

RESOLUTION NO. R-97- 1576

RESOLUTION APPROVING ZONING PETITION DOA73-91(D)
DEVELOPMENT ORDER AMENDMENT
PETITION OF FIRST UNION NATIONAL BANK
BY ANNA S. COTTRELL, AGENT
(LAKE WORTH PLAZA WEST - FIRST UNION BANK)

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 DOA73-91(D) was presented to the Board of County Commissioners at a public hearing conducted on October 23, 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 DOA73-91(D), the petition of First Union National Bank, by Anna S. Cottrell, agent, for a Development Order Amendment (DOA) for Additional building square footage (1,060 sq. ft.) 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 October 23, 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 Roberts and, upon being put to a vote, the vote was as follows:

Burt Aaronson, <i>Chair</i>	--	Aye
Maude Ford Lee, <i>Vice Chair</i>	--	Aye
Ken Foster	--	Absent
Karen T. Marcus	--	Absent
My _____	--	Aye
Warren Newell	--	Absent
Card A Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on October 23, 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

LEGAL DESCRIPTION
OF PARCEL L-1
LAKE WORTH PLAZA WEST SHOPPING CENTER

Being a parcel of land in the northeast quarter of Section 27, Township 44 South, Range 42 East, being more particularly described as follows:

Commencing at the northwest corner of the northeast quarter of said Section 27; thence South **88°12'34"** (assumed bearing datum) along the north line of the northeast quarter of said Section 27, **1012.29** feet to a point on the east line of the west half of the east half of the northwest quarter of the northeast quarter of said Section 27; thence South **01°20'15"** West along said east line, **30.00** feet to the POINT OF BEGINNING, said point being on the southerly right-of-way line of Lake Worth Road (S.R. 802); thence continuing South **01°20'15"** West along said east line, **206.03** feet; thence North **88°39'45"** West at right angles to the previous course, **188.15** feet to a point of curvature; thence northwesterly along an arc of a curve, **20.04** feet to a point of non-tangency, said curve being concave to the northeast, having a radius of **30.00** feet, a central angle of **38°16'48"**, and a chord length of **19.67** feet which bears North **69°31'22"** West; thence North **02°11'36"** West, along a non-radial line, **197.61** feet to the southerly right-of-way line of Lake Worth Road, said right-of-way line being **60.00** feet south of and concentric with the center line of right-of-way of Lake Worth Road; thence easterly along said south right-of-way line, being an arc of a curve, **155.00** feet to a point of tangency, said curve being concave to the south, having a radius of **2804.93** feet, a central angle of **03°09'58"**, and a chord length of **154.98** feet which bears South **89°42'54"** East; thence South **88°12'34"** East, along a line that is **30.00** feet southerly of and parallel with the north line of the northeast quarter of said Section 27, **63.96** feet to the POINT OF BEGINNING.

Above described parcel contains **1.005** acres, more or less.

legal96042a

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. GENERAL

1. Condition ~~A.1~~ of R-96-820, Petition 73-91(C), which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-73-427 (Petition 73-91), R-88-1199 (Petition 73-91A) and R-94-938 (Petition 73-91B), 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.

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-96-820 (Petition 73-91(C)), 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 June 25, 1997. AH 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. (ONGDING: ZONING)**

B. BUILDING AND SITE DESIGN

1. **The petitioner shall revise the Preliminary Development Plan to re ocate all dumpsters a minimum of twenty five (25) feet from the east property line. (Previously Condition A3 of R-96-820, Petition 73-91(C). (ZONING)**
2. **Prior to the issuance of the Certificate of Occupancy or Certificate of Completion for the Winn Dixie (subject of Petition 73-91(B)) the petitioner shall relocate all dumpsters and provide screening pursuant to section 6.6.A.5 (Dumpster). (Previously Condition A4 of R-96-820, Petition 73-91(C). (CO: BLDG)**

C. COCKTAIL LOUNGE

1. **The cocktail lounge permitted by Zoning Petition 73-91C shall be limited to a maximum of 5,000 gross square feet located in the southwest area of the principle structure, as indicated on Exhibit 48. (Previously Condition AS of R-96-820, Petition 73-91(C) (DRC: ZONING)**

D. HEALTH

1. Generation and **disposal of hazardous effluents** into sanitary **sewerage** system **shall be prohibited** unless adequate pretreatment facilities approved by the **Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents.** (Previously Condition C.1 of Resolution R-96-820, Petition 73-91(C). (HEALTH)

2. Condition C.2. of Resolution R-96-820, Petition 73-91(C) which currently states:

Since sewage service is available to the property, septic tank shall not be approved for use on said property. (HEALTH)

Is hereby deleted. [Reason: condition in *compliance*].

3. Condition C.3. of Resolution R-96-820, Petition 73-91(C) which currently states:

Since water service is available to the property, a well shall not be approved for use on said property for potable water. (HEALTH)

Is hereby deleted. [Reason: Condition in compliance]

E. ENGINEERING

1. Prior to the issuance of any building permits the developer shall **dedicate to Palm Beach County the additional right-of-way required to provide for a one hundred twenty (120) foot right-of-way for Lake Worth Road (SR 802) and Jog Road.** (Previously Condition E.1 of Resolution R-96-820, Petition 73-91(C). (BLDG - Eng)

STATUS: Survey indicates ~~compliance~~ with this condition.

2. **The developer shall construct the necessary roadway improvements as required by the County Engineer.** (Previously Condition E.2 of Resolution R-96-820, Petition 73-91(C). (ENG)

NOTE: Engineering indicates compliance with this condition.

3. 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 at the time of the Building Permit presently is \$13,146 (239 additional trips X \$55.00 per trip).** (Previously Condition E.3 of Resolution R-96-820, Petition 73-91(C). (IMPACT FEE COORD)

4. **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 \$12,056.00 (450 trips X \$26.79 per trip).** (Previously Condition E.4 of Resolution R-96-820, Petition 73-91(C). (IMPACT FEE COORD)

5. Based on the Traffic Performance Standards (Category "B"), the developer shall contribute an additional \$3,014.00 toward Palm Beach county's existing Roadway Improvement Program, these total funds of \$15,070.00 to be paid prior to the issuance of the first building permit or prior to December 1, 1987 whichever shall first occur. (Previously Condition E.5 of Resolution R-96-820, Petition 73-91(C). (DATE / 3LDG PERMIT: MONITORING - Eng)
6. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$3,014.00 shall be credited toward the increased Fair Share Fee. (Previously Condition E.6 of Resolution R-96-820, Petition 73-91(C). (IMPACT FEE COORD)
7. Access to the site shall be from the site's internal accessway(s). No direct access shall be permitted to Jog Road. (Previously Condition E.7 of Resolution R-96-820, Petition 73-91(C). (ENG)

F. LANDSCAPE GENERAL

1. Prior to December 31, 1996, the petitioner of Zoning Petition 73-81(C) shall install native canopy trees thirty (30) feet on center along Jog Road and a continuous opaque hedge in accordance with ULDC requirements, between the south property line and the second driveway entrance north. Credit shall be given for existing landscape material in this area meeting this requirement. (Previously Condition 8.2 of R-96-820, Petition 73-91(C) (DATE: MONITORING - Landscape)

G. LANDSCAPING- FIRST UNION BANK EXPANSION PETITION 93-91(D)

1. Landscaping and buffering along 153 Feet of the North Property Line Commencing from the Northeast Corner Abutting Lake Worth Road shall be upgraded to include:
 - a. One (1) canopy tree planted every twenty (20) linear feet with a maximum spacing of thirty (30) feet on center;
 - b. 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 thirty-six (36) inches.
2. The petitioner shall replace all missing or dead landscaping within the parking areas and adjacent to the east property line. All replacement trees and shrubs shall meet the standards of Section 7.3 of the ULDC. (CO: LANDSCAPE)

H. LANDSCAPING - WINN DIXIE/ MAIN ANCHOR RETAIL

1. Prior to the issuance of the Certificate of Occupancy or Certificate of Completion for the Winn Dixie (subject of petition 73-91(13)) the petitioner shall complete the following:
 - a. Repair or replace all missing or damaged fence panels on the south and east property lines of the dropping center,
 - b. Install one (1) eighteen (18) to twenty (20) foot tall Sabal Palms twenty (20) feet on center along the east property line within the five foot wide existing Alternate 1 Landscape Buffer; and,

- c. **Replace all missing or dead landscaping within the parking areas (excluding out parcels). All replacement trees and shrubs shall meet the standards of Section 7.3 of the ULDC. (Previously Condition B.1 of R-96-820, Petition 73-91(C) (CO: BLDG / LANDSCAPE - Zoning)**

I. VETERINARY CLINIC AND COMMERCIAL KENNEL

1. **Prior to site plan certification, the site plan shall be amended to indicate the following:**
 - a. **Landscaping located outside of the utility easements, or release agreements shall be obtained from all easement holders and filed with the Zoning Division.**
 - b. **Revise square footage of the veterinary clinic and commercial kennel with corrective changes to the parking calculations. (Previously Condition A.2 of R-96-820, Petition 73-91(C). (ZONING)**

J. COMPLIANCE

1. **Condition F.1. of R-94-938, Petition 73-91(B), which currently states:**

Failure to comply with any of these conditions of approval at any time may result in:

- e. **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.

is hereby amended to read:

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 (MONITORING)