



## Town Council Agenda Report

**SUBJECT:** Quasi Judicial

**TITLE OF AGENDA ITEM:**

SE 3-1-99 - Neil Kalis, petitioner / FMC Telecommunications, owner

### **REPORT IN BRIEF:**

The petitioner is requesting placement of a telecommunication satellite dish which exceeds the maximum size permitted by code. The petitioner states, additional dishes are required in order to keep up with the competition associated with their business. There are currently four existing dishes on the property, which meet code, and one existing dish which exceeds code. Originally, the petitioner was proposing three additional dishes which would exceed code, however upon discussion with staff, the petitioner agrees to limit the request to one additional dish along with a sufficient landscape buffer. Therefore, staff believes the proposed request is consistent with existing conditions of the site, provides for reasonable use of the property, provides a sufficient buffer, and will be limited to no more than six dishes total for the site.

**DISCUSSION:** (include background, project summary, significant impacts, citizen participation, workload impacts, purpose, project workscope, evaluation and selection process, and conclusion)

Background: The subject site is currently operating as a telecommunication apparatus business and has existing satellite dishes on the property. In order to keep up with the competition associated with this business, expansion of facilities are necessary. In order to accommodate expansion of this business a special permit is required.

Purpose of Request: To allow placement of a telecommunication satellite which exceeds code on the property.

Significant Impacts: The property is surrounded by Industrial zoned property to the north east and west. There is a small portion of residential property to the west, however, the impacts to this area will be insignificant as a buffer plan has been provided to mitigate this impact.

Conclusion: Staff believes the proposed special permit request is consistent with existing conditions of the site, will provide for reasonable use of the property, and will be properly buffered.

**CONCURRENCES:** (concerns and/or opinions of affected departments, Committees, Boards or Council)

The Planning and Zoning Board suggested proper screening and landscaping to ensure the proposed satellite dish is buffered from view.

**FISCAL IMPACT:**

N/A

**RECOMMENDATION(S):**

On July 14, 1999, the Planning and Zoning Board made a motion to grant the special permit (4-1), subject to all of the conditions and representations as set forth in the July 8, 1999 letter from Attorney Neal Kalis, representing the petitioner and; further subject to the hedge being installed prior to installation of the satellite dish for which the special permit is sought; and that the hedge will be maintained at a minimum of 6 ' to 8' in height, as described in Mr. Kalis' letter and; furthermore the petitioner shall provide a 6' high chain-link fence in association with the above referenced hedges and; that the special permit be for a term of 3 years. At the expiration of 3 years the special permit will come back before Planning & Zoning Board and Town Council for review and renewal with regard to the items mentioned in subparagraph II, page 2, of Mr. Kalis' letter.

**Attachment(s):**

Planning Report, Exhibits (letters from petitioner), petition with back-up, excerpt, subject site map and aerials.

July 21, 1999

TOWN OF DAVIE  
PLANNING AND ZONING DIVISION  
PLANNING REPORT

**SUBJECT:** Special Permit Application SE 3-1-99

**PETITIONER/OWNER:** FMC Telecommunications, Inc.

**ADDRESS:** 6045 SW 45 Street

**LOCATION:** Generally located at the northeast corner of SW 61 Avenue and Orange Drive

**REQUEST:** Special permit to erect 1 satellite dish antennae greater than 12 feet in diameter pursuant to Section 12-34(G)(1)(e), with a diameter of 23.9 feet.

**EXHIBITS TO BE INCLUDED:** Special permit application, subject site map, planning report, and aerial.

**ANALYSIS:** The subject site is 1.4 acres in area zoned B-2, containing 4 structures occupied by FMC Telecommunications, as well as 5 existing satellite relay dishes. The subject site is bound on the north by warehouses zoned M-1, on the east and west by commercial uses zoned B-2, and on the south by Orange Drive and the South New River Canal.

The petitioner requests a special permit to erect 1 satellite dish antenna 23.9 feet in diameter, which exceeds the 12 foot diameter permitted by code. Currently, one of the five existing dishes exceeds 20 feet in diameter and was issued a permit in error and, is permitted to remain due to the error. The remaining four (4) other satellite dishes do not exceed 12 feet in diameter, however, were installed without the benefit of a building permit. The petitioner has been cited for this violation and has been continued at the Special Master's hearing. The petitioner has to August 17, 1999 to remedy the situation.

In addition, the applicant is requesting both a rezoning and this special permit to permit 1 satellite dish antenna in excess of 12 feet in diameter. During the review of this development, staff determined that based upon provisions within the Land Development Regulations, the use of the property as office/retail/communication apparatus was appropriate and negates the need to rezone the property M-1 (rational behind the request to rezone the property).

Pursuant to several staff/applicant meetings, the petitioner has indicated they are willing to provide additional landscaping around the area where the existing and proposed satellite dishes are located. Staff had strongly recommended the petitioner provide a 6 foot high concrete masonry wall with associated hedging

surrounding this area for screening purpose, however the petitioner would rather provide a chain link fence with hedges on both sides. Staff believes a masonry wall has greater aesthetic value than a chain link fence. Landscaping can more easily deteriorate over time if not maintained defeating the purpose of a visual shield which would be eliminated with a masonry wall. The petitioner request Town Council input.

The petitioner has also indicated they intend to construct a two-story retail building in association with the office/retail/communication apparatus facility, on the same property (see Exhibit "A"). This building is to be placed at the corner area closest to Orange Drive and SW 61st Avenue which will further conceal the existing and proposed satellite dishes, according to the petitioner. In addition, the petitioner plans to design the building with a Western Theme design consistent with the Town's Community Redevelopment Area (CRA). Although this two-story retail building is not related to the special permit request, said proposal has been considered in conjunction with the request as represented by the property owner. Staff believes it is incumbent upon the petitioner to honor this commitment as represented.

The petitioner has prepared a conceptual master plan which represents the existing office/retail/ communication apparatus facility and the proposed future retail building. The existing and proposed satellite dish are located to the rear of the property, adjacent to property zoned M-1 District containing warehouses. The existing satellite dishes are located approximately 170 feet from Orange Drive, and 200 feet from the nearest residence, behind the existing building structure. The proposed satellite dish represented in this request would be located behind the highest peak of the existing building. The proposed future retail building would be in addition to the existing telecommunications building and screening wall/fence around the dish area, providing additional screening from Orange Drive and SW 61st Avenue.

The proposed future retail building is not intended to provide sole screening of the satellite dishes, but to ensure that this property is developed with a high quality development suitable for the gateway to down town Davie. The satellite dishes are already screened by landscaping. The future building will provide an additional visual buffer from the right-of-way and the dishes (see petitioner letter, Exhibit "B").

Review of a special permit request should include consideration of the criteria listed in Section 12-308 of the Land Development Code which is attached hereto, and made a part hereof.

The existing and proposed antennae are compatible with the commercial zoning and land uses along Orange Drive, and the abutting Industrial use to the north. The applicant has limited this request to only one satellite dish which is compatible with existing conditions on the site. The petitioner has provided

letters of non-objection from two of the surrounding property owners (see attached letters) and has meet with two others which feel confident with this request condition upon the future retail building. The proposed use does not deter improvements of other properties in the area, and the proposed satellite dish does not have any impact on the the local or regional traffic ways.

**RECOMMENDATION:** The Planning and Zoning Division therefore recommends **APPROVAL** of the requested special permit to erect 1 satellite dish antennae with a diameter of 23.9 feet, with findings that the request is generally consistent with the Comprehensive Plan, and is in harmony with the general intent and purpose of the Code.

**PLANNING AND ZONING BOARD RECOMMENDATION:** Motion to grant the special permit (4-1), July 14, 1999, subject to all of the conditions and representations as set forth in the July 8, 1999 letter from Attorney Neal Kalis, representing the petitioner and; further subject to the hedge being installed prior to installation of the satellite dish for which the special permit is sought; and that the hedge will be maintained at a minimum of 6 ' to 8' in height, as described in Mr. Kalis' letter and; furthermore the petitioner shall provide a 6' high chain-link fence in association with the above referenced hedges and; that the special permit be for a term of 3 years. At the expiration of 3 years the special permit will come back before Planning & Zoning Board and Town Council for review and renewal with regard to the items mentioned in subparagraph II, page 2, of Mr. Kalis' letter.

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

**TOWN OF DAVIE  
CODE OF ORDINANCES  
(EXCERPT)**

Section 12-308. Review for special permits.

Whether or not:

- (a) Is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;
- (b) Will create an unrelated and incompatible adjacent use;
- (c) Will adversely affect conditions in the neighborhood or the town;
- (d) Will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety;
- (e) Will adversely affect surrounding property values;
- (f) Will be a deterrent to the improvement or development of other property in accord with existing regulations;
- (g) Will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

LAND USE DESIGNATION

1997

1998

1999

TOWN OF DAVIS  
SPECIAL STREET APPLICATION

ALL INFORMATION MUST BE TYPED AND NOTARIZED  
FIVE CHECKS PAYABLE TO TOWN OF DAVIS

DATE FILED: 3/24/99

PHONE: 904 271 6000

PROPERTY: 6051 SW 1ST ST, DAVIS, FL 32117

MEETING ADDRESS: 6051 SW 1ST ST, DAVIS, FL 32117

RELATIONSHIP TO PROPERTY: OWNER/OC

OWNER: FRANK & PHYLLIS CANNON - Fmc Telecommunications Inc

MEETING ADDRESS: 6051 SW 1ST ST, DAVIS, FL 32117

ADDRESS OF PROPERTY: 6051 SW 1ST ST, 6051 SW 1ST ST  
LOT 4, MVA PLAZA 11111

LEGAL DESCRIPTION: (Certified Sealed Boundary Survey to include statement of amount of acreage involved MUST be submitted with application)

ACREAGE: 1.5 ACRES

REQUEST: See ATTACHED.

REASON FOR REQUEST: (attach additional sheet as necessary)

TO ADD 2 ADDITIONAL ANTENNAS THAT EXCEED THE 12 FOOT LIMIT, THIS WILL ALLOW US OUR EXPANSION THIS WILL MEET TODAY'S NEEDS ALONG WITH FUTURE GROWTH.

PETITIONER MUST BE PRESENT IN ORDER FOR ACTION TO BE TAKEN

OFFICE USE ONLY

APPROVED AS TO FORM: Jat

PUBLICATION DATE: 4/7/99

MEETING DATE: PLANNING AND ZONING BOARD: 4/14/99

TOWN COUNCIL: 5/15/99

NOTICES SENT: \_\_\_\_\_ REPLIES: FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_

UNDELIVERABLE: \_\_\_\_\_

OWNERS NAME

BUYER'S NAME

OWNERS ADDRESS

BUYER'S ADDRESS

CITY

CITY

STATE

STATE

PHONE

PHONE

The foregoing instrument was acknowledged before me this 8th day of March 1991 by Thomas Phillip Crossin who is personally known to me and who has produced

The foregoing instrument was acknowledged before me this 8th day of March 1991 by Thomas Phillip Crossin who is personally known to me and who has produced

as identification and who did take an oath

as identification and who did take an oath

NOTARY PUBLIC

NOTARY PUBLIC

Sign:

Sign:

Print:

Print:

My Commission Expires:

My Commission Expires:



CHERYL L. BANKSTON  
COMMISSION # CC 688066  
EXPIRES OCT. 12, 2001  
ACQUICENT REALTY & FINANCIAL CO., INC.



CHERYL L. BANKSTON  
COMMISSION # CC 688066  
EXPIRES OCT. 12, 2001  
ACQUICENT REALTY & FINANCIAL CO., INC.

OFFICE USE ONLY

**FMC Telecommunications, Inc.**

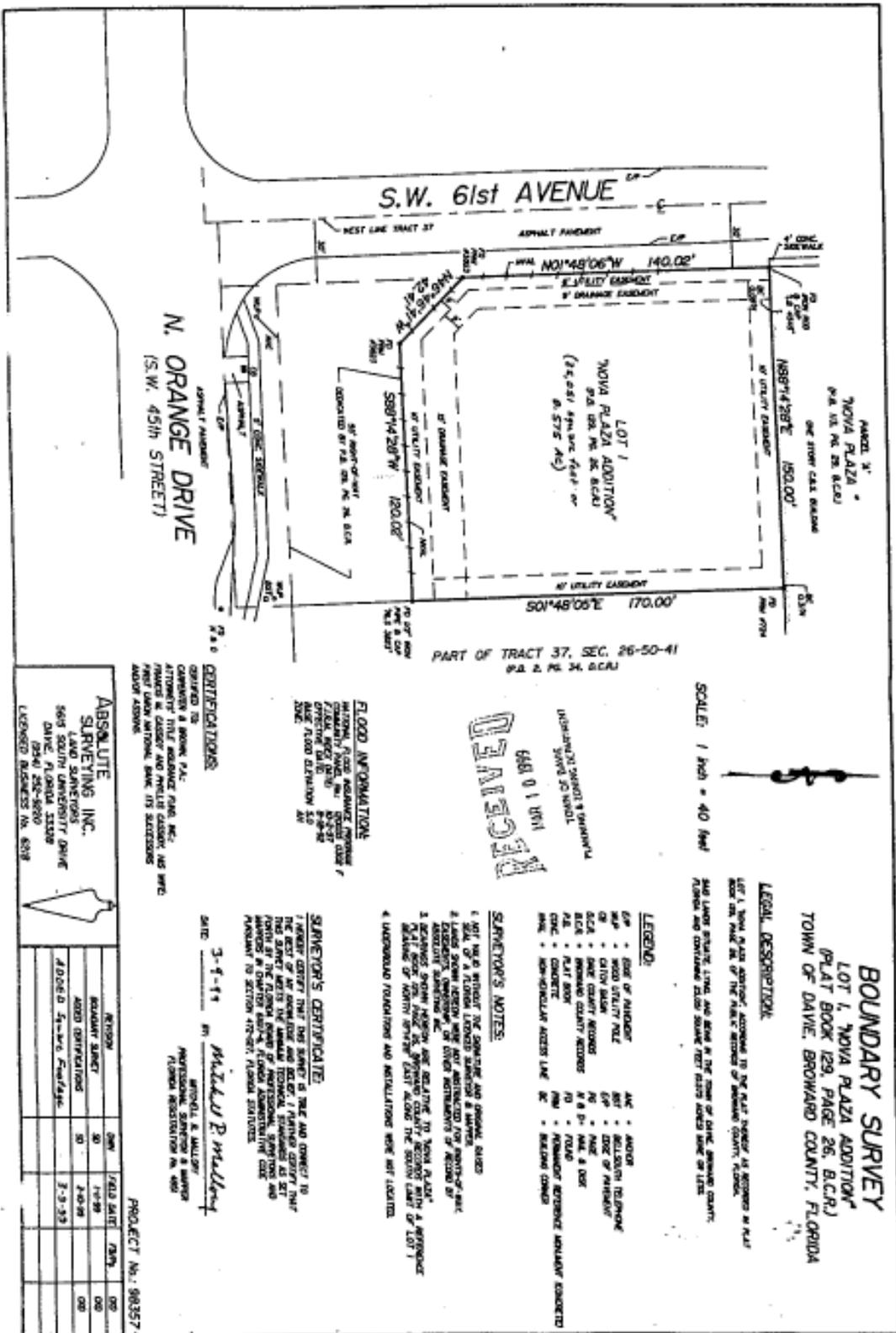
6045 SW 45th Street (Orange Drive)  
Davie, FL 33314

Fax 954 791-8402  
Phone 954 792-9849

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Develop unimproved property consistent with uses and zoning of adjacent property. Remove hiatus in present zoning to extend current zoning on a straight line. The current zoning results in industrial zoning on through sides of Petitioners property while Petitioners property is zoned B-2 and B-1. Therefore Petitioner seeks C-1 zoning usage for the 60 feet which constitute a jog in the current zoning. Petitioner request C-1 zoning to operate teleport services.





MARCO X.  
NOVA PLAZA  
P.L. 10, P.M. 26, B.C.R.  
ONE STORY CALL BUILDING

LOT 1  
NOVA PLAZA ADDITION  
P.L. 10, P.M. 26, B.C.R.  
(2,641 sq. ft. less 61.575 sq. ft.)

PART OF TRACT 37, SEC. 26-50-41  
P.L. 2, P.M. 34, B.C.R.



**BOUNDARY SURVEY**  
LOT 1, NOVA PLAZA ADDITION  
(PLAT BOOK 129, PAGE 26, B.C.R.)  
TOWN OF DAVIE, BROWARD COUNTY, FLORIDA

**LEGAL DESCRIPTION:**  
LOT 1, NOVA PLAZA ADDITION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 129, PAGE 26, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND CONTAINED THEREIN SHALL BE THE BOUNDARY THEREOF.

- LEGEND:**
- CP = CORNER OF PARCELS
  - MP = MOUND UTILITY PILE
  - CP = CENTER POINT
  - BC = BENCH MARK
  - PL = PLAT BOOK
  - CONC = CONCRETE
  - IR = IRREGULAR ACRES LINE
  - ANC = ANCHOR
  - SET = SETBACK TELEPHONE
  - EP = EDGE OF PARKWAY
  - NS = NAIL
  - NS & DOR = NAIL & DRIVE
  - NO = NORTH
  - PO = POINT OF BEGINNING
  - RE = READING CORNER

RECEIVED  
MAR 01 1991

UNRECORDED SURVEY & BOUNDARY  
SURVEY OF MARCO X.

**FLOOD INFORMATION:**

NATIONAL FLOOD INSURANCE PROGRAM  
COMMUNITY MAP NO. 22085  
FLOOD ZONE: X-1  
BASE FLOOD ELEVATION: 8.0  
ZONE: X-1

**CERTIFICATIONS:**

CONDUCTED BY:  
CONTRACTOR: [Name]  
ATTORNEY: [Name]  
PLANNING & DESIGN: [Name]  
FIELD WORK: [Name]  
ADJUST: [Name]

**PLANNING & DESIGN:**

DATE: 3-1-91 BY: [Name]

**ADJUST:**

DATE: 3-1-91 BY: [Name]

**ABSOLUTE SURVEYING, INC.**  
5605 SOUTH UNIVERSITY DRIVE  
DAVIE, FLORIDA 33308  
(954) 552-8800  
LICENSED SURVEYOR NO. 6318

REVISION	DATE	FIELD DATE	BY
REVISION	3-1-91	3-1-91	CP
ADDED	3-1-91	3-1-91	CP

PROJECT NO.: 98357



**EXHIBIT "A"**

**Kalis & Kleiman, P.A.**

7320 Griffin Road, Suite 109  
Davie, Florida 33314

Neal R. Kalis  
M. Scott Kleiman

Telephone (954) 791-0477  
Fax (954) 791-0508

July 8, 1999

Mr. Mark A. Kutney, AICP  
Director  
Development Services Department  
Town of Davie  
6591 Orange Drive  
Davie, FL 33314-3399

**HAND DELIVERED**

RE: FMC Telecommunications, Inc./Town of Davie  
ZB 3-1-99 and SE 3-1-99

Dear Mr. Kutney:

This letter shall serve as a follow-up to our meeting with you and Gayle Easterling on June 3, 1999.

I am enclosing a copy of a conceptual site plan and elevation for the satellite dishes and a proposed two story building to be built on the corner of SW 61<sup>st</sup> Street and Orange Drive. We would like to emphasize the following key points and provide details as to the commitments my client is willing to offer as a restrictive covenant.

I. Satellite Dishes.

- A. FMC will restrict all satellite dishes to be located within the compound area ~~shown~~. I have highlighted in red on the attached site plan.
- B. FMC will restrict the total number of installed satellite dishes to a maximum of six (6). The location of the satellite dishes is depicted on the attached site plan.
- C. FMC will amend its Special Permit Application SE 3-1-99 to one (1) new dish 7.3 meters in size. FMC understands that approval of this satellite dish is subject to Town Council approval.
- D. Regarding the previously filed application(s), FMC seeks immediate issuance of permits for the existing four (4) satellite dishes which are 12 feet in diameter or smaller. As you know, FMC has continuously maintained that communication apparatus is authorized under the Town's B-2 Zoning District and that satellite dishes 12 feet in diameter or less do not require a special permit. Upon the Town's confirmation of the foregoing, my client intends to withdraw rezoning application ZB

Mr. Mark A. Kutney, AICP  
July 8, 1999  
Page Two

3-1-99 which seeks to rezone my clients property to M-1 (this is a zoning district which is consistent with the existing zoning of adjacent parcels located to the north and west).

- E. In addition to the existing landscaping, FMC proposes to install both a ficus hedge around the satellite dish compound area, which will be maintained at 8 feet and a number of oak trees. The existing landscaping when augmented with the proposed additional landscaping will provide a lush and attractive screen. We would remind the Town that the subject property is surrounded by industrial and commercially zoned lands whose values, we believe, will be enhanced by this project.
- F. The existing storage facility located at the northeast corner of the property will be relocated to provide adequate setbacks.
- G. FMC will obtain all necessary construction permits and approvals.

## II New Two (2) Story Building.

- A. FMC proposes to construct a new two (2) story building to be located at the corner of SW 61<sup>st</sup> Street and Orange Drive. This building will serve to further screen the satellite dishes from view by passing motorists. The new building is intended to be utilized by two (2) new retail businesses: PJ Dolls and Collectibles and an as yet unnamed business which will sell satellite equipment.
- B. Although just on the edge of the Western Theme District, which ends on the west side of 61<sup>st</sup> Street, FMC proposes that the new building will be western in appearance with a brick exterior as depicted on the attached conceptual elevation plan. The building is to be located with a 10 foot setback from the right-of-ways and parking to the rear and sides. This is an important corner which is deserving of the special treatment proposed by FMC. FMC understands that several variances will be needed to accomplish this project, however, the benefits for the community are compelling and deserving of a favorable recommendation.

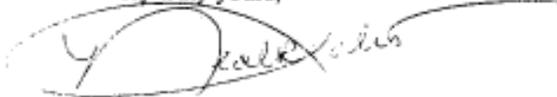
My client and I would like to meet with you and/or any concerned citizens at the earliest possible time as the matter is currently scheduled for consideration by the Planning & Zoning Board at its July 14, 1999 meeting. Our intention is to move forward on the Special Permit Application and seek a tabling of the rezoning pending the final outcome of the Special Permit Application.

I have long standing plans to be out of the country from July 21<sup>st</sup> through August 8<sup>th</sup> and therefore would request that consideration by the Town Council be tabled until my return.

Mr. Mark A. Kutney, AICP  
July 8, 1999  
Page Two

I look forward to hearing from you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Neal R. Kalis", is written over a large, light-colored oval scribble.

Neal R. Kalis

NRK/bac  
Enclosure

E:\Barbara\OFFICE\WP\WIN\WFOCS\enc\Ttradtr.wpd

cc: Mr. Frank Cassidy, FMC Telecommunications (Via Fax Without Enclosure)  
Roger Brown, Esq. (Via Fax Without Enclosure)  
Ms. Gayle Easterling (Hand Delivered Without Enclosure)

## EXHIBIT "B"

### Kalis & Kleiman, P.A.

7320 Griffin Road, Suite 109  
Davie, Florida 33314

Neal R. Kalis  
M. Scott Kleiman

Telephone (954) 791-0477  
Fax (954) 791-0506

July 16, 1999

Mr. Mark A. Kutney, AICP  
Director  
Development Services Department  
Town of Davie  
6591 Orange Drive  
Davie, FL 33314-3399

**HAND DELIVERED**

RE: FMC Telecommunications, Inc./Town of Davie

Dear Mr. Kutney:

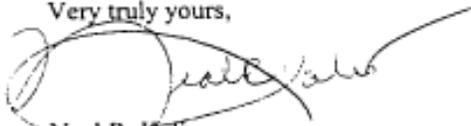
The purpose of this letter is to clarify my client's intentions with respect to the additional landscaping to be installed in connection with the granting of the Special Permit for the 7.3 meter antenna. It was not our intention to be misleading by utilizing the conceptual site plan which was presented to the Planning & Zoning Board at its meeting of July 14, 1999. If the Special Permit is granted for the 7.3 meter antenna which is to be located on the pad designated on the conceptual site plan as "Alternate for 7.3 M. Antenna" then my client committed to install new landscaping consisting of ficus hedges around the antenna compound area, which I have highlighted in red marker, and oak trees east of the existing service road and south of the existing antenna compound area. The location of the proposed new building, parking lot and landscaping depicted on the conceptual site plan is conceptual only. We pointed out to the Planning & Zoning Board that the final location of the building would necessitate the resolution of a number of issues including vacating a portion of the existing Orange Drive right-of-way which was previously dedicated on the Nova Plaza Addition plat (copy of survey is enclosed) and obtaining variances and/or other relief from current set back requirements. The landscaping labeled as "New G, Virginiana" on the conceptual site plan, and located south of the proposed new building within the existing Orange Drive right-of-way was not intended to be linked to the Special Permit request. During the Planning & Zoning presentation a question was asked by one of the board members as to whether the proposed new building was intended to provide additional screening for the antennas. If you will recall I said that that was not the case because, in our opinion, the existing landscaping already provides adequate screening of the antennas from the 61<sup>st</sup> Avenue and corner of 61<sup>st</sup> Avenue and Orange Drive viewing angles. I have enclosed pictures supporting such.

I am also enclosing another copy of the conceptual site plan and labeled all of Parcel C, where the proposed new building, parking lot and landscaping is depicted as PROPOSED. I hope this clarifies matters.

Mr. Mark A. Kutney, AICP  
July 16, 1999  
Page Two

Again, we apologize for any confusion. If I can provide additional information or clarification, please do not hesitate to contact me.

Very truly yours,



Neal R. Kalis

NRK/bac  
Enclosures

E:\Barbara\OFFICE\WP\WIN\W\DOCS\disc 716.rpd

cc: Mr. Frank Cassidy, FMC Telecommunications (Via Fax Without Enclosures)  
Roger Brown, Esq. (Via Fax Without Enclosures)  
Ms. Gayle Easterling (Hand Delivered Without Enclosures)  
Mr. Jason Eppy (Hand Delivered Without Enclosures)

# MRT Investments

July 12, 1999

Ms. Gayle Easterling  
Town of Davie  
Development Services Department  
Town Hall  
Davie, Florida, 33314

Re: FMC Telecommunications, Inc.  
ZB 3-1-99 and SE 3-1-99

Dear Gayle:

On Friday, July 9, 1999, I met with Frank Cassidy and his attorney, Neal Kalis for the purpose of reviewing their new (and improved) site plan.

Based on the confinement of the dishes behind the existing building, the improved landscaping to shield these dishes, the proposed office/rental building on the corner vacant parcel and Mr. Kalis's letter to Mr. Mark Kutney, AICP, dated July 8, 1999, I have satisfied my concerns and urge the P & Z Board and Town Council to approved FMC Telecommunications, Inc. request.

Very truly yours,

MRT INVESTMENTS



Ronald L. Tomecek  
Managing Partner and individually

cc: Neal R. Kalis, Esq.

*Kalis*  
Jul 13 1999  
TOWN OF DAVIE  
PLANNING & ZONING DEPARTMENT

6001 S.W. 45th Street • Davie, Florida 33314 • (305) 791-6800

Little Partners Learning Center, Inc.



"Where we jump to learn and hop to succeed!!"

Town Of Davie  
Development Services Department  
Town Hall  
Davie, Florida 33314

Re: FMC Telecommunications, Inc.

To Whom It May Concern:

I am the owner of Little Partners Learning Center, located at 6101 Orange Drive, Davie. I would like to state my opinion on the new site plan that is being proposed by the owner of FMC Telecommunications. I have seen the plans and I believe that this will be a benefit to our town. I urge you to let them go through with the addition of their building, which will also improve the landscaping in this area.

Sincerely yours,

  
George B. Gault

