

RESOLUTION NO. R-96-1187

RESOLUTION APPROVING ZONING PETITION EAC95-17(B)
DEVELOPMENT ORDER AMENDMENT/EXPEDITED APPLICATION CONSIDERATION
PETITION OF ROBERT LEVY, TRUSTEE
BY ROBERT BENTZ, AGENT
(ADDISON COURT)

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 EAC95-17(B) was presented to the Board of County Commissioners at a public hearing conducted on August 22, 1996; 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 determination and 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 EAC95-17(B), the petition of Robert Levy, Trustee, by Robert Bentz, agent, for a Development Order Amendment/Expedited Application Consideration (DOA/EAC) to reconfigure site design 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 August 22, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on August 22, 1996.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Robert Bentz*
COUNTY ATTORNEY

BY: *Joan Havel*
DEPUTY CLERK




EXHIBIT A
LEGAL DESCRIPTION

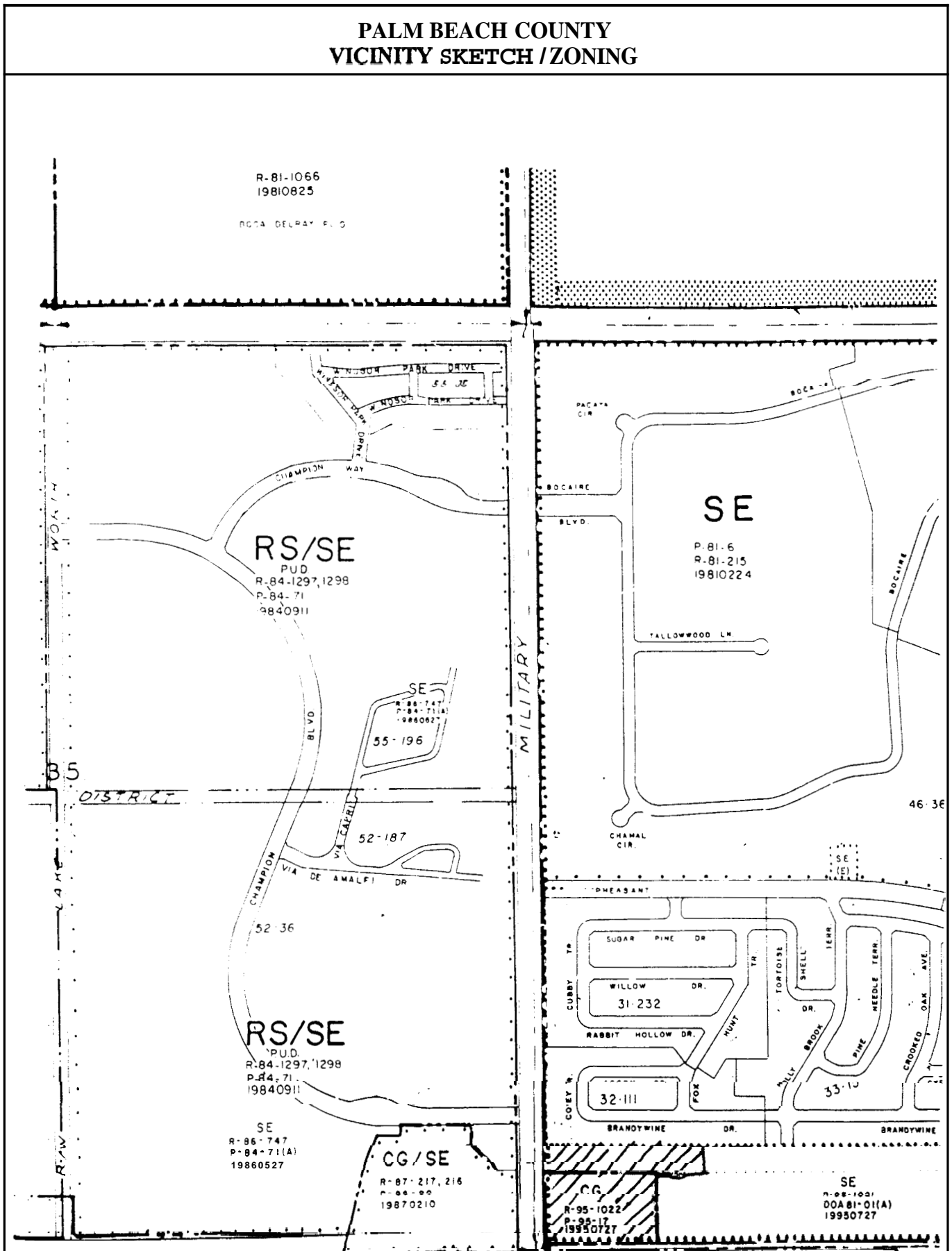
ADDISON COURT
Legal Description

A parcel of land in the SW $\frac{1}{4}$ of Section 36, Township 46 South. Range **42** East, said parcel more particularly described as follows:

Commencing at the Southwest corner of said SW $\frac{1}{4}$ of Section 36; thence run South $89^{\circ}40'13''$ East (on **an** assumed bearing) 40 feet along the South boundary of said SW $\frac{1}{4}$, to the Point of Beginning thence continue South $89^{\circ}40'13''$ East 617.48 feet along said South boundary; thence run North $0^{\circ}19'47''$ East 440 feet to an intersection with a line 440 feet North of, as measured at right angles and parallel to said South line of the SW $\frac{1}{4}$; thence run North $89^{\circ}40'13''$ West 620.02 feet along said parallel line to an intersection with a line 40 feet East of, as measured at right angles and parallel to the West line of said SW $\frac{1}{4}$; thence run due South 440.01 feet along said parallel line, also forming the East right-of-way line of Military Trail. as now located and constructed to the Point of Beginning.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



UNIVERSITY PARK



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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 Resolutions ZR-95-01 (Petition CB95-17), **and** R-95-1022 (Petition 95-17), 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)

B. CONCURRENCY

1. Prior to issuance of the first building permit, a **Concurrency Reservation is required.** (Previously Condition A.1 of Resolution **AR-95-01**, Petition 95-17). (BLDG PERMIT: CONCURRENCY/BLDG)

C. LANDSCAPING ALONG THE NORTH PROPERTY LINE

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - b. **A six (6) foot high chain link fence with green or black vinyl coating.** (Previously Condition B.1 of Resolution ZR-95-01, Petition 95-17). (BLDG)
2. The following **landscaping requirements** shall be installed on the exterior **side** of the required Fence
 - a. One (1) canopy tree planted every twenty (20) feet on center.
 - b. **Thirty six (36) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of six (6) feet.** (Previously Condition B.2 of Resolution ZR-95-01, Petition 95-17). (BLDG-Zoning)
3. All trees required to be planted along the north property line 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.** (Previously Condition B.3 of Resolution ZR-95-01, Petition 95-17). (ZONING)

D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The Preserve Management/ Vegetation Relocation Plan shall be submitted to and receive approval from the Department of Environmental Resources Management prior to DRC site plan certification. (Previously Condition D.1 of Resolution ZR-95-01, Petition 95-17). (DRC: ERM)

E. ENGINEERING

1. 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 95-17, to be paid at the time of issuance of the Building Permit presently is:
 - a. \$29,315.00 for the proposed quality restaurant (533 trips/day X \$55.00 per trip);
 - b. \$31,515.00 for the proposed bank with drive thru (573 trips/day X \$55.00 per trip);
 - c. \$52,415.00 for the proposed retail center (1953 trips/day X \$55.00 per trip); and
 - d. \$11,000.00 for the proposed church/synagogue (1200 trips/day X \$55.00 per trip) (Previously Condition E.1 of Resolution ZR-95-01, Petition 95-17). (BLDG PERMIT: IMPACT FEE COORDINATOR).
2. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a. Building Permits for only the 21,450 square foot church or synagogue shall be issued until the construction has begun for dual left turn lanes north and south approaches on Military Trail at its intersection with Clint Moore Road, plus the appropriate paved tapers. (Previously Condition E.2a of Resolution ZR-95-01, Petition 95-17). (BLDG - Eng)
 - b. No Building Permits for
 - the quality restaurant (Or)
 - bank with drive thru (or)
 - retail centershall be issued until construction has begun for the following roadways:
 1. Widening of Military Trail to a six-lane section from Clint Moore Road to West Atlantic Avenue.
 2. Widening of Military Trail to a six-lane section from Glades Road to Clint Moore Road.
 3. Widening of Jog Road to a six-lane section from Clint Moore Road to north of the Civic Center. (Previously Condition E.2b of Resolution ZR-95-01, Petition 95-17). (BLDG - Eng)

The mix of allowable commercial uses listed above may be adjusted by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request.

3. LANDSCAPE WITHIN MEDIAN

- a. Prior to issuance of a building permit, 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 landscape material, installation, and maintenance requirements shall be subject to the standards 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. (Previously Condition E.3.a of Resolution ZR-95-01, Petition 95-17). (BLDG PERMIT: BLDG - Eng)
 - b. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners' 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 on or before the issuance of a Certificate of Occupancy. (Previously Condition E.3.b of Resolution ZR-95-01, Petition 95-17). (CO: BLDG - Eng)
 - c. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (Previously Condition E.3.c of Resolution ZR-95-01, Petition 95-17). (CO: BLDG - Co Atty)
 - d. If the required landscaping is not installed prior to commencement of the 6 laning of Military Trail, the property owner shall post surety for the installation of the Landscaping with the Office of the County Engineer in a form and manner acceptable to the County Engineer prior to the issuance of a building permit for any of the uses onsite. This surety shall be based upon a certified cost estimate from the developers Landscape Architect.
4. A preliminary drainage study for this site shall be submitted by the Developer's Engineer and approved by the County Engineer prior to DRC approval. Should this commercial site develop an offsite drainage system, then this Developer shall provide an equivalent lake system to

be utilized by the Pheasant Walk drainage system to the north. It is the intent of this condition that this supplement to the Pheasant Walk Drainage System shall provide measurable benefit to the existing Pheasant Walk drainage system, and shall in no way negatively impact the existing Pheasant Walk drainage system. All costs for the construction, and installation of the supplement to the Pheasant Walk drainage system, if required, shall be the responsibility of this property owner. (Previously Condition E.4 of Resolution ZR-95-01, Petition 95-17). (DRC: ENG)

F. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (Previously Condition F.1 of Resolution ZR-95-01, Petition 95-17). (ONGOING: BLDG /CODE ENF - Zoning)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (Previously Condition F.2 of Resolution ZR-95-01, Petition 95-17). (BLDG - Zoning)

G. USE LIMITATION

1. One (1) 6,500 square foot restaurant shall be permitted on site . The restaurant shall not be located adjacent to the north property line. (Previously Condition G.1 of Resolution ZR-95-01, Petition 95-17). (DRC: BLDG)

H. WATER UTILITIES

1. The Developer shall be required to extend a 16 inch water main from Champions Boulevard and provide a 16 inch stubout on the northwest corner of Old Clint Moore Road and Military Trail. (Previously Condition H.1 of Resolution ZR-95-01, Petition 95-17). (PBCWUD)

I. 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

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)