

RESOLUTION NO. R-95-1321.4

RESOLUTION APPROVING ZONING PETITION VDB95-46
VOLUNTARY DENSITY BONUS (VDB)
PETITION OF GARY ROSEKOWSKI
BY KIERAN KILDAY, AGENT

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 the Unified Land Development Code; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-10, as amended), have been satisfied; and

WHEREAS, Zoning Petition VDB95-46 was presented as a development order to the Board of County Commissioners at a public hearing conducted on September 28, 1995; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, the Voluntary Density Bonus Program (VDB), pursuant to Section 6.9.K. of the ULDC, requires that a VDB be granted in conjunction with a development order approval; and

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

1. The request for a density bonus, subject to conditions of approval as adopted, is compatible with surrounding land uses and consistent with the Comprehensive Plan;
2. The proposed density bonus is within a 3/4 mile [fifteen (15) minute] walk of a mass transit stop, or a commercial/employment center which offers various opportunities and positions for full-time employment, or retail grocery shopping and pharmaceutical service for the residents of the proposed development;
3. The location of the proposed density bonus meets the locational criteria established in Section 6.9.C. (Applicability) of the ULDC;
4. The density of the development with the density bonus will not exceed a one hundred (100) percent increase above the existing permitted density up to a maximum of eighteen (18) dwelling units per acre; and
5. The proposed density bonus complies with the requirement to promote the Housing Element policy (2-g) in the Comprehensive Plan which encourages the equitable geographic distribution of affordable housing to disperse lower income households.

WHEREAS, Section 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 the petition of Gary Rosekowski, by Kieran Kilday, agent, for a Voluntary Density Bonus (17 units) on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on September 28, 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 Lee and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted this 28th day of September, 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

EXHIBIT "A"
LEGAL DESCRIPTION

LOTS A, B, C, D AND E, BLOCK 90, PLAT OF PALM BEACH FARMS COMPANY, PLAT NO. 7, AS RECORDED IN PLAT BOOK 5, PAGE 72, PALM BEACH COUNTY, FLORIDA. LESS THE FOLLOWING DESCRIBED PARCEL:

A STRIP OF LAND 106 FEET IN WIDTH FOR ROAD RIGHT OF WAY PURPOSES LYING 53 FEET EACH SIDE OF, MEASURED AT RIGHT ANGLES TO THE FOLLOWING DESCRIBED CENTERLINE RUNNING THROUGH LOTS D AND E, LESS THE SOUTH 40 FEET THEREOF, BLOCK 90, ACCORDING TO THE PLAT OF PALM BEACH FARMS COMPANY, PLAT NO. 7, AS RECORDED IN PLAT BOOK 5 AT PAGE 72, PALM BEACH COUNTY PUBLIC RECORDS, SAID CENTERLINE MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF MELALEUCA LANE AND THE CENTERLINE OF DAVIS ROAD AS LAID OUT AND IN USE IN PALM BEACH FARMS COMPANY, PLAT NO. 7, OF SECTION 30, TOWNSHIP 44 SOUTH, RANGE 43 EAST; THENCE RUN SOUTH 86 DEGREES, 57 MINUTES 10 SECONDS EAST ALONG SAID CENTERLINE OF MELALEUCA LANE A DISTANCE OF 288.72 FEET TO A POINT, SAID POINT BEING THE BEGINNING OF A CURVE, CONCAVE TO THE NORTH HAVING A CENTRAL ANGLE OF 47 DEGREES 09 MINUTES 38 SECONDS LEFT AND A RADIUS OF 818.51 FEET, RUN ALONG THE ARC OF SAID CURVE A DISTANCE OF 678.72 FEET TO THE END OF SAID CURVE; THENCE RUN NORTH 45 DEGREES, 53 MINUTES 12 SECONDS EAST, A DISTANCE OF 962.72 FEET TO A POINT. SAID POINT BEING THE BEGINNING OF A CURVE CONCAVE TO THE SOUTH HAVING A CENTRAL ANGLE OF 47 DEGREES 00 MINUTES 00 SECONDS RIGHT AND A RADIUS OF 818.51 FEET, RUN ALONG THE ARC OF SAID CURVE 671.43 FEET TO THE END OF SAID CURVE; THENCE, RUN SOUTH 87 DEGREES 06 MINUTES, 48 SECONDS EAST, A DISTANCE OF 500.00 FEET TO A POINT IS THE EAST LINE OF SAID SECTION 30, AND THE END OF THE HEREIN DESCRIBED CENTERLINE.

CONTAINING: 4.2970 ACRES, MORE OR LESS

EXHIBIT B
VICINITY SKETCH

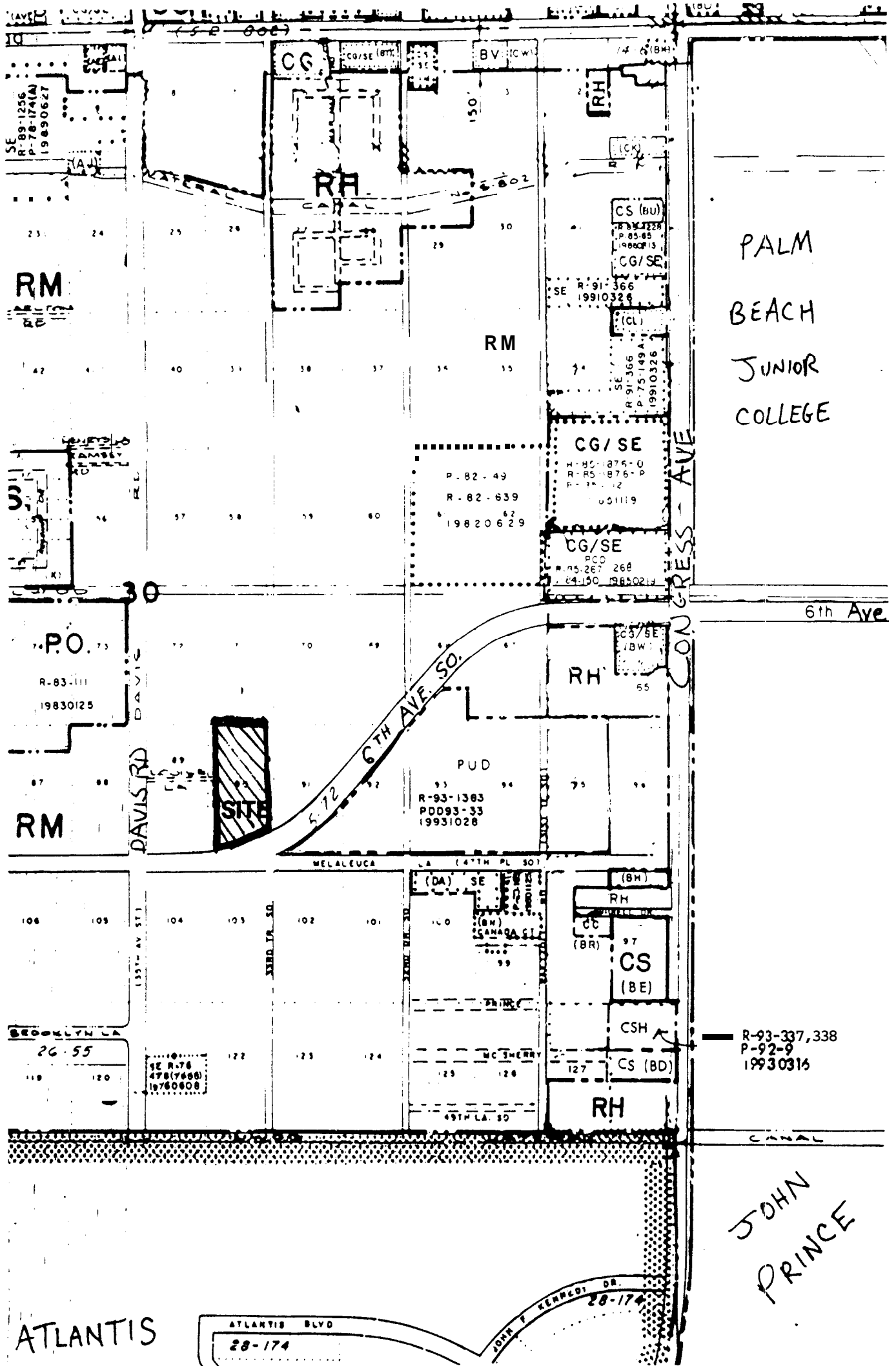


EXHIBIT C

CONDITIONS OF APPROVAL

A. PLANNING

1. A limit of 20% of the total units of the project shall (10 units) be reserved for low income households. (Planning/HCD)
2. No more than two (2) low income households shall be located within any one building of the total of seven (7) buildings. (Planning/HCD)
3. The ten (10) low income units shall be for-sale condominiums. (BUILDING-Planning)

E. ENGINEERING

1. Prior to issuance of a building permit the property owner shall convey a roadway construction easement to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners road right of way. Construction within this easement shall conform to Palm Beach County Standards. (BUILDING - Engineering).
2. The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Melaleuca Lane, 55 feet from centerline prior to the issuance of the first Building Permit. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (BUILDING - Engineering).
3. The Developer 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, Zoning Petition Number 95-46, to be paid at the time of issuance of the Building Permit presently is \$44,715. (271 trips X \$165.00 per trip) (IMPACT FEE COORDINATOR).
4. LANDSCAPE WITHIN MEDIAN
 - A. Prior to technical compliance by the Land Development Division, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. All landscaping installation and maintenance requirements shall be subject to the standards as set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (ENGINEERING - Engineering)

- B. All required median landscaping including an irrigation system, if required, shall be at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the property owner its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed concurrent with the improvements with the first plat. (ENGINEERING - Engineering)
- C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to recordation of the first plat to reflect this obligation. (ENGINEERING - County Attorney)

COMPLIANCE

- 1. 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; 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 majority vote of the Code Enforcement Board 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 conditions 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)