

RESOLUTION NO. R-2005- 1044

RESOLUTION APPROVING ZONING APPLICATION CA2004-404
(CONTROL NO. 2004-233)
CLASS A CONDITIONAL USE
PETITION OF DARRIN SHAPIRO
BY MILLER LAND PLANNING - BRADLEY D. MILLER, AGENT
(SHAPIRO PROPERTY)

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 Application CA2004-404 was presented to the Board of County Commissioners at a public hearing conducted on May 26, 2005; 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, contingent upon the approval of Small Scale Development Amendment No. 2004-00043;
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 Application CA2004-404, the petition of Darrin Shapiro, by Miller Land Planning - Bradley D Miller, agent, for a Class A Conditional Use to allow a medical office in the Commercial Low Office 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 May 26, 2005, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner AARONSON moved for the approval of the Resolution.

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

Tony Masilotti, Chair	- AYE
Addie L. Greene, Vice Chairperson	- AYE
Karen T. Marcus	- AYE
Jeff Koons	- AYE
Warren H. Newell	- ABSENT
Mary McCarty	- ABSENT
Burt Aaronson	- AYE

The Chairman thereupon declared that this resolution shall not become effective until Small Scale Development Amendment No. SCA 2004-00043 (SHAPIRO II a.k.a. SHAPIRO PROPERTY) is effective.

Filed with the Clerk of the Board of County Commissioners on 6th day of JUNE, 2005

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK



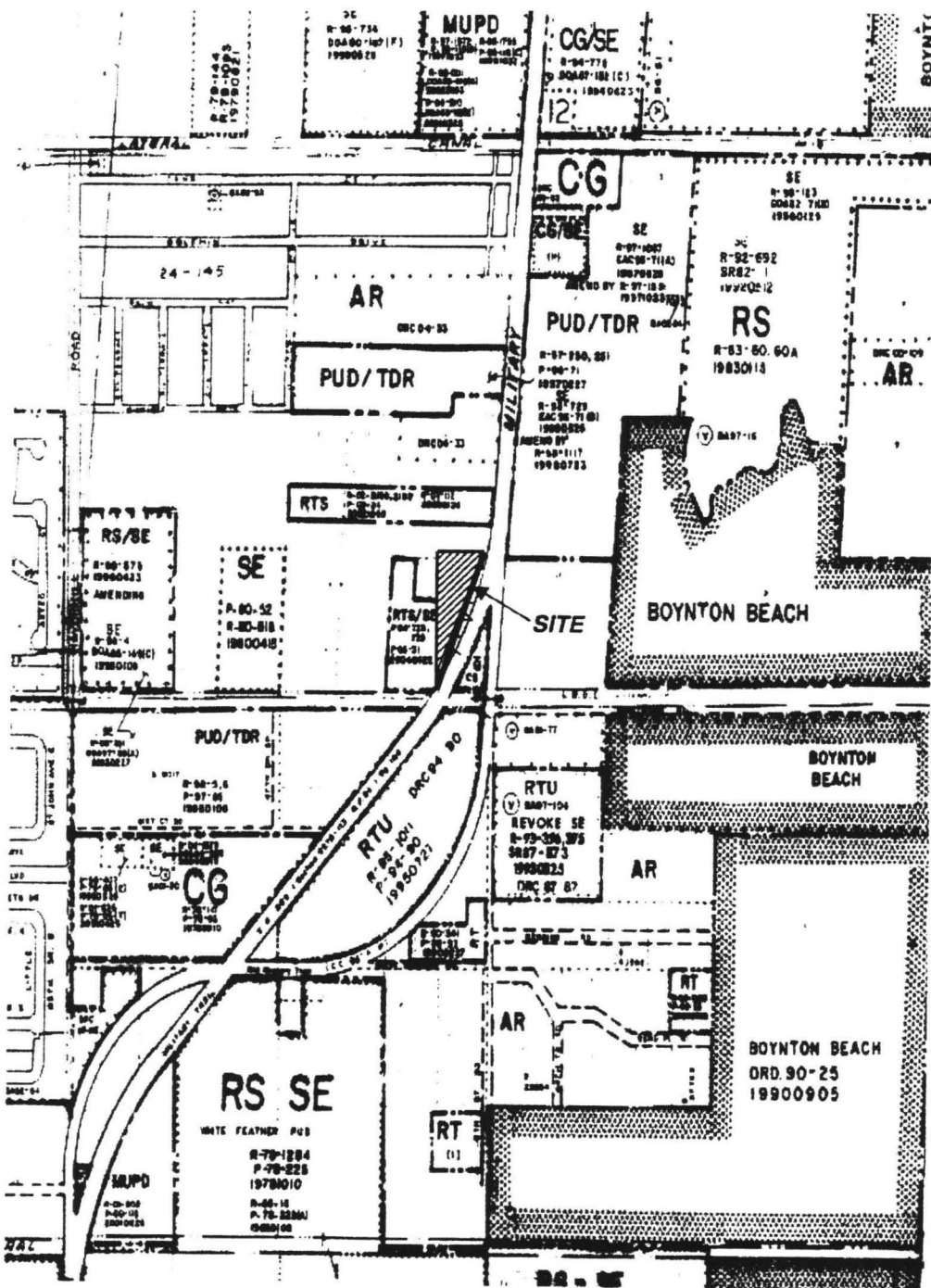
EXHIBIT A
LEGAL DESCRIPTION

DESCRIPTION OF WEST PARCEL OF EAST ½ OF TRACT 16, MARY A. LYMAN SUBDIVISION; ALL THAT PART OF THE EAST ½ OF TRACT 16 IN THE SOUTHWEST ¼ OF SECTION 12, AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING WESTWARDLY OF THE WEST RIGHT OF WAY LINE OF MILITARY TRAIL. (A 120 FOOT WIDE ROAD RIGHT OF WAY).

ACREAGE OF 1.79.

EXHIBIT B
VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Control No. 2004-233
Application No. 2004-404
Zoning Quad 34



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the property is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated November 30, 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. (DRO: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final DRO approval, architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Section 5.C of the ULDC and the Boynton Beach Turnpike Interchange Corridor manual dated March 10, 2003. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: DRO – Arch Review/Planning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the property owner shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after April 28, 2008. 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 Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2. Prior to issuance of a Building Permit, the property owner shall record a line of sight easement as shown on the accompanying site plan. This line of sight easement shall be approved by the County Attorney and the County Engineer. (BLDG PERMIT:MONITORING -Eng)
3. The Property owner shall lengthen the existing left turn lane south approach on the Military Trail median opening adjacent to the north property line. This turn lane shall be lengthened an additional 70 feet with the construction subject to the approval of the County Engineer. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
 - 1) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)
 - 2) Construction for this median improvement shall be completed prior to the issuance of a Certificate of Completion or the first Certificate of Occupancy, whichever ever occurs first. (CC/CO: MONITORING – Eng)

ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING: ERM - ERM)

LANDSCAPING - GENERAL

1. Prior to issuance of a Building Permit, a landscape plan shall be submitted to the Landscape Section for review and approval. All landscape plans shall comply with all conditions of approval and recommendations of the West Boynton Area Community Plan and the Boynton Beach Turnpike Interchange Corridor manual dated March 10, 2003. (BLDG PERMIT: ZONING-Landscape)
2. All palms 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: ZONING - Landscape)
3. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: ZONING - Landscape)

LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF MILITARY TRAIL)

1. In addition to the proposed landscaping and buffering program and code requirements, the landscape buffer along the east property line shall be upgraded to include:
 - a. a minimum two (2) to three (3) foot high undulating berm with an average height of two (2) feet; and,
 - b. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: ZONING - Landscape)

PLANNING

1. Prior to issuance of a certificate of completion or a certificate of occupancy, whichever occurs first, the property owner shall pave the pedestrian pathway to the western property line, including breaks in any buffering or fence/wall, as indicated on the approved site plan, dated November 30, 2004. (CC/CO: MONITORING - Planning)

SIGNS

1. Freestanding point of purchase sign fronting on Military Trail 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;
- e. location - maximum of 140 feet south of the north property line; and,
- f. signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG - Zoning)

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 Article 2.E 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)