

RESOLUTION NO. R-95- 116

RESOLUTION APPROVING ZONING PETITION DOA86-62(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF M-TRAIL, INC.

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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; 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, Zoning Petition DOA86-62(A) was presented to the Board of County Commissioners at a public hearing conducted on January 26, 1995; 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 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 Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency exemption and therefore complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

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 Zoning Petition DOA86-62(A), the petition of M-Trail, Inc., for a DEVELOPMENT ORDER AMENDMENT in the General Commercial (CG) Zoning District, to delete Conditions 5.B (6' wall) and 5.C (6' fence) of Resolution R-87-25, previously approved 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on January 26, 1995, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

Ken Foster, Chair	--	Aye
Burt Aaronson	--	Aye
Maude Ford Lee	--	Aye
Karen T. Marcus	--	Absent
Mary McCarty	--	Aye
Warren Newell	--	Absent
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted this 26th day of January, 1995.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

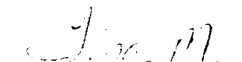
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

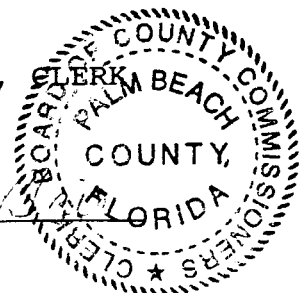


EXHIBIT A

LEGAL DESCRIPTION

Beginning at the Northeast corner of the Southeast Quarter of the Southeast Quarter of the Southwest Quarter, also known as Tract 16 of Section 13, Township 44 South, Range 42 East, Palm Beach County, Florida, Thence run South along the Quarter Section line, a distance of 330.00 feet; Thence run West, parallel to the North boundary of said Quarter Section, a distance of 630.00 feet; Thence run North, parallel to the East boundary of said Quarter Section, a distance of 199.00 feet; Thence run East, parallel to the North boundary of said Quarter section, a distance of 50.00 feet; Thence run North parallel to the East boundary of said Quarter Section, a distance of 66.00 feet; Thence run East, parallel to the North boundary of said Quarter Section, a distance of 298.00 feet; Thence run North, parallel to the East boundary of said Quarter Section, a distance of 66.00 feet to a point on the North boundary line of the Southeast Quarter of the southeast Quarter of the Southwest Quarter, said point also on the South line of Lot 12, plat of Veldor, as recorded in Plat Book 23, Page 50, Public Records of Palm Beach County, Florida; Thence run North, parallel to the East boundary of said Quarter Section, a distance of 33.00 feet; Thence run East, parallel to the North boundary of said Quarter Section, a distance of 282.00 feet to a point of the East line of

the Southwest Quarter of said Section 13; Thence run South along the Quarter Section line, a distance of 33.00 feet to the Point of Beginning. Less and except therefrom the East 53.00 feet for Military Trail Right of Way.

SUBJECT TO conditions, restrictions, easements, limitations and zoning ordinances of record, if any, however such reference shall not serve to reimpose same.

EXHIBIT B
VICINITY SKETCH

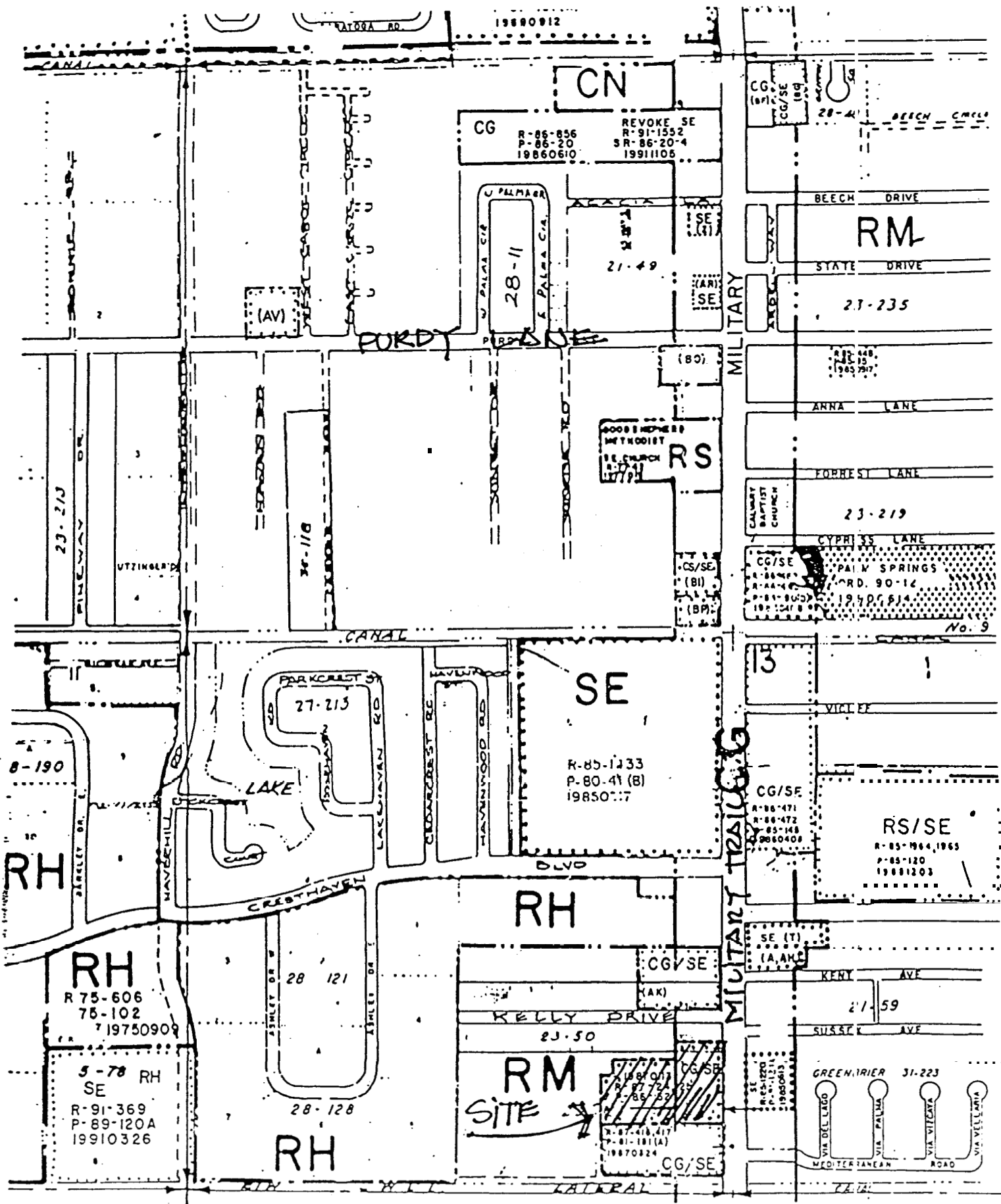


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-87-25 have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval established by Section 5.8 of the ULDC, unless expressly modified. (MONITORING)

B. BUILDING AND SITE DESIGN

1. Condition 5.b of Resolution R-87-25 which currently states:

Prior to Site Plan Certification, the Site Plan shall reflect the following:

- b) a six (6) foot solid masonry wall shall be installed south of the ingress and egress easement as shown on Exhibit No. 3. The six (6) foot wall shall extend from the north property line adjacent to the restaurant's northern access drive, 200 feet east, 25 feet from the eastern property line.

Is hereby deleted.

2. Condition 5.c of Resolution R-87-25 which currently states:

Prior to Site Plan Certification, the Site Plan shall reflect the following:

- b) a six (6) foot solid fence shall be installed north of the ingress and egress easement, east-west, 25 feet from the eastern property line.

Is hereby deleted.

3. Condition 6 of Resolution R-87-25 which currently states:

All graphics presented at the Planning Commission and Board of County Commissioners hearing shall be submitted to the Zoning Division for inclusion into the file.
(ZONING)

Is hereby deleted. [No longer applicable to redesigned site]

4. Condition 7, of Resolution R-87-25, which states:

The loading/service and dumpster area shall be located as shown on Exhibit No. 3 adjacent to the proposed building addition. The loading and dumpster area shall be screened and enclosed by a minimum of a six (6) foot solid masonry wall.

Is hereby amended to state:

All loading/service and dumpster areas shall be located as indicated on the site plan dated July 14, 1994, or within sixty (60) feet of the proposed building. The dumpster area shall be screened and enclosed by a minimum six (6) foot solid masonry wall. (BUILDING-Zoning)

5. Condition 8, of Resolution R-87-25, which states:

The developer shall post "No Parking" signage north of the ingress and egress easement.

Is hereby deleted.

6. Total gross floor area shall be limited to a maximum of 14,927 square feet. (BUILDING-Zoning)
7. Construction of the wall along the northwest property line, adjacent to residential land use, shall begin prior to the issuance of the first building permit for the undeveloped restaurant or any permit for additions/modifications to the existing structure. The wall must be completed within 45 days of the issuance of a building permit for its construction. (BUILDING)

C. LANDSCAPING - STANDARDS

1. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
- a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (BUILDING-Zoning)

D. LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. **Prior to Site Plan Certification, the Site Plan shall reflect a Type 1 compatibility landscape buffer along all property lines abutting residentially zoned property.** (Previously Condition 5.a of Resolution R-87-25) (BUILDING-Zoning)

E. ENGINEERING

1. Condition No. 3 of Resolution R-87-25, Petition No. 86-62, which currently states:

The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division. The drainage system shall be maintained in an acceptable condition per the County Engineers approval.

Is hereby deleted. [Reason: Code Requirement]

2. **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 presently is \$20,334 (759 trips X \$26.79 per trip).** (Previously Condition No. 4 of Resolution No. R-87-25, Petition No. 86-62). (IMPACT FEE COORDINATOR)
3. Prior to certification of the site plan by the Development Review Committee (DRC), the property owner shall record an ingress and egress easement to Military Trail, as shown on the site plan dated January 4, 1995, for property currently owned by Catherine R. Thewliss and Robert E. Thewliss, whose address is a 2887 South Military Trail, West Palm Beach, Florida, in a manner and form acceptable to the County Attorney and County Engineer. (COUNTY ATTORNEY/ERJG)

F. LANDSCAPING - INTERIOR (ADJACENT TO THE SOUTH SIDE OF THE ACCESS EASEMENT)

1. A three (3) foot landscape strip shall be installed along the south side of the access easement (adjacent to the proposed building). The landscape strip shall consist of a twenty-four (24) inch tall hedge or shrub material planted twenty-four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches and appropriate groundcover. (BUILDING-Zoning)

G. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (BUILDING/CODE ENFORCEMENT)

H. RECYCLE SOLID WASTE

1. All property owners and lessee's shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SWA)

I. SIGNS

1. All new or replaced point of purchase and/or freestanding signs fronting on Military Trail shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - twenty-five (25) feet;
 - b. Maximum sign face area per side - 200 square feet;
 - c. Maximum number of signs - two (2). (BUILDING;

J. ERM

1. The developer shall locate parking spaces around islands to adequately accommodate existing slash pine in order to preserve as many trees as possible. (Previously Condition No. 1 of Resolution No. R-87-25, Petition No. 86-62).
2. The developer shall preserve existing vegetation located within the central and western portion of the site and shall incorporate this vegetation into the project design. These preservation areas shall visually buffer residents from the north, west and south. Areas of existing vegetation to be preserved shall be shown upon building plans. These preservation areas shall receive appropriate protection from damage and disturbance during the site development and construction phase. The minimum protection shall include highlighting of preservation areas through the installation of stakes installed a maximum of fifty (50) feet apart. Ropes, plastic, tape or ribbons shall be attached to the stakes around the perimeter of the protected area. Marking materials shall not be attached to a protected tree.

In addition, individual trees not within a preserved area shall be protected by a barrier, constructed of metal or wood, placed a distance of six (6) feet apart, or at the radius of the dripline, whichever is greater. (Previously Condition No. 2 of Resolution No. R-87-25, Petition No. 86-62).

K. ACCESS

1. Prior to certification of the site plan by the Development Review Committee, the property owner shall record an ingress and egress easement to Military Trail, as shown on the site plan dated January 4, 1995, for property currently owned by Catherine R. Thewliss and Robert E. Thewliss, whose address is 2887 Military Trail, West Palm Beach, Florida, in a manner and form acceptable to the County Attorney and County Engineer. (COUNTY ATTORNEY/ENG)

L. COMPLIANCE

1. 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; cease and desist 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 Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
 - 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;
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

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 Conditional Use, 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. (MONITORING)