

RESOLUTION NO. R-98-1314

RESOLUTION APPROVING ZONING PETITION CA98-43
CLASS A CONDITIONAL USE
PETITION OF TUYET PAYNE
BY ROBERT E. BASEHART, AGENT
(MERKERT FAMILY MAUSOLEUM)

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 zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; 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 CA98-43 was presented to the Board of County Commissioners at a public hearing conducted on August 27, 1998; 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 recommendations of the Zoning Commission; 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 (ULDC) 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 Class A conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, 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 Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. This Class A Conditional Use, 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 Class A Conditional Use, 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 CA98-43, the petition of Tuyet Payne, by Robert E. Basehart, agent, for a Class A Conditional Use Class A Conditional Use for a 1,200 SF private family mausoleum in the Agricultural Residential (AR) Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on August 27, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

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

The Chair thereupon declared that the resolution was duly passed and adopted on August 27, 1998.

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

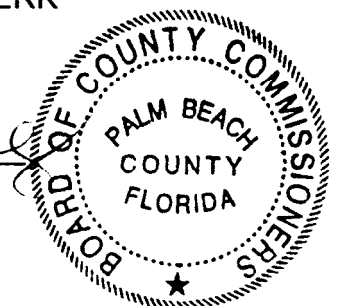


EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND LYING WITHIN LOT 38, BLOCK "C" OF THE REPLAT OF LOXAHATCHEE GROVES, AS RECORDED IN PLAT BOOK 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 208.41 FEET OF THE SOUTH 208.93 FEET AS MEASURED AT RIGHT ANGLES TO AND PARALLEL WITH, THE EAST LINE AND THE SOUTH LINE RESPECTFULLY OF LOT 38, BLOCK "C" OF THE REPLAT OF LOXAHATCHEE GROVES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 1.00 ACRES.

EXHIBIT B
VICINITY SKETCH

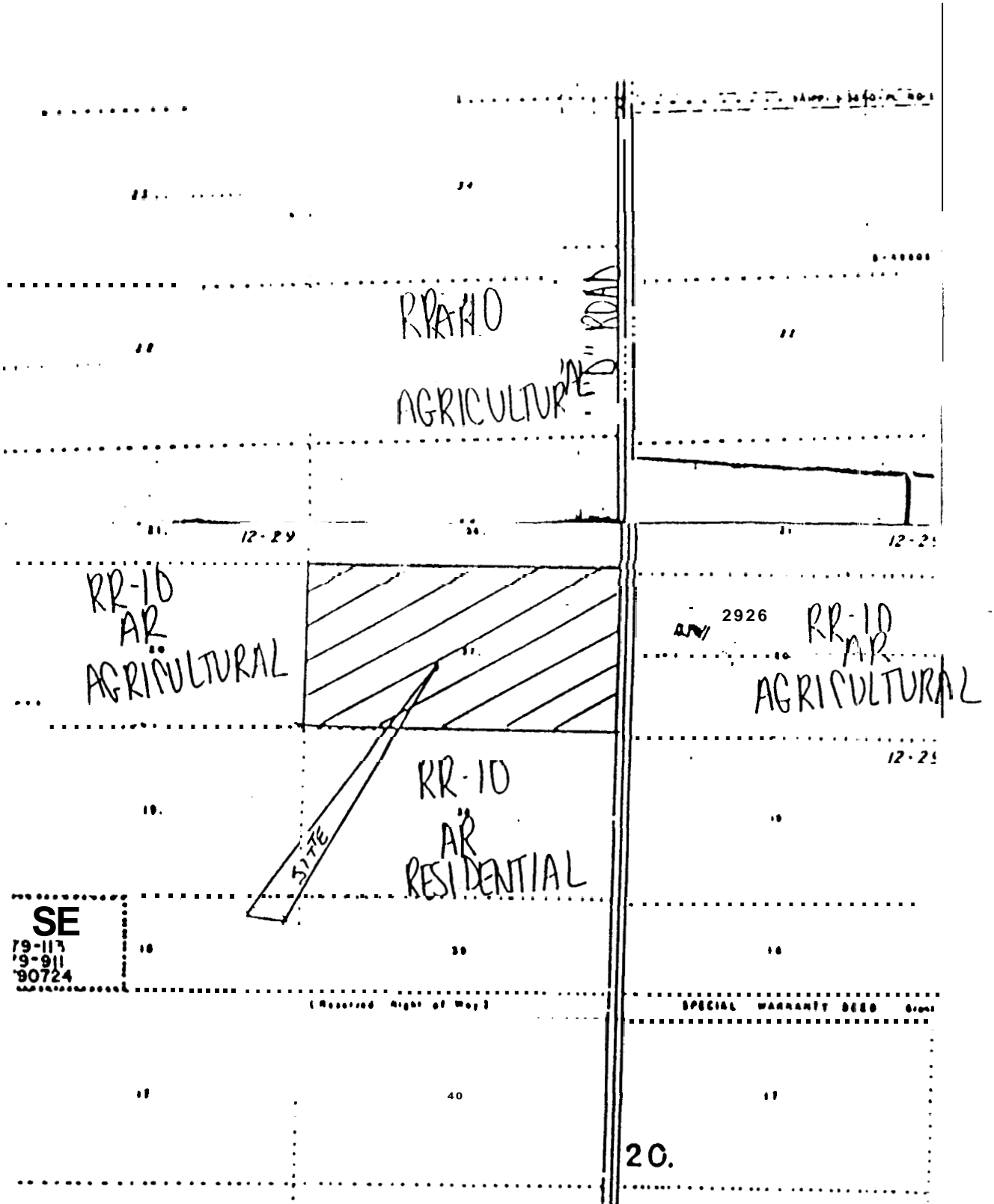


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated August 17, 1998. 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. (DRC: ZONING)
2. Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to indicate a twenty (20) foot wide easement along the entire east property line of the twenty (20) acre site, and this easement shall be dedicated to the Loxahatchee Groves Water Control District. (DRC: LGWCD-Zoning)

B. BUILDING AND SITE DESIGN

1. The approved area (1.0 acre) shall be limited to the use as a private mausoleum for family members only. (DRC: ZONING)
2. Total gross floor area of the mausoleum shall be limited to a maximum of 1,200 square feet. (DRC: ZONING)
3. The maximum height for the mausoleum, measured from finished grade to highest point, shall not exceed twenty five (25) feet (BLDG PERMIT: BLDG - Zoning)
4. The mausoleum shall be constructed in conformance with the construction standards required by Chapter 497 of the Florida Statutes. (BLDG PERMIT: BLDG - Zoning)

C. LANDSCAPING - STANDARD

1. All canopy trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: twelve (12) 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)

D. LANDSCAPING ALONG NORTH, SOUTH, WEST PROPERTY LINES (ONE ACRE SITE ONLY)

1. Landscaping and buffering along the above property lines shall include:
 - a. A minimum ten (10) foot wide landscape buffer strip;
 - b. One (1) native canopy tree spaced no more than twenty (20) feet on center;

- c. One (1) palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center. A group of three (3) palms shall not be substituted for a perimeter canopy tree and;
- d. Twenty four (24) 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. (CO: LANDSCAPE)

E. ENGINEERING

No conditions.

F. LANDSCAPING ALONG EAST PROPERTY LINE (ABUTTING D ROAD)
(ONE ACRE SITE ONLY)

- 1. Landscaping and buffering along the east property line shall include:
 - a. A minimum fifteen (15) foot wide landscape strip;
 - b. One (1) native canopy tree spaced no more than thirty (30) feet on center;
 - c. One (1) palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center. A group of three (3) palms shall not be substituted for a perimeter canopy tree and;
 - d. Twenty four (24) 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. (CO: LANDSCAPE)

G. SIGNS

- 1. No freestanding signs (excluding wall signs on the mausoleum) shall be permitted for the private mausoleum. (CO/ONGOING: BLDG/CODE ENF)

H. REMOVAL & MAINTENANCE AGREEMENTS

- 1. Prior to final certification of the site plan by the Development Review Committee (DRC), the petitioner shall enter into a Removal Agreement with a Removal bond with the Palm Beach County. The mausoleum shall be removed from the one (1) acre site should the petitioner and its successors, heirs or assignees sell or no longer reside on the adjacent site (PCN00-41-43-17-01-338-0040). The Agreement and the Bond shall be subject to the approval of the County Attorney. (DRC: ZONING - Co Att)
- 2. Prior to final certification of the site plan by the Development Review Committee (DRC), the petitioner shall enter into a Maintenance Agreement with a Maintenance Bond with the Palm Beach County. The Maintenance Agreement and the Maintenance Bond shall cover the mausoleum and the landscaping. All required landscape buffers within the one (1) acre site shall be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and watering of plant material during periods of drought in order to maintain healthy plant material. The Agreement shall be subject to the approval of the County Attorney. (DRC: CODE ENF/ZONING - Co Att)

I. UNITY OF TITLE

- 1. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record in the public record a unity of title for the subject property (PCN00-41-43-17-01-337-0010) and the adjacent property (PCN

00-41-43-17-01-338-0040). The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

J. USE LIMITATIONS

1. The mausoleum shall be limited to one acre and a maximum capacity of twenty (20) family members only. (BLDG PERMIT/ONGOING: CODE ENF- Zoning)
2. One vehicular access to the mausoleum site shall be provided from the adjacent 5 acre parcel identified as PCN00-41-43-17-01-338-0040. (BLDG PERMIT/ONGOING: CODE ENF- Zoning)

K. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. 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; revocation of any concurrency; 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)



SEP 15 1998

Department of Planning,
Zoning & Building

INTER-OFFICE COMMUNICATION
PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING

TO: Willa Oswalt, Minutes Clerk
FROM: L. Martin Hodgkins, Zoning Director *fmh*
DATE: September 3, 1998
RE: Amended Conditions from the August 27, 1998
and September 1, 1998 BCC

Palm Beach County
Board of County
Commissioners

The conditions of these resolutions are true and correct and reflect the changes approved by the Board of County Commissioners on August 27, 1998. The following petitions were amended:

DOA96-85A	RECIO REZONING
CA97-110	AL PACKER FORD USED TRUCKS
DOA95-02(A)	BONVIE MUPD - BURDINES
PDD98-13	MILITARY & LANTANA MUPD
Z98-42	SOUTHERN RETAIL
CA98-43	MERKERT FAMILY MAUSOLEUM
PDD98-10	TURNER MUPD
DOA81-152(D)	BOYNTON TRAIL CENTRE

The conditions of this resolution are true and correct and reflect the changes approved by the Board of County Commissioners on September 1, 1998. The following petition was amended:

CA98-34 COUNTRY PURSUITS

Please contact me at 233-5234 if you have any questions.

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RESOLUTION NO. R-99-

RESOLUTION CORRECTING RESOLUTION NO. R-98-1314
RESOLUTION APPROVING ZONING PETITION OF TUYET PAYNE
PETITION NO. CA98-43

WHEREAS, Tuyet Payne petitioned the Palm Beach County Board of County Commissioners on August 27, 1998 for a Class A Conditional Use for a 1,200 SF private family mausoleum in the Agricultural Residential (AR) Zoning District

WHEREAS, Resolution No. R-98-1314 adopted August 27, 1998 confirming the action of the Board of County Commissioners, inadvertently contained an incorrect legal description; and

WHEREAS, the legal description of Resolution No. R-98-1314 should have read as shown on Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are hereby affirmed and ratified.
2. The legal description of Resolution No. R-1314 is hereby corrected

Commissioner _____ moved for the approval of the Resolution

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

Maude Ford Lee, Chair	—
Warren Newell, Vice Chair	—
Karen T. Marcus	—
Carol A. Roberts	—
Mary McCarty	—
Burt Aaronson	—
Tony Masilotti	—

The Chair thereupon declared the resolution was duly passed and adopted on January 7, 1998.

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

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EXHIBIT A

**LEGAL DESCRIPTION
MAUSOLEUM TRACT**

A PARCEL OF LAND LYING **WITHIN** LOT 37, BLOCK "C" OF THE REPLAT OF LOXAHATCHEE GROVES, AS RECORDED IN PLAT BOOK 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST **208.41** FEET OF THE **SOUTH 208.93** FEET AS MEASURED AT RIGHT ANGLES TO **AND** PARALLEL WITH, THE EAST LINE AND THE **SOUTH** LINE RESPECTFULLY OF LOT 37, BLOCK "C" OF THE REPLAT OF LOXAHATCHEE GROVES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING **1.00** ACRES