

RESOLUTION NO. R-91-593

RESOLUTION APPROVING ZONING PETITION NO. 82-24(B)
SPECIAL EXCEPTION PETITION OF BELL SOUTH MOBILITY

WHEREAS, the Board of County Commissioners, as the governing body, 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 notice and hearing requirements, as provided for in Chapter 402.5 of the Palm Beach County Zoning Code, have been satisfied; and

WHEREAS, Petition No. 82-24(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on January 24, 1991; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, has considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 82-24(B), the petition of BELL SOUTH MOBILITY, BY LEE STARKEY, AGENT, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR AN EXISTING RADIO TOWER, TO INCREASE THE BUILDING SQUARE FOOTAGE on a parcel of land lying on the West 400.00 feet of the South 1/2 of Tract 6, less the North 35.00 feet thereof, in the Southeast 1/4 of Section 12, Township 45 South, Range 42 East, "AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET AL", as recorded in Plat Book 9, Page 74, and being located on the E. SIDE OF MILITARY TR., APPROXIMATELY .6 MILE S. OF HYPOLUXO RD. IN THE CG ZONING DISTRICT, was approved on January 24, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS:

1. The petitioner shall comply with all previous conditions of approval and all prior time certain conditions, unless expressly modified herein.
2. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.

3. This Special Exception is granted concurrent with a rezoning. Development of the site is limited to the uses and site design shown on the site plan (Exhibit 45) approved by the Board of County Commissioners. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review).

B. SITE SPECIFIC CONDITIONS:

1. The site plan shall be amended prior to Site Plan certification to indicate:
 - a. A 25 foot landscape buffer along the perimeter of the site.
 - b. Preserve areas on the site.
 - c. Military Trail as a sixty (60) foot right of way from centerline.
 - d. Add the total building square footage to the tabular information on the site plan.
 - e. The width of the access the drive way at the right of way line as a minimum twenty-five (25) feet.
 - f. The minimum width for the driveway as twenty-five (25) feet.
 - g. Correct dimensions for the north and south perimeters of the site on the site plan and survey.
 - h. Indicate an eight (8) foot chain-link fence surrounding the anchors and the base of the tower.
 - i. Indicate a gate at the beginning of the access driveway.
2. If high voltage is necessary for the operation of the facility, and is present in a ground grid or in the tower, signs located every twenty (20) feet and attached to the fence shall display in large bold letters the following "HIGH VOLTAGE - DANGER".
3. No equipment shall be stored or parked on the site unless repairs to the facility are made.
4. Palm Beach County shall have the right to co-locate County communication equipment on the subject tower, provided that the placement of County equipment does not interfere with the petitioner's equipment or operations.

C. ENGINEERING:

- E1. The Developer shall provide discharge control and treatment for the storm-water runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain on-site the storm-water runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation

maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.

D. ENVIRONMENTAL RESOURCE MANAGEMENT:

1. The petitioner shall relocate any significant native vegetation found within the proposed expansion area. All oaks found on site shall be preserved.

E. HEALTH CONDITIONS:

1. The proposed structure shall be an unmanned building that shall have no plumbing.

F. PRESERVATION

1. The petitioner shall preserve/relocate existing native vegetation on site and shall incorporate it into the project design. Clearing of the vegetation shall be limited to the building pad areas, retention areas and vehicular use areas. The areas of preservation shall receive appropriate protection from damage and disturbance in accordance with Section 500.36 of the Zoning Code, during the site development and construction phase.
2. Native Vegetation, particularly all oak trees not located within preservation/relocation areas and deemed relocatable by the Department of Environmental Resource Management and the Zoning Division, shall be relocated to the perimeter buffers or other open space areas on the site.

G. COMPLIANCE:

1. As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:
 - a. The denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
 - c. A requirement of the development to conform with updated standards of development, applicable 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.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit

Commissioner Elmquist moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	AYE
Carol A. Roberts	--	ABSENT
Carol J. Elmquist	--	AYE
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 7th day of May, 1991.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

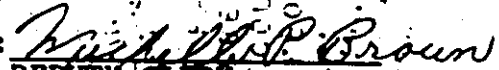
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

RESOLUTION NO. R-91-594

RESOLUTION APPROVING ZONING PETITION NO. 82-118(B)
SPECIAL EXCEPTION PETITION OF HNK ASSOCIATES, INC.

WHEREAS, the Board of County Commissioners, as the governing body, 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 notice and hearing requirements, as provided for in Chapter 402.5 of the Palm Beach County Zoning Code, have been satisfied; and

WHEREAS, Petition No. 82-118(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on January 24, 1991; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, has considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 82-118(B), the petition of HNK ASSOCIATES, INC., BY KIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR AN APPROVED PCD WHICH INCLUDES A SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET TO INCREASE THE BUILDING SQUARE FOOTAGE on a parcel of land situated in Section 12, Township 44 South, Range 42 East, part of which being a portion Parcel "A" of the "BOUNDARY PLAT LANDS IN SECTION 12, TOWNSHIP 44 SOUTH, RANGE 42 EAST", as recorded in Plat Book 28, Pages 227 and 228, being more particularly described as follows: Beginning at the intersection of the ultimate southerly right-of-way line of Forest Hill Boulevard (a right-of-way 120.00 feet in width) and the easterly line of "THE VILLAS OF PALM BEACH PLAT NO. 1", as recorded in Plat Book 40, Pages 198 and 199; thence South 88°46'16" East along said right-of-way line, a distance of 532.45 feet to the east line of parcel "A"; thence South 01°14'38" along said east line and the southerly extension thereof, a distance of 773.22 feet to the southerly line of the aforesaid "BOUNDARY PLAT"; thence North 88°46'19" West along said southerly line and the westerly extension thereof, a distance of 495.45 feet to the aforesaid easterly line of "THE VILLAS OF PALM BEACH PLAT NO. 1"; thence North 01°29'44" West, along said easterly line, a distance of 774.10 feet to the Point-of-Beginning. For the purpose

of this description all bearings are referenced to an assumed bearing of North 01°29'44" West on the east line of "THE VILLAS OF PALM BEACH PLAT NO. 1", and being located on the S. SIDE OF FOREST HILL BLVD., APPROXIMATELY 800 FT W. OF THE INTERSECTION OF MILITARY TRAIL AND FOREST HILL BLVD., IN THE CG ZONING DISTRICT, was approved on January 24, 1991, as advertised, subject to the following conditions:

A. ALL PETITIONS:

1. The petitioner shall comply with all previous conditions of approval and all prior time certain conditions of approval, unless expressly modified herein.
2. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.
3. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit 49). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review).

B. SITE SPECIFIC CONDITIONS:

1. The site plan shall be amended to indicate the following:
 - a. A total of four (4) Loading spaces.
 - b. The width of the driveway between the retention area and the southwest corner of the main structure shall be twenty-five (25) feet minimum.

C. ENGINEERING:

- E1. The Developer shall provide discharge control and treatment for the storm-water runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain on-site the storm-water runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.
- E2. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project at the time of the Building Permit presently is \$13,695.00 (249 trips X \$55.00 per trip).

E3. The Developer shall fund the installation of signalization if warranted as determined by the County Engineer at Forest Hill Boulevard and the project's entrance. Should signalization not be warranted after 24 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.

D. ENVIRONMENTAL RESOURCE MANAGEMENT:

1. Secondary containment for stored Regulated Substances- fuels, oils, solvents, or other hazardous chemicals- is required. Environmental Resources Management Department staff are willing to provide guidance on appropriate protective measures.

E. HEALTH:

1. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents.

2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.

3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

F. LANDSCAPING:

1. The west property line shall be supplemented with additional native canopy trees, a minimum of twelve (12) feet in height, planted forty (40) feet on center.

2. The parking area shall be upgraded to provide a minimum of twenty (20) square feet of curbed tree planting area for every ten (10) parking stalls. Trees shall be a minimum of ten (10) feet in height and shall be native canopy trees.

G. USE LIMITATION:

1. Loading and the maintenance activities shall be limited to 6:00 a.m. to 10:00 p.m. along the western property line, where the site abuts residential use areas.

H. COMPLIANCE:

1. As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:

a. The denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property; and/or

b. The revocation of the Special Exception and any zoning which was approved concurrently with the

Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or.

- c. A requirement of the development to conform with updated standards of development, applicable 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.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Elmquist moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	AYE
Carol A. Roberts	--	ABSENT
Carol J. Elmquist	--	AYE
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 7th day of May, 1991.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY:

Richard Altman
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:

Michelle P. Brown
DEPUTY CLERK