

RESOLUTION NO. R-2004-0521

RESOLUTION APPROVING ZONING PETITION CA2003-047
CLASS A CONDITIONAL USE
PETITION OF CLYDE MOORE REVOCABLE LIVING TRUST
BY ZPR, AGENT
(INDIAN ROAD OFFICE/COMMERCIAL)

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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067) 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 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA2003-047 was presented to the Board of County Commissioners at a public hearing conducted on March 25, 2004; 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 2.E (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 has considered the findings in the staff report and 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 2.F, Concurrency 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 2 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 CA2003-047, the petition of Clyde Moore Revocable Living Trust, by ZPR, agent, for a Class A Conditional Use to allow an office/warehouse in the General Commercial 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 March 25, 2004, 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 Aaronson and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	-	Absent
Tony Masilotti, Vice Chairman	-	Aye
Jeff Koons	-	Absent
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Addie L. Greene	-	Absent


The Chair thereupon declared that the resolution was duly passed and adopted on March 25, 2004.

Filed with the Clerk of the Board of County Commissioners on 14 day of April, 2004.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

DOROTHY H. WILKEN, CLERK
BY: 
DEPUTY CLERK
COUNTY
FLORIDA




EXHIBIT A
LEGAL DESCRIPTION

That part of the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the
Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ lying North of West
Gate Avenue and West of Indian Road, all in Section 25,
Township 43 South, Range 42 East, PALM BEACH
County, Florida

EXHIBIT B

VICINITY SKETCH

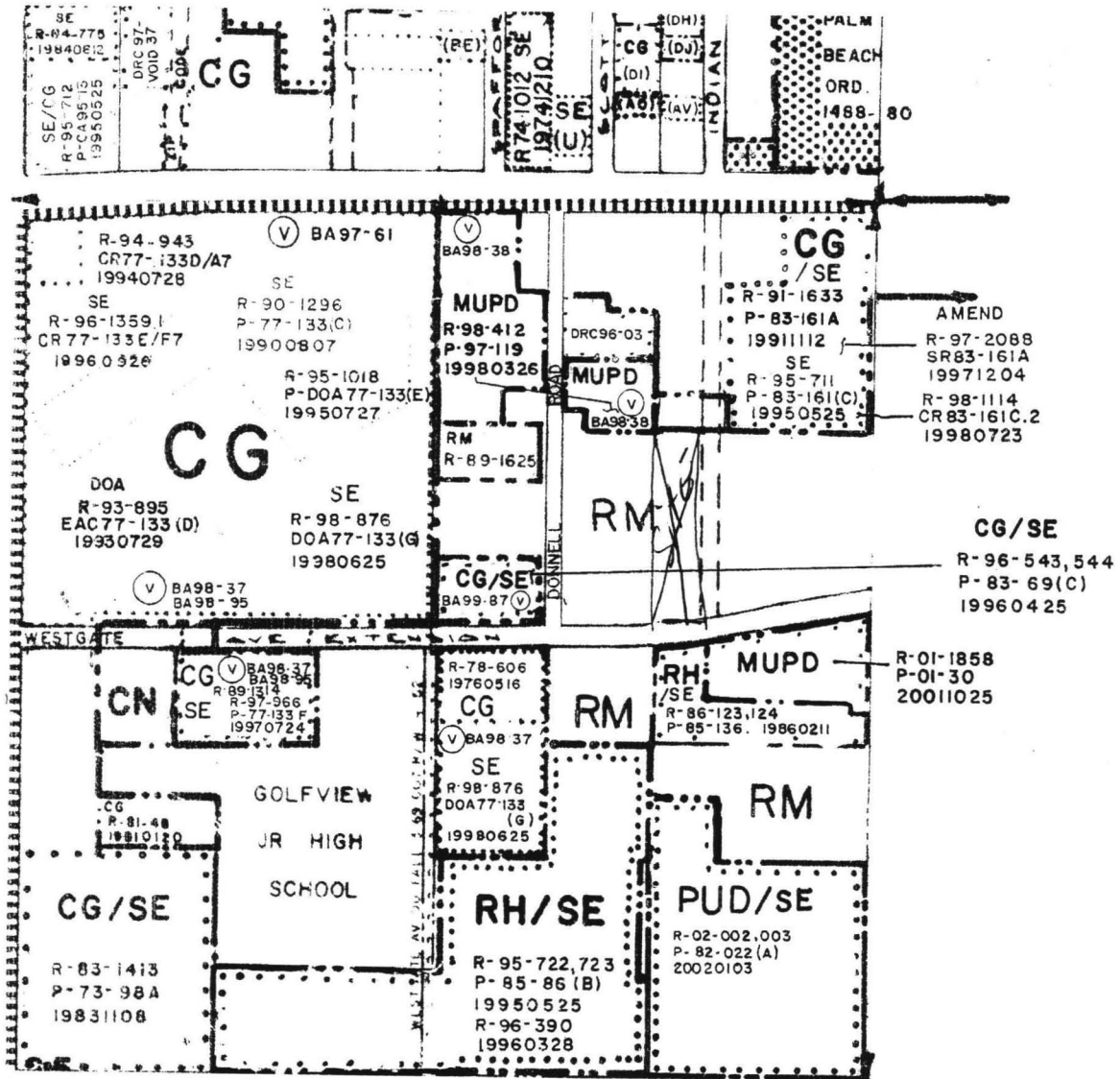


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the property is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated March 15, 2004. 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 - Zoning)

B. BUILDING AND SITE DESIGN

1. At time of submittal for final Development Review Officer (DRO) approval of the site plan, the architectural elevations for all the buildings shall be submitted simultaneously with the site plan for final architectural review. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations. (DRO: ARCH REVIEW – Zoning)
2. Prior to final site plan approval by the DRO, the petitioner shall provide details for the landscape focal point at the southeast corner of the site to the Architectural Review Section for review and approval. (DRO: ARCH REVIEW - Zoning)

C. LANDSCAPING – STANDARD

1. Fifty (50) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE–Zoning)
2. All palms which are required to be planted on the property by this approval shall meet the following minimum standards at installation:
 - a. palm heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE – Zoning)
3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;

- b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. this condition does not apply to the five (5) foot wide compatibility buffer or where a single row of hedge is required. (BLDG PERMIT: LANDSCAPE – Zoning)
- 4. All trees and palms shall be planted in a meandering and naturalistic pattern. (BLDG PERMIT: LANDSCAPE – Zoning)
 - 5. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE – Zoning)
 - 6. Field adjustment of plant materials and berm location may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings or existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)
 - 7. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the "Plant the Right Tree in the Right Place" guidelines and pursuant to Article 7.D.12.B of the ULDC. (CO: LANDSCAPE - Zoning)
- D. LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (FRONTAGE OF WESTGATE AVENUE AND INDIAN ROAD)
- 1. Landscaping and buffering along the Westgate Avenue and Indian Road shall include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. a continuous two (2) foot high berm measured from top of curb;
 - c. one (1) canopy tree for each thirty (30) linear feet of property line;
 - d. one (1) palm for each twenty (20) linear feet of property line with a maximum spacing of sixty (60) feet between clusters;
 - e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation. (BLDG PERMIT: LANDSCAPE - Zoning)
- E. ENGINEERING
- 1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a) No Building Permits for the site may be issued after January 1, 2005. A time extension for this condition may be approved 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. This extension request shall be made pursuant to the requirements of Article 2 Chapter E of the Unified Land Development Code. (DATE: MONITORING-Eng)
 - 2. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Indian Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING - Eng)

3. The property owner shall convey to Palm Beach County Land Development Division by warranty deed for Indian Road, 40 feet from centerline along the project's entire frontage prior to the issuance of the first Building Permit. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (BLDG PERMIT: MONITORING-Eng)
4. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING:ENG - Eng)

F. LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING PARKING LOT)

1. Landscaping and buffering along the north property line shall include:
 - a. a minimum of ten (10) foot wide landscape buffer strip. A maximum fifty (50) percent of width reduction shall be permitted subject to the variance approval by the Board of Adjustment (BofA). The variance approval shall be obtained prior to final DRO approval of the site plan;
 - b. a six (6) foot high concrete panel wall shall be installed. This wall shall continue eastwards approximately one hundred and fifteen (115) linear feet. This wall shall connect to the wall as required pursuant to Condition G.1.b. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure; and,
 - c. all landscaping shall be pursuant to the ULDC requirements or conditions as may imposed by the BofA. (BA/DRO/BLDG PERMIT: BA/DRO/LANDSCAPE -Zoning)

G. LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the west property line shall include:
 - a. Width reduction of the buffer strip or easement encroachment shall be permitted subject to the variance approval by the Board of Adjustment (BofA). The variance approval shall be obtained prior to final DRO approval of the site plan;
 - b. an eight (8) foot high concrete panel wall shall be installed in the centre loading area connecting the north and south buildings. This wall shall continue northwards from the northeast corner of the north building for approximately fifty-five (55) linear feet. This wall may reduce to six (6) feet in height along the remaining north portion of the west property line. The exterior side of the wall shall

- be given a finished architectural treatment that is consistent with the color and style of the principal structure;
- c. one (1) canopy tree for each twenty (20) linear feet of property line, and shall be planted on the exterior side of the wall;
 - d. one (1) palm for each twenty (20) linear feet of property line with a maximum spacing of sixty (60) feet between clusters, and shall be planted on the exterior sides of the wall;
 - e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation, and shall be planted on both sides of the wall where applicable;
 - f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and shall be planted on the exterior side of the wall; and,
 - g. prior to final DRO approval of the site plan, the property owner shall submit a Landscape Plan (LP) to the Landscape Section for the landscaping along the west property line. The LP shall comply to all of condition F.1.a through F.1.f. (BA/DRO/BLDG PERMIT: BA/DRO/LANDSCAPE - Zoning)

H. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO / ONGOING: BLDG / CODE ENF - Zoning)
2. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
4. All outdoor lighting shall be extinguished no later than 9:30 p.m. excluding security lighting only. (ONGOING: CODE ENF - Zoning)
5. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

I. SIGNS

1. Freestanding point of purchase sign at the intersection of Indian Road and Westgate Avenue shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
 - b. maximum sign face area per side – eighty (80) square feet;
 - c. maximum number of signs - one (1);
 - d. style - monument style only; and,
 - e. Sign shall be limited to project identification only. (CO: BLDG - Zoning)
2. Freestanding point of purchase sign fronting on Indian Road shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - six (6) feet;
 - b. maximum sign face area per side – fifty (50) square feet;
 - c. maximum number of signs - one (1);
 - d. style - monument style only; and,
 - e. location - within fifty feet of the northern access point
 - f. sign shall be limited to project identification only. (CO: BLDG - Zoning)

3. Wall signs shall be limited to east facades of the buildings and individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to identification of tenants only. (CO: BLDG - Zoning)

J. USE LIMITATION

1. Outdoor storage or placement of any material, refuse, equipment or debris shall not be permitted on the property in the rear of the facility. (ONGOING: CODE ENF – Zoning)
2. Repair or maintenance of vehicles shall not be permitted on the property. (ONGOING: CODE ENF – Zoning)
3. Outdoor retail business activities shall not be allowed on the property, excluding deliveries only. (ONGOING: CODE ENF – Zoning)
4. Business hours of operation shall be limited to 7:30 am till 9:00 pm, Monday thru Saturday. (ONGOING: CODE ENF – Zoning)
5. Overnight parking or outdoor storage of trucks or trailers shall be limited to a maximum of three (3) parking spaces. Prior to final DRO approval of the site plan, these 3 spaces shall be identified on the site plan. (DRO/ONGOING: ZONING/CODE ENF - Zoning)
6. The parking area along the north side of building #2 shall be used for employee parking only. Appropriate signs shall be posted restricting this area to employee parking only. (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 Code Enforcement Special Master 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. (ONGOING: MONITORING - Zoning)