

RESOLUTION NO. R-2009- 0166

RESOLUTION APPROVING ZONING APPLICATION Z/CA-2007-02010
(CONTROL NO. 1984-00020)
CLASS A CONDITIONAL USE
Application of 366 South Congress Llc
By CWB Associates, Agent
(ETC Office/Warehouse)

THEREAS, 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 applications relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, 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 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Application Z/CA-2007-02010 was presented to the Board of County Commissioners at a public hearing conducted on January 29, 2009; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant 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 (Monitoring) 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 purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Class A Conditional Use also meets applicable local land development regulations. 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.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. 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.

6. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Class A Conditional Use, with conditions as adopted, is consistent with applicable Neighborhood Plans.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Class A Conditional Use.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) 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 Z/CA-2007-02010, the application of 366 South Congress Llc, by CWB Associates, agent, for a Class A Conditional Use to allow office space in excess of 30% of the Gross Floor Area (GFA) in the IL 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 January 29, 2009, 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 Aaronson and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
District 4	-	
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 29, 2009.

Filed with the Clerk of the Board of County Commissioners on March 3rd, 2009.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY


BY: 
DEPUTY CLERK



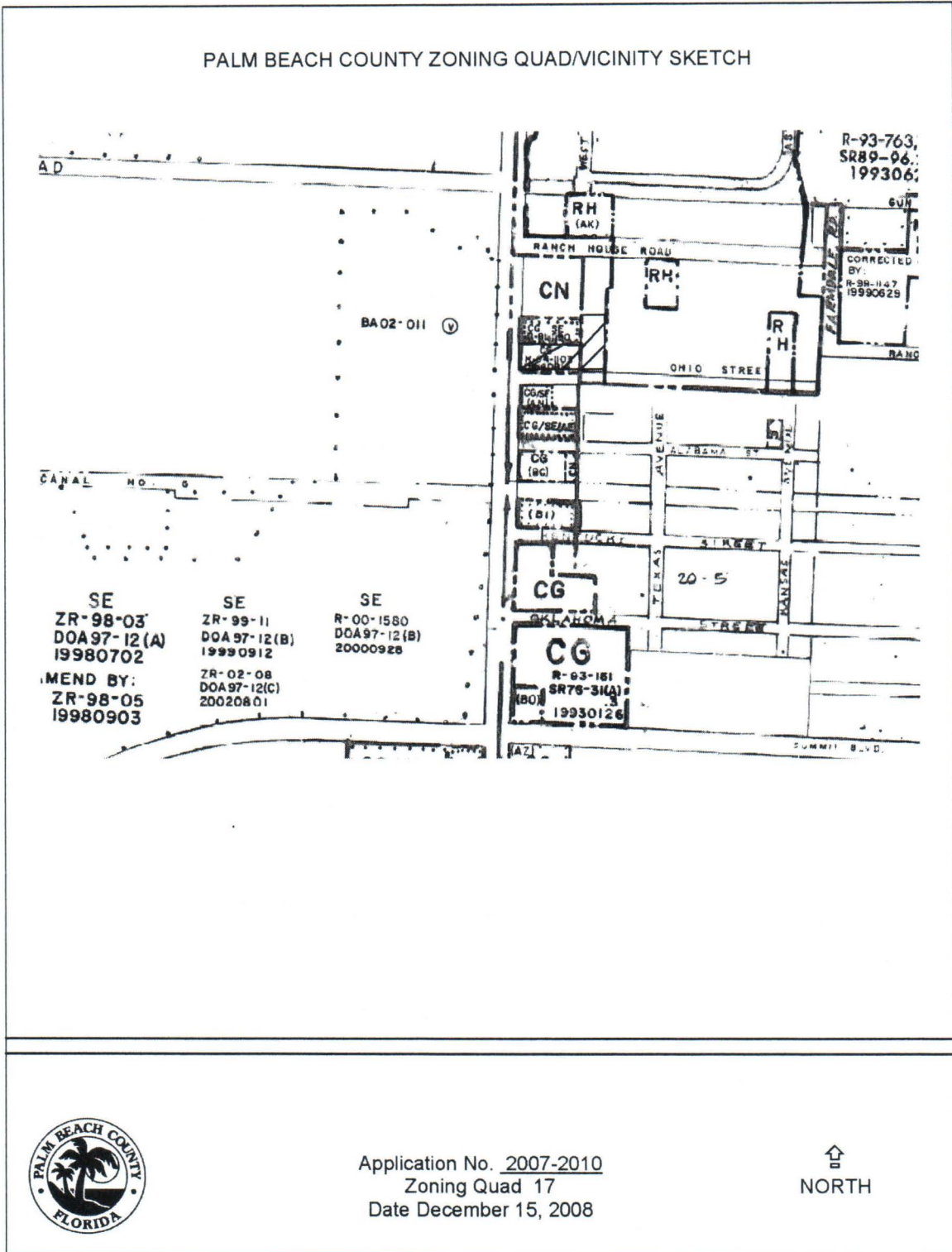
EXHIBIT A
LEGAL DESCRIPTION

Lot 5, less the west 10 feet thereof conveyed to Palm Beach County in Official Record Book 4565, Page 1713, and the south 228.54 feet of Lot 6, Plat of Morrison Suburban Development, according to the map or plat recorded in Plat Book 20, Page 40, Public Records of Palm Beach County, Florida.

Containing 57,086 square feet (1.311 Acres)+-

Net Containing after Base Building Line Waiver 51,369 square feet (1.18 Acres) +-

EXHIBIT B
VICINITY SKETCH



Application No. 2007-2010
Zoning Quad 17
Date December 15, 2008



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses or site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated October 8, 2008. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or relocation of square footage is in accordance with the ULDC. (DRO: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

ENGINEERING

1. The developer shall construct Ohio Street from Congress Avenue to the eastern property limits, along the entire project's frontage, to Palm Beach County standards for an ultimate 50 foot right of way local street. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the 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. The construction shall include paved driveways to the southerly right of way line for all driveways within the limits of construction and drainage to Palm Beach County standards accounting for all contributory properties.

a. Permits required for Improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

2. 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 project shall be issued after December 31, 2010. A time extension for this condition may be approved by the County Engineer based on an approved Traffic Study which complies with the mandatory Traffic Performance Standards in place at the time of the request. (DATE: MONITORING Eng)

3. The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 25 feet of right of way from centerline of Ohio Street prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property owner 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, including a topographic survey, if required by the County Engineer. Road right of way conveyances shall include where appropriate as determined by the County Engineer additional right of way for corner clips. (BLDG PERMIT: MONITORING-Eng)

4. Prior to issuance of the first building permit the property owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the

Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

5.The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 50 feet of right of way from centerline of Congress Avenue prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property owner 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, including a topographic survey, if required by the County Engineer. 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 additional right of way corner clips. (BLDG PERMIT: MONITORING-Eng)

6.The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of Congress Avenue. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

a.The necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

b.All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

c.At property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING-Eng)

d.Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Congress Avenue. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDG PERMIT: MONITORING -Eng)

7.If the property owner uses Ohio Street to achieve legal positive outfall, the property owner shall construct a drainage system for Ohio Street, including all existing tributary properties. The property owner will be responsible for obtaining all permits and meeting the detention/retention requirements of the Lake Worth Drainage District and the South Florida Water Management District.

a.All permits required, including those from Lake Worth Drainage District, South Florida Water Management District and Palm Beach County, for this construction shall be obtained prior to the issuance of the first building permit. (BLDG PERMIT:

MONITORING-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO) the property owner shall record a cross access easement from the subject property to the NORTH and West, in locations acceptable to the Planning Division, the Traffic Division and in a form acceptable to the County Attorney. (DRO: Planning Planning/County Attorney)

2. Prior to the issuance of the first Certificate of Occupancy, the property owner shall pave all vehicular and pedestrian access points to the property line with a break in any landscape buffer, in locations shown on the Final Certified Site Plan. (CO: Monitoring-Planning)

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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)