

Memorandum



Date: February 28, 2012
To: Distribution
From: Earl Jones, Deputy Clerk
Subject: Resolutions

Attached are resolution CZAB2-1-12 and the list from the Community Zoning Appeals Board No. 2 hearing of February 22, 2012.

Any missing resolutions must be reported to this office (ext. 2129) no later than five (5) days from the date of this memo.

Attachments

Distribution: Agenda Coordinator's Office - MDC - 11th Floor
Clerk of the Board – Nelson Diaz, MDC -17th Floor
Property Appraiser –Angela Hall, MDC - 8th Floor

CLERK OF THE BOARD
2012 FEB 28 PM 2:56
JEROME CIRCHIT & COMPANY PFS
MIAMI-DADE COUNTY, FLA.
#1



COMMUNITY ZONING APPEALS BOARD 2

Hearing Date: FEBRUARY 22, 2012

I The Board took the following action on the items listed below

10-5-CZ2-1	T-MOBILE SOUTH LLC AND FLORIDA POWER AND LIGHT Denied Without Prejudice per staff's November 2011 recommendation	09-43 CZAB2112	31-51-42
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COUNTY STAFF ATTENDEES:

CRAIG COLLER - ASSISTANT COUNTY ATTORNEY
 AMINA NEWSOME - ZONING EVALUATION (PERA)
 EARL JONES - ZONING EVALUATION SECTION (PERA)
 CLEVELAND THOMPSON - ZONING AGENDA COORDINATOR'S OFFICE (PERA)

NOTICE

 THE FOLLOWING SUMMARY INFORMATION IS PROVIDED AS A COURTESY; IT SHOULD NOT BE TREATED AS LEGAL ADVICE AND IT SHOULD NOT BE RELIED UPON. LEGAL CONSULTATION MAY BE WARRANTED IF AN APPEAL OR OTHER LEGAL CHALLENGE IS BEING CONTEMPLATED.

Decisions of the Community Zoning Appeals Board (CZAB) may be subject to appeal or other challenge. For example, depending upon the nature of the requests and applications addressed by the CZAB, a CZAB decision may be directly appealable to the Board of County Commissioners (BCC) or may be subject to challenge in Circuit Court. Challenges asserted in Circuit Court, where available, must ordinarily be filed within 30 days of the transmittal of the pertinent CZAB resolution to the Clerk of the BCC. Appeals to the BCC, where available, must be filed with the Zoning Hearing Section of the Department of Planning and Zoning (DPZ) within 14 days after the DPZ has posted a short, concise statement (such as that furnished above for the listed items) that sets forth the action that was taken by the CZAB. (The DPZ's posting will be made on a bulletin board located in the office of the DPZ.) All other applicable requirements imposed by rule, ordinance, or other law must also be observed when filing or otherwise pursuing any challenge to a CZAB decision.

Further information regarding options and methods for challenging a CZAB decision may be obtained from sources that include, but are not limited to, the following: Sections 33-312, 33-313, 33-314, 33-316, and 33-317 of the Code of Metropolitan Dade County, Florida; the Florida Rules of Appellate Procedure; and the Municode website (www.municode.com). Miami-Dade County does not provide legal advice regarding potential avenues and methods for appealing or otherwise challenging CZAB decisions; however, a licensed attorney may be able to provide assistance and legal advice regarding any potential challenge or appeal.

RESOLUTION NO. CZAB2-1-12

WHEREAS, T-MOBILE SOUTH L.L.C. AND FLORIDA POWER AND LIGHT applied

for the following:

- (1) UNUSUAL USE to permit a 100' high wireless supported service facility (cellular tower) and ancillary equipment.
- (2) MODIFICATION of Condition #2 of Resolution No. 3-ZAB-35-67, passed and adopted by Zoning Appeals Board and reading as follows:

FROM: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Ives Substation Plot Plan,' dated November 3, 1966, and approved by H.V. Street, Chief Engineer."

TO: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'FPL Ives Substation,' as prepared by Mactec Engineering & Consulting, Inc., consisting of 3 sheets and dated stamped received 3/17/09."

The purpose of Request #2 is to permit the applicant to submit a revised site plan showing a Wireless Supported Service Facility located in a previously approved FPL Substation.

- (3) NON-USE-VARIANCE to permit an 8' high chain link fence (6' permitted) with 3 strands of barbed wire.
- (4) NON-USE-VARIANCE to permit the Wireless Supported Service Facility setback 40' (111.11' required) from the interior side (north) property line and setback 67' (111.11' required) from the front (east) property line.

The aforementioned plans are on file and may be examined in the Department of Permitting, Environment and Regulatory Affairs. Plans may be modified at public hearing.

SUBJECT PROPERTY: PARENT TRACT LEGAL DESCRIPTION: The north 300' of the east ½ of the SE ¼ of the SE ¼ of the NE ¼ of Section 31, Township 51 South, Range 42 East, less the east 40' for road right of way. T-MOBILE LEASE AREA DESCRIPTION: A portion of the following described parcel of land:

The north 300' of the east ½ of the SE ¼ of the SE ¼ of the NE ¼ of Section 31, Township 51 South, Range 42 East, less the East 40' for road right of way. Being more particularly described as follows:

Commence at the northeast corner of the aforescribed parcel of land; thence S02°29'16"E along the east line of the aforesaid parcel, (basis of bearing along the east line of Section 31, Township 51 South, Range 42 East based on the North American Datum of 1983, 1990 adjustment Florida East Zone), for a distance of 27.42'; thence S87°30'44"W, a distance of 10' to the Point of beginning; thence continue S87°30'44"W, a distance of 25'; thence S02°29'16"E, a distance of 18'; thence N87°30'44"E, a distance of 25'; thence

N02°29'16"W, a distance of 18' to the Point of beginning. 15' T-MOBILE ACCESS EASEMENT DESCRIPTION:

A portion of the following described parcel of land:

The north 300' of the east ½ of the SE ¼ of the SE ¼ of the NE ¼ of Section 31, Township 51 South, Range 42 East, less the east 40' for road right of way, in which the centerline is being more particularly described as follows:

Commence at the northeast corner of the aforesaid parcel of land; thence S87°51'24"W along the north line of the aforesaid parcel, (basis of bearing along the east line of Section 31, Township 51 South, Range 42 East based on the North American Datum of 1983, 1990 adjustment Florida East Zone), for a distance of 17.5' to the Point of beginning of the aforementioned centerline; thence S02°08'36"E, a distance of 27.52' to the Point of terminus being located on the north line of the T-MOBILE LEASE AREA. The side lines to be shortened or prolonged to meet at angle points and lot lines. 5' T-MOBILE UTILITY EASEMENT DESCRIPTION: A portion of the following described parcel of land:

The north 300' of the east ½ of the SE ¼ of the SE ¼ of the NE ¼ of Section 31, Township 51 South, Range 42 East, less the east 40' for road right-of-way, in which the centerline is being more particularly described as follows:

Commence at the northeast corner of the afore described parcel of land; thence S87°51'24"W along the north line of the aforesaid parcel, (basis of bearing along the east line of Section 31, Township 51 South, Range 42 East based on the North American Datum of 1983, 1990 adjustment Florida East Zone), for a distance of 7.5' to the Point of beginning of the aforementioned centerline; thence S02°08'36"E, a distance of 29.96'; thence S87°30'44"W, a distance of 2.5' to the Point of terminus being located on the north line of the T-MOBILE LEASE AREA. The side lines to be shortened or prolonged to meet at angle points and lot lines.

LOCATION: Lying west of N.E. 10 Avenue and north of N.E. 208 Street, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 2 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and

WHEREAS, upon due and proper consideration having been given to the matter, including the rationale articulated by the Department of Permitting, Environment and Regulatory Affairs in its November 15, 2011 recommendation for denial, it is the opinion of this Board that the requested unusual use to permit a 100' high wireless supported service facility (cellular tower) and ancillary equipment (Item #1), the requested modification of

Condition #2 of Resolution No. 3-ZAB-35-67, passed and adopted by Zoning Appeals Board (Item #2), the requested non-use-variance to permit an 8' high chain link fence with 3 strands of barbed wire (Item #3), and the requested non-use-variance to permit the Wireless Supported Service Facility setback 40' from the interior side (north) property line and setback 67' from the front (east) property line (Item #4) would not be compatible with the area and its development and would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and should be denied, and that the requested unusual use (Item #1) would have an adverse impact upon the public interest and should be denied without prejudice, and

WHEREAS, a motion to deny the application without prejudice was offered by Peggy A. Stroker, seconded by Adrienne F. Promoff, and upon a poll of the members present, the vote was as follows:

Kenneth Friedman	aye	Adrienne F. Promoff	aye
Scott R. Jay	aye	Howard Ross	aye
		Peggy A. Stroker	aye
		Dawn Uffner	aye

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 2 that the requested application be and the same is hereby denied without prejudice.

The Director is hereby authorized to make the necessary notations upon the records of the Miami-Dade County Department of Permitting, Environment and Regulatory Affairs or its Successor.

PASSED AND ADOPTED this 22nd day of February, 2012.

Hearing No. 10-5-CZ2-1

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**THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY
COMMISSIONERS ON THE 28TH DAY OF FEBRUARY, 2012.**

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Earl Jones, as Deputy Clerk for the Miami-Dade County Department of Permitting, Environment and Regulatory Affairs or its successor as designated by the Director of the Miami-Dade County Department of Permitting, Environment and Regulatory Affairs or its successor and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 2, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB2-1-12 adopted by said Community Zoning Appeals Board at its meeting held on the 22nd day of February, 2012.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 28th day of February, 2012.



Earl Jones, Deputy Clerk (3230)
Miami-Dade Department of County Permitting,
Environment and Regulatory Affairs or its successor

SEAL

