

RESOLUTION NO. R-97-150

RESOLUTION APPROVING ZONING PETITION DOA81-95(A)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF DR. SUAREZ  
BY GEORGE GENTILE, AGENT  
(FOREST HILL SHOPPING CENTER)

**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 DOA81-95(A) was presented to the Board of County Commissioners at a public hearing conducted on January 30, 1997; 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 DOA81-95(A), the petition of Dr. Suarez, by George Gentile, agent, for a Development Order Amendment (DOA) for Entertainment, indoor (requested use) 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 30, 1997, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 30, 1997.

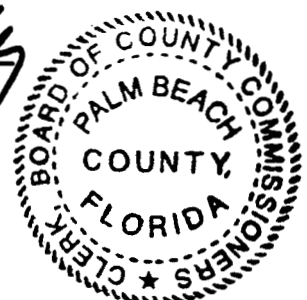
APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK



## EXHIBIT A

### LEGAL DESCRIPTION

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#### **FOREST HILL SHOPPING CENTER**

FROM THE SURVEY PRODUCED BY SDA SHAH DROTOS & ASSOCIATES

#### LEGAL DESCRIPTION:

THE EAST HALF (E1/2) OF LOT 2, BLOCK 4, OF SECTION 7, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT OF PALM BEACH PLANTATIONS ON FILE IN THE OFFICE OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY IN PLAT BOOK 10, PAGE 20, EXCEPTING THE NORTH 60 FEET THEREOF FOR CANAL RIGHT-OF-WAY (ROBERTS PROPERTY): AND LESS THE SOUTH 60 FEET FOR ROAD RIGHT-OF-WAY AS SHOWN IN ROAD PLAT BOOK 5, PAGE 198, PALM BEACH COUNTY, FLORIDA.

#### TOGETHER WITH:

THE EAST HALF (E1/2) OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 7, TOWNSHIP 44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, LESS HOWEVER THE NORTH 518 FEET THEREOF; THE EAST 50 FEET THEREOF- THE SOUTH 226.77 FEET OF THE WEST 133.21 FEET OF THE EAST 183.21 FEET AND ALSO LESS THE SOUTH 60 FEET THEREOF FOR ROAD RIGHT-OF-WAY AS SHOWN IN ROAD PLAT BOOK 5, PAGE 198, PALM BEACH COUNTY, FLORIDA.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA, CONTAINING 19.517 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

PALM BEACH COUNTY  
VICINITY SKETCH / ZONING

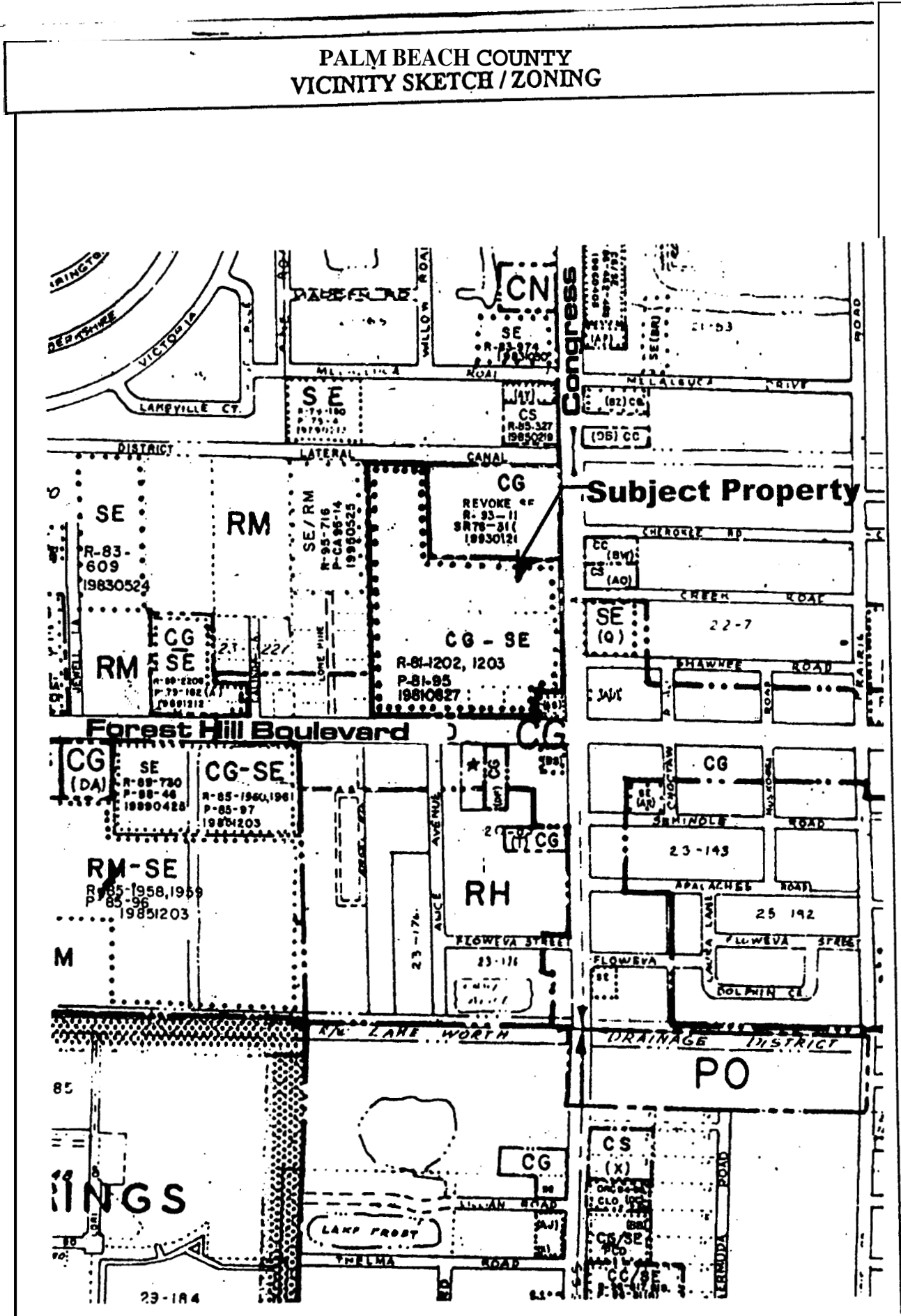


EXHIBIT C

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 R-81-1611 (Petition 81-95), 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 26, 1996. 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)

**B.**     BUILDING AND SITE DESIGN

1. Loading areas along the western portion **of** the property **shall** be screened from nearby residential development with wing walls. (Previously Condition 8 **of** Resolution R-81-1203, Petition 81-95)
2. Air conditioning, exhaust fans and other mechanical equipment shall be **roof-mounted** and screened (with solid barriers) from **residences** to the west. (Previously Condition 9 of Resolution R-81-1203, Petition 81-95)
3. **A** bikeway section shall be constructed along Forest Hill Boulevard. (Previously Condition 10 **of** Resolution R-81-1203, Petition 81-95)

**C.**     HEALTH

1. ~~condition~~ 11 of Resolution R-81-1203, Petition 81-95 ~~which~~ currently states:  
  
The developer will take reasonable precautions during the development **of this** project to insure that fugitive particulates (dust **particles**) from this project do not become a nuisance to neighboring **properties**.  
  
May **be** deleted. [REASON: Code requirement]
2. **Condition 12** ~~of~~ Resolution R-81-1203, Petition 81-95 ~~which~~ currently states:  
  
The developer ~~will~~ take necessary precautions to insure there will **be** no **pollutant run-off** from **this** project to adjacent or nearby surface waters.  
  
May **be** deleted. [REASON: Code requirement]

D. LANDSCAPING-( INDOOR ENTERTAINMENT)

1. Landscaping and **buffering** along **the** east property line (Congress Avenue) shall **be** upgraded to include one (1) canopy tree within thirty feet, and on **each** side of **the two** entrances along Congress Avenue. (CO: LANDSCAPE)
2. **Landscaping and** buffering along **the** south property (Forest Hill Boulevard) shall **be** upgraded to include one (1) canopy tree within thirty feet, and on each side of the **two** entrances along Forest Hill Boulevard. (**CO: LANDSCAPE**)
3. All canopy 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.
  - d. Credit may **be** given for existing **or** relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

E. ENGINEERING

1. Petitioner shall align **the** east entrance onto Forest Hill Blvd. with Alice Avenue. (Previously Condition 1 of Resolution R-81-1203, Petition **81-95**)  
[Note: Projects entrance is constructed.]
2. Petitioner shall align the project's west entrance onto Forest Hill Blvd. with **the** proposed joint turnout for the restaurant and trailer park. (Previously Condition **2** of Resolution **R-81-1203**, Petition **81-95**)  
[Note: Projects entrance is constructed.]
3. Petitioner shall align **the** north entrance onto Congress Avenue with Creek Road (Previously Condition **3** of Resolution R-81-1203, Petition **81-95**)  
[Note: Projects entrance is constructed.]
4. Petitioner shall construct at the project's **north** entrance and Congress Avenue a left turn lane, south approach, prior to the **issuance** of a Certificate of Occupancy. (Previously Condition **4** of Resolution R-81-1203, Petition **81-95**)
5. Petitioner shall relocate **the** existing south turnout onto Congress Avenue a minimum distance of **450** feet north of the centerline of **Forest** Hill Boulevard. (Previously Condition **5** of Resolution R-81-1203, Petition **81-95**)  
[Note: Projects entrance is constructed.]
6. Petitioner shall contribute Two Hundred Thousand Dollars (**\$200,000.00**) **within 120** days of special exception approval toward **the** construction program for Forest Hill Blvd as a four lane median divided **section from** Congress Avenue on **the** east to Military Trail on **the** west as provided for in **the 1981-1982** proposed capital outlay **program**. In **the** event **this** roadway improvement is not part of **the 1981-1982** capital outlay program **the** approval of **this** petition **shall be** readdressed by the

Board of County Commissioners. The terms of this condition ~~to~~ be specifically set forth in the road construction agreement approved by the County Attorney's Office. (Previously Condition 6 of Resolution 13-81-1203, Petition 81-95)

7. **No Certificate of Occupancy** shall be issued until Forest Hill Blvd. road construction is underway. Furthermore, no certificates of occupancy shall be issued until the turn lanes on Forest Hill Blvd. are constructed. Should the County construction begin at Military Trail, the developer shall construct the turn lanes at his own expense. This cost shall be above the **\$200,000** road construction contribution. (Previously Condition 7 of Resolution R-81-1203, Petition 81-95)  
[Note: Forest Hill Boulevard has never been widened.]

8. **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 and shall be consistent with the landscaping theme adopted for this roadway. 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. (BLDG PERMIT: MONITORING - 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'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 on or before the issuance of a Certificate of Occupancy. (CO: MONITORING - 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. (CO: MONITORING - Eng)

F. LAKE WORTH DRAINAGE

1. Lake Worth Drainage District requires the **North 60.00 feet of the East 1/2 of Lot 2, Block 4, of Section 7, Township 44 South, Range 42 East**, according to the plat of Pam Beach Plantations, as recorded in Plat Book 10, page 20. We would accept a Quit Claim Deed or an Easement (on our form), whichever the owner prefers for the remaining **20.00** feet. (Previously Condition 13 of Resolution R-81-1203, Petition 81-95)

G. **USE LIMITATION**

1. The indoor entertainment facility shall be limited to **7,755** square feet for laser tag and video game use. (ONGOING: CODE ENF)

H. **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 noncompliance, **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)