

RESOLUTION NO. R-2002- 0507

RESOLUTION APPROVING WAIVER REQUEST W1986-011(A)
WAIVER FROM REQUIRED DIMENSIONAL CRITERIA
PETITION OF VILLAGE CORNER STORES STEALTH COMMUNICATIONS
BY GEOFF SLUGGETT, AGENT
(VILLAGE CORNER STORES)

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, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Waiver from Required Dimensional Criteria for Communication Towers; 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, Waiver Request W1986-011(A) was presented to the Board of County Commissioners at a public hearing conducted on April 4, 2002; 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 (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This request for Waivers for separation of communication tower from residential structures, (reduction of 135.6 feet from the north, 132 feet from the east and 88.6 feet from the west) complies with the intent of Section 6.4.D.22 of the ULDC.
2. This request for Waivers for separation of a communication tower from residential structures will not be injurious to the uses in the area adjacent to the structure and otherwise will not be detrimental to the public welfare.
3. This request for Waivers for separation of a communication tower from residential structures; is not granted based solely upon or in large measures due costs associated with complying with all requirements of section 6.4.D.22.
4. This request for Waivers for separation of a communication tower from residential structures; will not result in an incompatibility between the proposed tower or communication facility and adjacent uses.
5. This request for Waivers for separation of a communication tower from residential structures is necessary within the defined search or propagation study area as all other waiver alternatives have been exhausted.
6. This request for Waivers for separation of a communication tower from residential structures is the minimum waivers that will make possible the reasonable use of the parcel of land, building or structure.

7. This request for Waivers for separation of a communication tower from residential structures, are consistent with the purposes, goals, objectives, and policies of Palm Beach County Comprehensive Plan and with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
8. This request for Waivers for separation of a communication tower from residential structures will not be injurious to the area involved or otherwise detrimental to the public welfare.
9. This request for Waivers for separation of a communication tower from residential structures, based upon documentation submitted by the applicant are necessary within the defined search or propagation study area so as not to prohibit the provision of personal wireless, television, and related communication services as defined by the Telecommunications Act of 1996 and rules of the FCC.
10. This request for Waivers for separation of a communication tower from residential structures, subject to documentation provided by the applicant, is necessary within the defined search or propagation study area as existing towers or other structures are not of sufficient height to provide reasonable service.
11. This request for Waivers for separation of communication tower from residential structures, subject to documentation provided by the applicant, is necessary within the defined search or propagation study area due to governmental regulations or restricted covenants which preclude location of a tower.

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 Waiver Request W1986-011(A), the petition of Village Corner Stores Stealth Communications, by Geoff Sluggett, agent, for waivers for separation of communication tower from residential structures (reduction of 135.6 feet from the north, 132 feet from the east and 88.6 feet from the west) in the General Commercial (CG) Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on April 4, 2002, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Greene moved for the approval of the Resolution.

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

Warren H. Newell, Chairman	-	Aye
Carol A. Roberts, Vice Chair	-	Aye
Karen T. Marcus	-	Absent
Mary McCarty	-	Aye
Burt Aaronson	-	Nay
Tony Masilotti	-	Absent
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on April 4, 2002.

Filed with the Clerk of the Board of County Commissioners on 14 day of May, 2002.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: 
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
DEPUTY CLERK

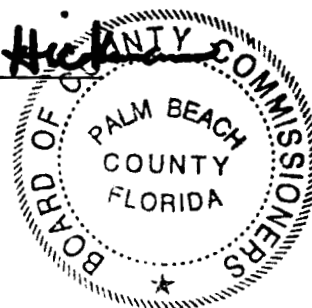


EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF TRACT 73, OF THE PLAT OF BOCA DEL MAR NO. 7, AS RECORDED IN PLAT BOOK 30, PAGES 210 THROUGH 217 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT 73, SAID POINT ALSO LYING ON THE NORTH RIGHT OF WAY LINE OF A 120 FOOT RIGHT OF WAY KNOWN AS SOUTHWEST 18TH STREET; THENCE SOUTH 89°32'51" WEST ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 1478.00 FEET; THENCE SOUTH 89°36'55" WEST, A DISTANCE OF 213.63 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE SOUTH 89°36'55" WEST ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 235.85 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE TO THE RIGHT; THENCE WESTERLY, NORTHWESTERLY AND NORTHERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 25.00 FEET, AN ARC DISTANCE OF 39.27 FEET TO THE POINT OF TANGENCY; THENCE NORTH 00°23'05" WEST, ALONG THE EASTERLY RIGHT OF WAY LINE OF PALM D'ORO ROAD, AS SHOWN ON SAID PLAT OF BOCA DEL MAR NO. 7, A DISTANCE OF 393.00 FEET; THENCE NORTH 89°36'55" EAST, A DISTANCE OF 260.85 FEET; THENCE SOUTH 00°23'05" EAST, A DISTANCE OF 418.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

SUBJECT TO ALL EASEMENTS, RESERVATIONS AND RIGHTS OF WAY OF RECORD, CONTAINING 108,901 SQUARE FEET (2.50 ACRES) MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

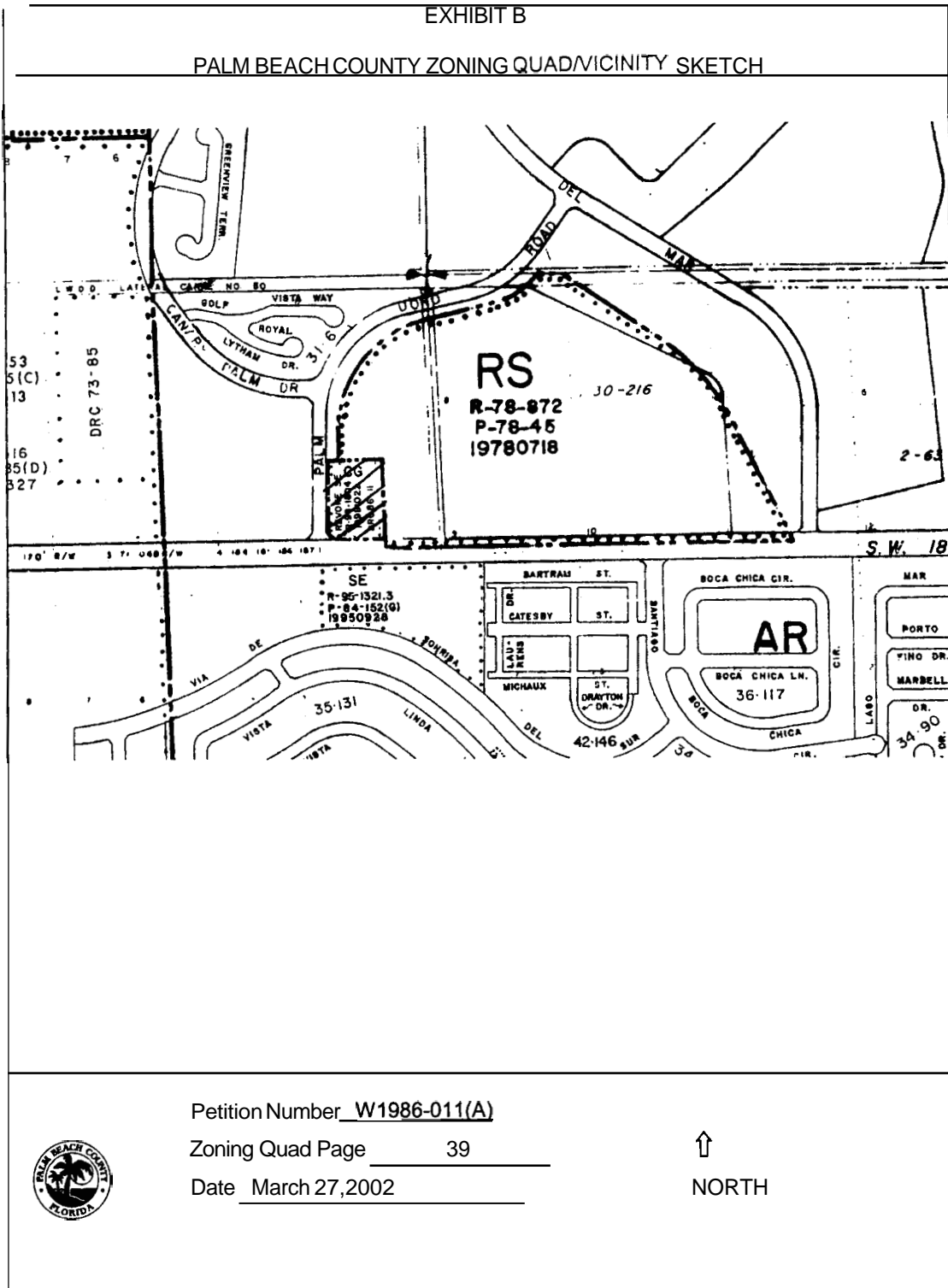


EXHIBIT C

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-86-573-25, Petition 86-11 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 20, 2001. 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. ARCHITECTURAL CONTROL

1. At time of submittal for final DRC approval for the stealth tower, the architectural elevations for the stealth (clock) tower and the existing buildings (façade renovations) shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with the Architectural Design Guidelines adopted by the BCC on July 24, 2001, and shall be generally consistent with the facade elevations dated February 20, 2002. Development shall be consistent with the approved architectural elevations. (DRC: ZONING/BLDG PERMIT - Zoning)
2. All existing roof mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure (CO: BLDG - Zoning)

C. BUILDING AND SITE DESIGN

1. Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to indicate the designated loading area for Howard's Market. (DRC: ZONING-Zoning).
2. Prior to the issuance of the Certificate of Completion for the proposed communication tower, a pair of gates (with Knoxbox) shall be installed at the eastern driveway of the shopping center. Gates shall be closed and locked between 9 p.m. to 7 a.m. daily. (CO/ONGOING: BLDG/CODE ENF - Zoning)
3. At time of submittal for the final DRC site plan, location of the gates per Condition C.2 shall be identified on the site plan, and shall be reviewed and approved by the Zoning Division. (DRC: ZONING-Zoning)
4. Prior to the issuance of the Certificate of Completion for the proposed communication tower, façade renovations for the entire shopping center shall be completed. Renovations shall be completed in one phase only. (CO: BLDG-Zoning)

5. Previous Condition 1 of Resolution R-86-573-25, Petition 86-11 which currently states:

Prior to Site Plan Certification, the site plan shall be amended to reflect the following:

- a) Location delineation of the proposed dry cleaning and laundry plant.
- b) Include both required and proposed interior landscaping calculations within the site data tabular information. (DRC: ZONING-Zoning)

Is hereby deleted. Reason: [the Special Exception to allow laundry plant /drycleaning was revoked].

E. ENGINEERING

No Conditions of approval.

F. HEALTH

1. Any fuel or chemical **storage tanks** shall be installed in accordance with Chapter 17-61, Florida Administrative Code. The design and installation plans will be submitted to the Health Department for approval prior to installation. (Previous Condition 6 of Resolution R-86-573-25, Petition 86-11)
2. Any toxic or hazardous waste generated at this site shall be properly handled and disposed of in accordance with Chapter 17-30, F.A.C. (Previous Condition 7 of Resolution R-86-573-25, Petition 86-11)
3. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties. (Previous Condition 8 of Resolution R-86-573-25, Petition 86-11)
4. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter, adjacent or nearby surface waters. (Previous Condition 9 of Resolution R-86-573-25, Petition 86-11)
5. Still bottoms (muck waste) and spent filter cartridges shall be stored and disposed in accordance with Chapter 17-30, Florida Administrative Code. (Previous Condition 10 of Resolution R-86-573-25, Petition 86-11)

G. LANDSCAPING -STANDARD

1. Trees to be planted in under this approval shall be native canopy trees, unless specified herein, and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
 - c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length. (CO: LANDSCAPE – Zoning)

2. All palms required to be planted on the south property line by this approval shall meet the following minimum standards at installation:
 - a. Palm heights: twelve (12) feet clear trunk; ten (10) feet clear trunk for specimen palms; and fourteen (14) feet clear trunk for palms along the west property line;
 - b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
3. **The required six (6) foot high wall shall receive identical architectural treatment on both sides.** (CO: LANDSCAPE-Zoning)(Previous Condition 5 of Resolution R-86-573-25, Petition 86-11)
4. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the "Plant the Right Tree in the Right Place" guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF SW 18TH STREET)

1. Landscaping and buffering along the south property line shall be upgraded to:
 - a. one (1) tree for each thirty (30) feet of the property line;
 - b. one (1) palm or flowering tree for each twenty (20) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
 - c. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
 - d. Credit may be given for existing vegetation that meets the ULDC requirements. (CO: LANDSCAPE-Zoning)

I. LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES (ABUTTING RESIDENTIAL)

1. Existing ficus hedge along the north and east property lines shall be maintained a minimum height of eight (8) feet within eighteen months of this waiver approval. Should the hedge is not maintained at the required height, an eight (8) foot opaque concrete wall shall be installed. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure. (CO: LANDSCAPE-Zoning)

J. LANDSCAPING - INTERIOR

1. Existing landscape islands adjacent to the proposed communication tower shall consist of the following:
 - a. a minimum of four (4) specimen palms, and shrub materials to completely covered the landscape islands. Shrub materials shall be planted at two (2) feet on center, and shall have a minimum height of thirty (30) inches at installation. (DRC: ZONING)

K. LIGHTING

1. **Security lighting shall be directed away from nearby residences.** (ONGOING: CODE ENF-Zoning)(Previous Condition 4 of Resolution R-86-573-25, Petition 86-11)

2. No additional freestanding lighting shall be installed on the site except for the following:
 - a. one (1) freestanding light on the west side of the SW 18th entry point. The proposed freestanding lighting shall not exceed twenty-five (25) feet in height measured from the highest point to finished grade; and
 - b. any proposed security or low voltage landscape/accent type lights used to emphasize plant material. (CO/ONGOING: BLDG/CODE ENF - Zoning)

L. TOWER

1. The communication tower, if approved by the Development Review Committee, shall be limited to a stealth structure, a maximum of one hundred and eight (108) feet in height measured from finished grade to highest point. Only one tower shall be permitted on the subject property. (DRC: BLDG-Zoning)
2. Should the requisite authority, such as the FCC or OSHA, having jurisdiction over the same, determine that the Tower and/or facilities are dangerous to the public's health, safety and welfare, Palm Beach County shall have the right to require the tower and/or facilities to be removed or made safe within sixty (60) days written notice. (ONGOING: FIRE/ERM/HEALTH-Zoning)
3. If tower lighting is required by the FAA, the lighting shall include a screening device to direct light away from the ground. The lighting shall also include a dual lighting system consisting of red lights for nighttime and high or medium intensity flashing white lights for daytime and twilight. (CO: BLDG - Zoning/FAA-Zoning)
4. The facades of the stealth tower shall consist of the following:
 - a. southwest façade – one (1) clock. Back-lit lighting may be permitted in the clock face;
 - b. remaining three facades of tower - medallions with same diameter of the clock; and
 - c. perpetual maintenance of the clock by the property owner. (ONGOING: CODE ENF – Zoning)

M. USE LIMITATIONS

1. Condition 2 of Resolution R-86-573-25, Petition 86-11 which currently states:
No storage or placement of any materials, refuse, equipment or accumulated debris shall be permitted behind the structure, except in enclosed dumpster facilities. (ONGOING: CODE ENF - Zoning)

 Is hereby amended to read:

 No storage or placement of any materials, refuse, equipment or accumulated debris shall be permitted behind all buildings, except in enclosed dumpster facilities. (ONGOING: CODE ENF - Zoning)
2. **No parking of any vehicles shall be permitted along the rear of the shopping center except in designated spaces and unloading areas.** (ONGOING: CODE ENF -Zoning) (Previous Condition 3 of Resolution R-86-573-25, Petition 86-11)
3. Deliveries, including loading and unloading activities shall not occur prior to 7:00 a.m. nor continue later than 9:00 p.m. daily. All deliveries ~~not~~ occurring during these hours shall only take place on the south side of the shopping center. (ONGOING: CODE ENF - Zoning)

4. Outdoor speaker or public address systems which are audible from any property line shall not be permitted on site. (ONGOING: CODE ENF - Zoning)
5. Employee breaks shall not occur along the north and east portions of the site. (ONGOING: CODE ENF - Zoning)

N. 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. (MONITORING)



**Department of
Planning, Zoning & Building**

100 Australian Avenue
West Palm Beach, FL 33406
(561)233-5000

Planning Division 233-5300

Zoning Division 253-5200

Building Division 233-5100

Code Enforcement 233-5500

Contractor s Certification 233-5525

Administration Office 233-5005

Executive Office 233-5003.

www.pbcgov.com/pzb



**Palm Beach County
Board of County
Commissioners**

Warren H Newell Chairman

Carol A Roberts Vice Chair

Karen T Marcus

Mary McCarty

Burt Aaronson

Tony Masilotti

Addir L Greene

County Administrator

Robert Weisman

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**INTER-OFFICE COMMUNICATION
PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING**

TO: Phyllis House, Minutes Manager
FROM: William C. Whiteford, Zoning Director
DATE: April 30, 2002
RE: Amended Conditions from the April 4, 2002
BCC Hearing

*WCCW
by rc*

The conditions of these resolutions are true and correct and reflect the changes approved by the Board of County Commissioners on April 4, 2002.

The following petitions were amended:

- | | |
|--------------------|--|
| DOAI996-084(A) | Stonehaven PUD
(aka Wellington Glen
Estates PUD) |
| Z/COZ2001-075 | Northlake Post Office |
| PDD2001-053 | Military Melaleuca MUPD |
| DOAI977-041(B) | Greater Yamaha of Palm Beach |
| PDD/DOA1984-159(B) | Hatties Landing |
| W1986-011(A) | Village Corner Stores |
| PDD2001-028 | Wellington MUPD |
| Z/CA2001-017 | 10 th Avenue/Boutwell Amoco |
| DOA1995-022(B) | Arrigo Dodge |

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