

RESOLUTION NO. R-2001- 0005

RESOLUTION APPROVING ZONING PETITION ZOO-069
OFFICIAL ZONING MAP AMENDMENT (REZONING)
PETITION OF LINH T. MAI
BY KEVIN MCGINLEY, AGENT
(ORIENTAL MARKET)

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 notice and public hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended), have been satisfied; and

WHEREAS, Zoning Petition ZOO-069 was presented to the Board of County Commissioners at a public hearing conducted on January 4, 2001; 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 recommendation of the Zoning Commission; and

WHEREAS, the Board of County Commissioners made the following findings **of fact**:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11 (Adequate Public Facilities Standards) of the Palm Beach County Unified Land Development Code; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) 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 Z00-069, the petition of Linh T. Mai, by Kevin McGinley, agent, for an OFFICIAL ZONING MAP AMENDMENT (REZONING) from the Residential High Density (RH) Zoning District to the Community Commercial (CC) Zoning District on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on January 4, 2001 subject to the voluntary commitments 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 Masilotti and, upon being put to a vote, the vote was as follows:

Warren H. Newell, Chair	-	Aye
Carol A. Roberts, Vice Chair	-	Aye
Karen T. Marcus		Aye
Mary McCarty		Aye
Burt Aaronson		Absent
Tony Masilotti		Aye
Addie L. Greene	-	Absent

The Chair thereupon declared that the resolution was duly passed and adopted on January 4, 2001.

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

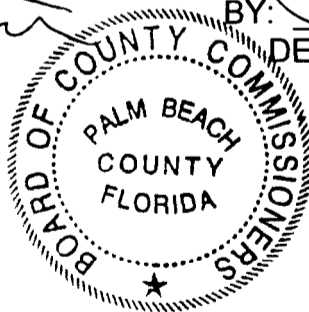


EXHIBIT A
LEGAL DESCRIPTION

LOT 5, "MERLIN PARK", AS SHOWN ON THE PLAT THEREOF, RECORDED IN PLAT BOOK23, PAGE 111, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE NORTH 10.00 FEET THEREOF.

EXHIBIT B

VICINITY SKETCH

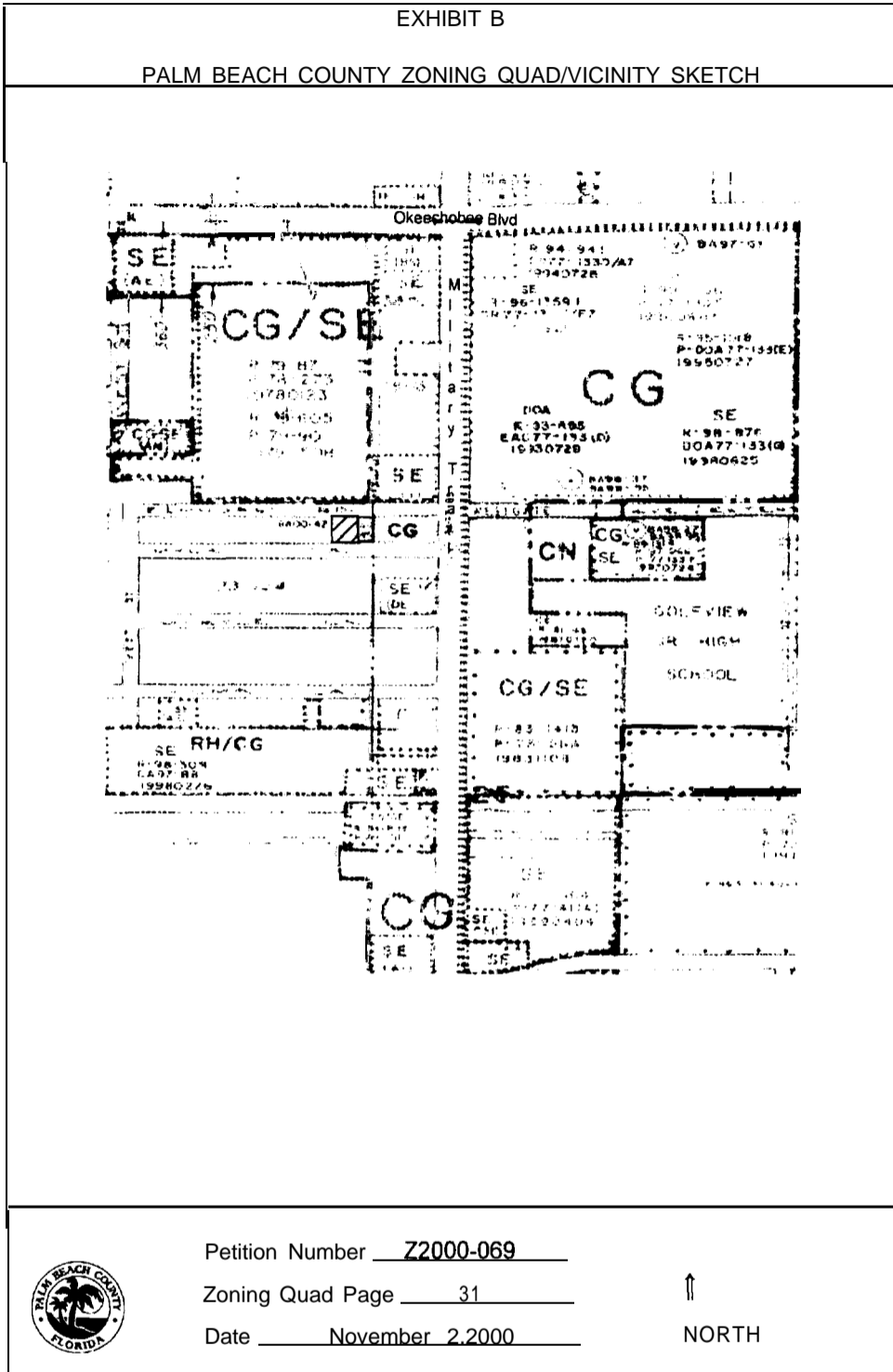


EXHIBIT C

VOLUNTARY COMMITMENTS

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of Adjustment. The Board of Adjustment site plan is Exhibit 9 dated June 6, 2000. 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. (ONGOING: ZONING)

B. LANDSCAPING WEST PROPERTY LINE (ADJACENT TO RESIDENTIAL)

1. Petitioner shall construct a six (6) foot high screen panel or slat wall on the west property line and install with the ULDC required number of trees alternating on the interior and the exterior side of the wall. (CO: LANDSCAPE)

C. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to indicate that the maximum allowable FAR for the site is 1,852 square feet or .20 FAR. (DRC: PLANNING)

D. SIGNS

1. Freestanding point of purchase sign shall be located only facing Elmhurst Road and 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 - forty (40) square feet;
 - c. maximum number of signs - one (1) ; and
 - d. style - monument style only. (CO: BLDG)
2. Wall signage shall be limited to the north facade of the building and shall be limited to eighteen (18) inches in height. (CO: BLDG)

E. ENGINEERING

1. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Westgate Ave. 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)

2. The property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for **Westgate Ave.**, 40 feet from centerline on or before **September 1, 2001** or prior to the issuance of the first Building Permit whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. 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. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING-Eng)

F. 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)