-645 (Petition 82-056), 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 – 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 November 13, 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. BUILDING AND SITE DESIGN

1. **The developer shall provide for an 8 ft. high chain link fence around the towers.** (BLDG PERMIT\CO: BLDG\LANDSCAPE-Zoning) (Previous Condition 2 of Resolution 82-645, Petition 1982-056)

#### C. CONDEMNATION

1. **As the developer agreed at the public hearing, no governmental entity will be liable in any future condemnation for any increase in value attributable to this grant of special exception and any improvements made on the property as a result of this approval. Further, any improvements will be removed by the developer at the time of condemnation.** (Previous Condition 3 of Resolution 82-645, Petition 1982-056)

There are no Conditions of Approval for D.

#### E. ENGINEERING

1. **The developer shall provide for a minimum 20 ft. access easement from S.R. 827 to the project site.** (Previous Condition 1 of Resolution 82-645, Petition 1982-056)
2. Prior to the issuance of a building permit, the property owner shall convey to Palm Beach County by road right of way warranty deed, additional right of way for Lox Road, 120 feet south of the existing south right of way line of the Hillsboro Canal. Right of way conveyance shall be free of all encumbrances and encroachments. The Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of

such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (BLDG PRMT: MONITORING - Eng)

3. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Lox Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PRMT: MONITORING – Eng)

F. 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. 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)