

RESOLUTION NO. R-97- 1301

RESOLUTION APPROVING ZONING PETITION **EAC97-28(A)**
DEVELOPMENT ORDER AMENDMENT
PETITION OF STRATEGIC INVESTMENTS, INC.
BY BRADLEY MILLER, AGENT
(ARC DELRAY WEST)

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 **EAC97-28(A)** was presented to the Board of County Commissioners at a public hearing conducted on September 25, 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 EAC97-28(A), the petition of Strategic Investments, Inc., by Bradley Miller, agent, for a Development Order Amendment/Expedited Application Consideration (EAC) to **Modify Condition 8.4 (maximum beds)** of Resolution R-97-965 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 September 25, 1997, subject to the conditions of approval described in EXHIBIT C**, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on September 25, 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

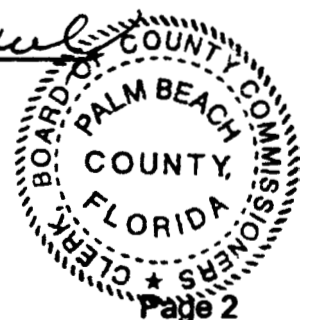


EXHIBIT A
LEGAL DESCRIPTION

LAND DESCRIPTION:

Tract 1, Section 20, Township 46 South, Range 42 East, according to the **PALM BEACH FARMS CO., PLAT NO. 1, on file in the** office of the Clerk of the Circuit Court in and for Palm Beach County, Florida in Plat Book 2, Pop 26 to 28, inclusive; **LESS AND EXCEPTING THEREFROM** the following described lands:

COMMENCING at the Northeast corner of said Section 20; thence $S89^{\circ}42'00''W$, along the North boundary of said Section. 15 feet; thence $S01^{\circ}28'33''E$, 30.01 feet to the Northeast corner of said Tract 1 and the **POINT OF BEGINNING**; thence continue $S01^{\circ}28'33''E$, along the East boundary of said Tract 1, a distance of 13.11 feet to a point on the arc of a non-tangent curve (radial line through said point bears $N03^{\circ}45'57''W$); hence westerly along the arc of said curve being concave to the south, having a radius of 6220.91 feet, a delta of $00^{\circ}06'43''$ and an arc distance of 12.17 feet to a point of reverse curvature; thence westerly, along the arc of said curve being concave to the North, having a radius of 6323.91 feet, a delta of $02^{\circ}53'52''$, an arc distance of 319.85 feet to a point on the West boundary of said Tract 1, thence $N01^{\circ}28'54''W$, along said West boundary, 25.75 feet to the Northwest corner of said Tract 1; thence $N89^{\circ}42'00''E$, along the North boundary of said Tract 1, 332.00 feet to the **POINT OF BEGINNING**.

TOGETHER with easement granted in Cross Access Easement Agreement recorded in O.R. Book 5866, Page 1085, O.R. Book 6544, Page 1909 and O.R. Book 6544, Page 1915 of the Public Records of Palm Beach County, Florida

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. Condition **A.1 of** Resolution R-97-965, Petition 97-28 ~~which~~ currently states:

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 May 1, 1997. 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.

Is hereby amended to read:

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 August 29, 1997. 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. CONGREGATE LIVING FACILITY

1. Condition **B.1 of** Resolution R-97-965, Petition 97-28 ~~which~~ currently states:

The CLF shall be limited to a maximum of **69,500** square feet. **Gross** floor area may be increased an additional **5%** up to **1000** square feet, whichever is less, **subject** to Development Review Committee (DRC) approval. (DRC: ZONING)

Is hereby amended to state:

The CLF **shall** be limited to a maximum of **67,288** square feet. **Gross floor area** may **be** increased an additional **5%** up to **1000** square feet, whichever is less, **subject** to Development Review Committee (DRC) approval. (DRC: ZONING)

2. The CLF shall be limited to **two** stories with a maximum height of **35** feet. (Previously **Condition B.2 of** Resolution R-97-965, Petition 97-28) (BLDG PERMIT: BLDG - **Zoning**)
3. The **minimum rear setback** for **structures** adjacent to residential **shall be eighty (80) feet from the** east property line. The **minimum side setback** for **structures** adjacent to residential **shall be twenty-five (25) feet from the** south **property line.** (Previously **Condition B.3 of** Resolution **R-97-965, Petition 97-28**) (DRC: ZONING)
4. **Condition B.4 of** Resolution R-97-965, Petition **97-28**, which currently states:

The CLF shall be ~~limited~~ **limited** to a maximum of **eighty (80) Type 3** beds.

Is hereby amended to read:

The CLF shall be limited to a maximum of eighty-six (86) Type 3 beds. (DRC: BUILDING/ HEALTH - Zoning)

5. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principle structure or equivalent landscape material. (Previously Condition 6.5 of Resolution R-97-965, Petition 97-28) (CO: BLDG - Zoning)
6. **All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within one hundred and eighty (180) feet of the south property line and shall be confined to the areas designated on the site plan.** (Previously Condition B.6 of Resolution R-97-965, Petition 97-28) (DRC / ONGOING: ZONING / CODE ENF)

C. LANDSCAPING - STANDARD

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. (50% of required trees)
 - 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 C.1 of Resolution R-97-965, Petition 97-28) (CO: LANDSCAPE - Zoning)
2. All palms planted on site in compliance with this approval shall meet the following minimum standards at time of installation:
 - a. Palm heights: twelve (12) feet clear trunk or grey wood, whichever is greater;
 - b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and
 - c. Pruning: minimum six (6) fronds, no clipped or spiked cuts.
 - d. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (Previously Condition C.2 of Resolution R-97-965, Petition 97-28) (CO: LANDSCAPE - Zoning)
3. **Landscape areas shall be provided along the front and side facades of all structures. The minimum width of the required landscape islands shall be five (5) feet. The combined length of the required landscape islands shall be no less than 40% of the total length of the applicable side of the structure. All required landscape islands shall be planted with a minimum of one (1) tree or palm every 20 feet and appropriate ground cover.** (Previously Condition C.3 of Resolution R-97-965, Petition 97-28) (DRC / CO: ZONING / LANDSCAPE)

D. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING WEST ATLANTIC AVENUE)

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. A minimum twenty **(20)** foot wide landscape buffer strip;
 - b. One **(1)** canopy tree planted every thirty **(30)** feet on center;
 - c. One **(1)** palm or pine tree for each ~~thirty~~ **(30)** linear feet of frontage. A group of three or more palm or pine trees may **supersede the requirement for a canopy tree in that location; and**
 - d. Thirty **(30)** inch high shrub or hedge material, spaced no more than twenty four **(24)** inches on center at installation and to be maintained at a minimum height of ~~thirty-six~~ **(36)** inches. (Previously Condition D.1 of Resolution R-97-965, Petition 97-28) (CO: LANDSCAPE)

E. ENGINEERING

1. The property owner shall plat as a private roadway tract, Tranquility Lake Drive, **80** feet from centerline. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (Previously Condition E.1 of Resolution R-97-965, Petition 97-28) (DATUBLDG PERMIT: MONITORING/Eng)
2. 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 97-28, to be paid at the time of issuance of the Building Permit presently is \$28,380 (172 trips X \$165.00 per trip).** (Previously Condition E.2 of Resolution R-97-965, Petition 97-28) (ONGOING: IMPACT FEE COORD)
3. **LANDSCAPE WITHIN MEDIAN**
 - a. **Prior to technical compliance by the Land Development Division, the property owner shall apply to the Land Development Division, Permit Section, of the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of West Atlantic Avenue. When permitted by the Land Development Division of the 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 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. (Previously Condition E.3.a of Resolution R-97-965, Petition 97-28) (TC: ENG)**

- 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 ~~is~~ 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. The maintenance responsibility of any existing trees within the median shall also become the responsibility of this property ~~OWNER~~. All landscape material shall be installed concurrent with the improvements with the first plat (Previously Condition E.3.b of Resolution R-97-965, Petition 97-28) (ENG)
 - 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. (Previously Condition E.3.c of Resolution R-97-965, Petition 97-28) (PLAT: ENG)
4. Prior to issuance of a building permit the property owner shall convey a 10 foot "Temporary Construction Easement" to Palm Beach County along Atlantic Avenue. 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. (Previously Condition E.4 of Resolution R-97-965, Petition 97-28) (BLDG PERMIT: MONITORING - Eng)
 5. The Property owner shall relocate the existing Call Box for the car gate reader on East Tranquility Lake Drive. The location shall be subject to the approval by the County Engineer as follows:
 - a. The relocation of the call box shall be concurrent with the paving and drainage improvements for this site. Any and all costs associated with the relocation shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and median improvements.
 - b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

F. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Condition F.1 of Resolution R-97-965, Petition 97-28 which currently states:
 Landscaping and buffering along the south property line shall be upgraded to include:
 - a. A minimum ten (10) foot wide landscape buffer strip;
 - b. One (1) canopy tree planted every twenty (20) feet on center;
 - c. One (1) palm or pine tree for each thirty (30) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and,

- d. Thirty (30) 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 seventy-two (72) inches. Credit may be given for vertical elements within a perimeter landscape area by the DRC for existing buffer features such as fences **or** walls Pursuant to Section 6.8.A.23. of the ULDC. () (CO: LANDSCAPE)

Is hereby amended to state:

Landscaping and buffering along the south property line shall be upgraded to include:

- a. A minimum fifteen (15) foot wide landscape buffer strip;
- b. One (1) canopy tree planted every twenty-five (25) feet on center;
- c. One (1) palm or pine tree for each thirty (30) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm **or** pine trees may supersede 25% of the requirement for a canopy tree in that location; and,
- d. Thirty (30) 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 seventy-two (72) inches. Credit may be given for vertical elements within a perimeter landscape area by the DRC for existing buffer features such as fences or walls Pursuant to Section 6.8.A.23. of the ULDC. () (CO: LANDSCAPE)

G. Condition G.1 of Resolution R-97-965, Petition 97-28 **which** currently state:::

LANDSCAPING ALONG THE EAST PROPERTY LINE

- 1. Landscaping and buffering along the east property line abutting residential shall **be** upgraded to include a minimum seven and one-half (7 1/2) foot wide landscape buffer strip which shall include:
 - a. One (1) canopy tree planted every twenty-(20) feet on center;
 - b. One (1) palm tree **or** pine tree for each twenty-five (25) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three **or** more palm trees **or** pine trees may not supersede the requirement for a native canopy tree in that location;
 - c. Thirty (30) 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 forty-eight (48) inches;
 - d. Credit may be given for existing **or** relocated trees provided they meet current ULDC requirements; and,
 - e. **No** further reductions of the buffer shall be permitted. (CO: LANDSCAPE - Zoning)

Is hereby amended to state:

Landscaping and buffering along the east property line abutting residential shall include a minimum seven and one-half (7 1/2) foot wide landscape buffer strip which shall include:

- a. One (1) canopy tree planted every twenty-five (25) feet on center;

- b. **One (1) palm tree or pine tree** for each twenty-five (25) linear feet, with a maximum spacing of sixty (60) feet on center. **A group of three or more palm trees or pine trees may supersede 25% of the requirement for a native canopy tree in that location;**
- c. Thirty (30) 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 forty-eight (48) inches; and,
- d. **Credit may be given for existing or relocated trees** provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING ALONG THE WEST PROPERTY LINE

- 1. **Landscaping and buffering along the west property line abutting residential shall be upgraded to include a minimum seven and one-half (7 1/2) foot wide landscape buffer strip which shall include:**
 - a. One (1) canopy tree planted every thirty (30) feet on center;
 - b. **One (1) palm tree or pine tree** for each twenty-five (25) linear feet, with a maximum spacing of sixty (60) feet on center. **A group of three or more palm trees or pine trees may not supersede 25% of the requirement for a native canopy tree in that location;**
 - c. Thirty (30) 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 forty-eight (48) inches; **and**
 - d. **Credit may be given for existing or relocated trees provided they meet current ULDC requirements. ; and;**
 - e. **No further reductions of the buffer shall be permitted.** (Previously Condition H.1 of Resolution R-97-965, Petition 97-28) (CO: LANDSCAPE - Zoning)

I. 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 I.1 of Resolution R-97-965, Petition 97-28) (CO / 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 12 of Resolution R-97-965, Petition 97-28) (CO: BLDG - Zoning)
- 3. All outdoor lighting shall be extinguished no later than 10:00 p.m., excluding security lighting only. (Previously Condition 13 of Resolution R-97-965, Petition 97-28) (ONGOING: CODE ENF)
- 4. **All utilities shall be underground, pursuant to Section 6.8.A.23.d(5) of the ULDC. (Previously Condition 15 of Resolution R-97-965, Petition 97-28) (PLAT: ENG - Zoning)**

J. SIGNS

- 1. **Signs fronting on East Tranquility Lake Drive shall be limited to one (1) thirty-two (32) square foot monument sign with a maximum height of six (6) feet** (Previously Condition J.1 of Resolution R-97-965, Petition 97-28)(CO: BLDG)

K. USE LIMITATION

1. **Deliveries**, other than emergency supplies shall not be allowed to the site prior to **7:00 a.m.** nor continue later than **6:00 p.m.** Monday through Saturday. **No deliveries** on Sunday except for emergency provisions. (Previously Condition K.1 of Resolution R-97-965, Petition 97-28) (ONGOING: **CODE ENF -Zoning**)
2. **Construction** hours shall not commence prior to **7:00 a.m.** or continue later than **7:00 p.m.** Monday through Saturday. **No construction activities** permitted on Sunday. (Previously Condition K.2 of Resolution R-97-965, Petition 97-28) (ONGOING: **CODE ENF - Zoning**)

L. 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 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. (Previously Condition L.1 of Resolution R-97-965, Petition 97-28) (MONITORING)