

SPECIAL PERMIT NO. SP-98-03  
FLORIDA POWER AND LIGHT COMPANY/HERON HEIGHTS SUBDIVISION

SEP 2 11 13 AM '98

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER JAMES A. PAULMANN ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO. SP-98-03, TO ALLOW THE REDUCTION OF THE PARCEL SIZE FROM APPROXIMATELY 9 ACRES TO  $\pm .25$  ACRE ASSOCIATED WITH AN EXISTING 150' TALL SELF-SUPPORTING ANTENNA STRUCTURE, LOCATED AT 4700 86<sup>TH</sup> STREET WEST (THE WEST SIDE OF 86<sup>TH</sup> STREET WEST, APPROXIMATELY 1,000 FEET SOUTH OF CORTEZ ROAD, IN RSF-4.5 (RESIDENTIAL SINGLE FAMILY, 4.5 DU/ACRE) ZONING DISTRICT ( $\pm .25$  ACRE); PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 90-01, as amended; and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 90-01, as amended, the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, Florida Power and Light Company/Heron Heights Subdivision has requested a Special Permit to reduce the parcel size from approximately 9 acres to  $\pm .25$  acre associated with an existing 150' tall self-supporting antenna structure, located at 4700 86<sup>th</sup> Street West (the west side of 86<sup>th</sup> Street West, approximately 1,000 feet south of Cortez Road in a RSF-4.5 (Residential Single-Family, 4.5 du/acre) zoning district ( $\pm .25$  acre); and

WHEREAS, on August 6, 1998 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit for Florida Power and Light Company/Heron Heights Subdivision.

NOW, THEREFORE, the Final Order regarding Special Permit No. SP-98-03 requested by Florida Power and Light Company/Heron Heights Subdivision states as follows:

Section 1. Findings of Fact. The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation and staff report presented, as well as all other matters presented at the Public Hearing above referenced, hereby makes the following Findings of Fact:

A. This request is for approval to reduce the parcel size from approximately 9 acres to  $\pm .25$  acre associated with an existing 150' tall self-supporting antenna structure which received approval in 1987 (SP-87-57) as a Light Utility Use in conjunction with a service center building and storage yard for Florida Power & Light. The site which received approval in 1987 is no longer being used by Florida Power & Light.

B. The contract purchaser wants to demolish the existing building, removing most of the existing pavement, retaining the existing antenna structure on a much smaller parcel, and develop the remaining property as a single-family subdivision. Review and approval of the subdivision is not part of this request.

C. This site is currently zoned RSF-4.5 (Residential, 4.5 du/acre).

D. The Future Land Use Category for this site is RES-6 (Residential, 6 dwelling units per acre).

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E. This site is located at 4700 86<sup>th</sup> Street West (on the west side of 86<sup>th</sup> Street West, approximately 1,000 feet south of Cortez Road West.) To the north is a duplex subdivision, zoned RDD-6 (Residential Duplex Dwelling, 6 du/acre). To the south and west is Bay Lakes Estates, a single-family subdivision zoned RSF-4.5 (Residential Single Family, 4.5 du/acre). To the east, across 86<sup>th</sup> Street West, is vacant property zoned A-1.

F. The antenna structure will have a sight line which will be greater than 20 degrees from an adjacent residential property line.

G. The antenna structure must be located a distance at least equal to the height of the antenna structure from any residential use or property zoned for residential uses.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, the above referenced Hearing Officer hereby makes the following Findings of Law:

A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to the Land Development Code.

B. The applicant has the burden of proving entitlement to the Special Permit it seeks. Irvine v. Duval County Planning Commission, 495 So.2d 167 (Fla. 1986); Florida Department of Transportation v. J.W.C. Company, Inc., 396 So.2d 778 (Fla. 1st DCA 1981).

C. The proposed use is consistent with Policy 2.2.1.12.2 of the Manatee County Comprehensive Plan, which establishes the RES-6 Future Land Use Category and outlines the intent to identify areas suitable for low density, urban, residential uses and provide for a complement of residential support uses.

D. The proposed use is consistent with Policy 2.3.8.2 of the Manatee County Comprehensive Plan, which establishes minimum landscape buffers and building setbacks.

E. The proposed use is consistent with Policy 2.4.2.1 of the Manatee County Comprehensive Plan, which requires compliance with all adopted level of service and performance standards.

F. The proposed use is consistent with Policy 2.6.4.1 of the Manatee County Comprehensive Plan, which requires buffers to assist in the mitigation of any potential incompatibility between adjacent land uses.

H. Reducing the acreage associated with this antenna tower structure will not be detrimental or an endangerment to the public health, safety, or general welfare.

I. The continued use of this site by an existing telecommunications antenna tower will not impede the normal and orderly development of the area.

J. The site plan, as submitted, provides for adequate ingress and egress to the site in a manner that minimizes traffic congestion.

K. The proposed use minimizes adverse effects, including visual impacts, of the proposed use on adjacent property.

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L. As conditioned herein, adequate provisions have been made to provide landscaping and buffers on site to fulfill the buffer and landscaping requirements of the Land Development Code.

M. This request meets all the standards set forth in Section 704.59 of the Manatee County Land Development Code, including the requirement that all antenna structures shall be located a distance at least equal to the height of the antenna structure from any residential use or property zoned residential.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to Florida Power & Light Company/Heron Heights Subdivision for the property located at 4700 86<sup>th</sup> Street West (the west side of 86<sup>th</sup> Street West, approximately 1,000 feet south of Cortez Road West), and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a reduction of the parcel size from approximately 9 acres to  $\pm$  .25 acre associated with an existing 150' tall self-supporting antenna structure, subject to the following conditions:

A. This Special Permit will not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning Department.

B. The Plot Plan submitted with this application shall be part of this approval.

C. The tower site is currently served by a driveway off 86<sup>th</sup> Street West. This driveway shall remain until the new access, as shown on the plan, is established. This existing driveway, off 86<sup>th</sup> Street West, shall be removed within 90 days of completion of the new access driveway.

D. If any portion of the parent parcel, described in Exhibit "C", attached hereto and incorporated herein, is sold or conveyed to an entity other than the entity which owns the property upon which the tower itself is located, a recorded easement covering the 150 foot falldown radius in a form acceptable to the County Attorney's office, shall be conveyed to and retained by the entity which owns the property upon which the tower is located, said easement restricting the use of the easement property to non-habitable structures on single family lots (stormwater retention ponds and other open space uses are allowed within the easement area).

E. The required screening buffer, which must meet the standards in Section 715.5.2 of the Land Development Code, shall be shown on the Final Site Plan prior to sign-off, and shall be installed on the north, west, and south property lines of the new lease parcel within one hundred twenty (120) days of approval date of the Final Order.

F. Prior to Final Site Plan sign-off, applicant shall provide, to the Environmental Management Department, a site plan which delineates all existing wells, with the well size indicated or a narrative which indicates there are no wells on site.

G. Prior to issuance of a building permit for attachment of any new antennas to this tower, applicant will provide an engineer's certification confirming the structural integrity of this tower and it's ability to support the proposed antenna.

Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by courts of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Special Permit which shall remain in full force and effect.

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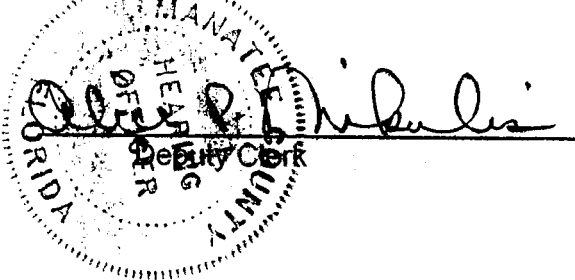
Section 5. Effective Date. The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of the Clerk of the Circuit Court and receipt of a copy of the recorded Order by the Planning Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 2nd day of September, 1998.

MANATEE COUNTY, FLORIDA

BY: [Signature]  
James A. Paulmann, as  
Hearing Officer for Manatee County

ATTEST: R.B. SHORE  
Clerk of the Circuit Court



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EXHIBIT "A"

LEGAL DESCRIPTION:

PROPERTY DESCRIPTION FOR FP&L PARCEL

Commence at the Northeast corner of Lot 41 of Bay lake Estates Subdivision, Phase I, as recorded in Plat Book 20, Pages 67-71 of the Public Records of Manatee County, Florida (said point being on the Westerly right-of-way line of 86<sup>th</sup> Street West and 27 feet West of the Southeast corner of Lot 75 of the Amended Plat of Cortez Addition to Cortez as recorded in Plat Book 2, Page 59 of the Public Records of Manatee County, Florida; thence run N 00°24'10" E along the aforementioned Westerly right-of-way of 86<sup>th</sup> Street West, 137.58 feet; thence leaving said right-of-way, run N 89°20'48" W, 84.32 feet for a Point of Beginning; Thence N 00°39'12" E, 147.67 feet; thence N 89°20'48" W 75.00 feet; thence S 00°39'12" W, 145.85 feet; thence 25.95 feet along the arc of a curve to the left, said curve having a Radius of 185.00 feet, a Chord Bearing of S 85°19'42" E, and a Chord Length of 25.92 feet; thence S 89°20'48" E, 49.14 feet to the Point of Beginning.

The above described parcel being and lying in Section 12, Township 35 S, Range 16E, Manatee County, Florida, contains 11059.62 square feet more or less (0.25 Acre).

PROPERTY DESCRIPTION FOR PHASE ONE FP&L PARCEL ACCESS EASEMENT

Commence at the Northeast corner of Lot 41 of Bay Lake Estates Subdivision, Phase I, as recorded in Plat Book 20, Pages 67-71 of the Public Records of Manatee County, Florida (said point being on the Westerly right-of-way line of 86<sup>th</sup> Street West and 27 feet West of the Southeast corner of Lot 75 of the Amended Plat of Cortez Addition to Cortez as recorded in Plat Book 2, Page 59 of the Public Records of Manatee County, Florida; thence run N 00°24'10" E along the aforementioned Westerly right-of-way of 86<sup>th</sup> Street West, 223.40 feet for a Point of Beginning; thence leaving said Westerly right-of-way, run N 90°00'00" W, 83.96 feet to the Easterly line of the lands of Florida Power and Light; thence N 00°39'12" E along said Easterly line, 62.81 feet to the Northeast corner of said FP&L parcel; thence N 90°00'00" E, 83.69 feet to the aforementioned Westerly right-of-way line of 86<sup>th</sup> Street West; thence run S 00°24'10" W along said right-of-way, 62.81 feet to the Point of Beginning.

The above described parcel being and lying in Section 12, Township 35S, Range 16E, Manatee County, Florida, contains 5264.78 square feet more or less (0.12 Acre).

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PROPERTY DESCRIPTION FOR ACCESS TO FPL TOWER PARCEL OVER FUTURE R/W

Commence at the Northeast corner of Lot 41 of Bay Lake Estates Subdivision, Phase I, as recorded in Plat Book 20, Pages 67-71 of the Public Records of Manatee County, Florida (said point being on the Westerly right-of-way line of 86<sup>th</sup> Street West and 27 feet West of the Southeast corner of Lot 75 of the Amended Plat of Cortez Addition to Cortez as recorded in Plat Book 2, Page 59 of the Public Records of Manatee County, Florida; thence run N 00°24'10" E along the aforementioned Westerly right-of-way of 86<sup>th</sup> Street West, 137.58 feet for a Point of Beginning; thence leaving said Westerly right-of-way, run N 89°20'48" W, 133.47 feet to the P.C. of a curve to the right, thence 25.95 feet along the arc of the curve, said curve having a Radius of 185.00 feet, a Chord Bearing of N 85°19'42" W, and a Chord Length of 25.92 feet to the Southwest corner of lands of Florida Power and Light; thence S 08°41'18" W, 50.00 feet; thence 32.95 feet along the arc of a curve to the left, said curve having a Radius of 235.00 feet, a Chord Bearing of S 85°19'44" E, and a Chord Length of 32.93 feet; thence S 89°20'48" E, 133.69 feet to the aforementioned Westerly right-of-way of 86<sup>th</sup> Street West; thence N 00°24'10" E, 50.00 feet to the Point of Beginning.

The above described parcel being and lying in Section 12, Township 35S, Range 16E, Manatee County, Florida, contains 8151.32 square feet more or less (0.19 Acre).

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION

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R.B. SHORE CLERK OF CIRCUIT COURT MANATEE COUNTY FL