

RESOLUTION NO. R-97-1

RESOLUTION APPROVING ZONING PETITION **Z/COZ96-72**
OFFICIAL ~~ZONING MAP~~ AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF ELLIOT AND PERRI ZANK
BY ROBERT BASEHART, AGENT
(ZANK REZONING)

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

WHEREAS, Zoning Petition **Z/COZ96-72** was presented to the Board of County Commissioners at a public hearing conducted on December 2, 1996; 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) of the Palm Beach County Unified Land Development Code, Ordinance 92-20, as amended; 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 Z/COZ96-72, the petition of Elliot and Perri Zank by Robert Basehart, agent, for an Official Zoning Map Amendment (Z) from Residential Single Family (RS) to Community Commercial (CC) Zoning District with a CONDITIONAL OVERLAY ZONE (COZ) 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 December 2, 1996, subject to the conditions of the CONDITIONAL OVERLAY ZONE (COZ) described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 6, 1997.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Richard C. [Signature]*
COUNTY ATTORNEY

BY: *Jean Hawley*
DEPUTY CLERK

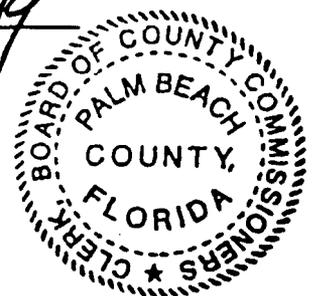


EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION

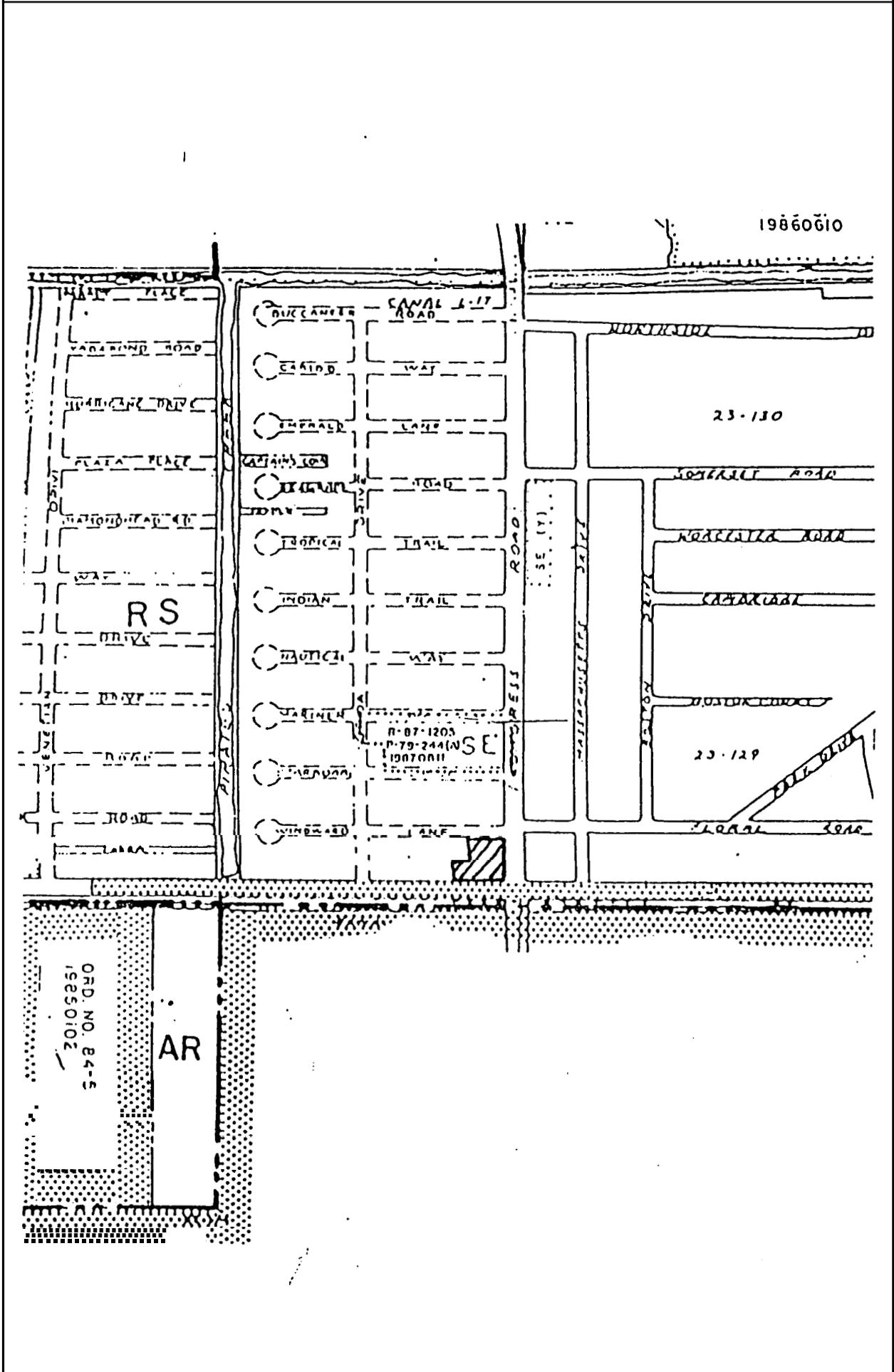
LOTS 1,2,10,11 AND 12, BLOCK 1, HYPOLUXO VILLAGE PLAT NO. 1, UNRECORDED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 6, TOWNSHIP 45 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, THENCE N. 00° 16' 56" W. ALONG THE EAST LINE OF SAID SECTION 6, A DISTANCE OF 80.02 FEET; THENCE S. 88° 26' 04" W. PARALLEL TO THE SOUTH LINE OF SAID SECTION 6 A DISTANCE OF 84.46 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S. 88° 26' 04" W. A DISTANCE OF 265.55 FEET. THENCE N. 00° 16' 56" W. A DISTANCE OF 100.00 FEET; THENCE N. 88° 26' 04" E. A DISTANCE OF 100.00 FEET; THENCE N. 00° 16' 56" W. A DISTANCE OF 100.00 FEET; THENCE N. 88° 26' 04" E. A DISTANCE OF 164.43 FEET; THENCE S. 45° 55' 26" E. A DISTANCE OF 35.75 FEET; THENCE S. 00° 16' 56" E. A DISTANCE OF 149.98 FEET; THENCE S. 44° 04' 34" W. A DISTANCE OF 34.96 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.09 +/- ACRES.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



Petition Number: 96-72
Zoning Quad Page _____
Date: 11/19/6



EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. **The** approved site plan is dated December 2, 1996. **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. ACCESS

1. Vehicular ingress to the site shall **be** prohibited from Windward Drive. The site plan shall be redesigned to provide one way - right out only vehicular **egress** from **the** site to Windward Drive. (DRC: ZONING)

C. ARCHITECTURAL CONTROL

1. Similar architectural character and treatment shall be provided on **all** sides of the building. (BLDG PERMIT: BLDG - Zoning)
2. The perimeter roof area shall **be** covered **by** a cement tile mansard roof. (BLDG PERMIT: BLDG - Zoning)

D. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage, **recyclable** material or vegetation, such as dumpsters and trash compactors, shall not **be** located within seventy-five (75) feet of the west **property** line adjacent to the Hypoluxo Road access and shall be confined to the areas designated on the site plan. (DRC / ONGOING: ZONING / CODE ENF)

E. ENGINEERING

1. Prior to **June 1, 1997** or prior to the issuance of **the** first Building Permit, **whichever** shall first occur, **the** property owner shall convey to Palm Beach County **Land** Development Division by road right-of-way warranty deed for

- a) Congress Avenue, 76 feet from centerline; and
- b) Hypoluxo Road, 60.5 feet from centerline.

This **additional** right of way shall **be** along the project's entire frontage, free 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. Right-of-way conveyances shall also **include** "Corner Clips" where appropriate at intersections as determined by the County Engineer. (DATUBLDG PERMIT: MONITORING/Eng)

2. In order to comply with the mandatory Traffic Performance Standards, the Developer shall not be issued any further building permits for the site after January 1, 1999. This date may be adjusted by the County Engineer based upon an approved Traffic Study which complies with the Mandatory Traffic Performance Standards in place at the time of the request. (DATE'BLDG PERMIT: MONITORING/Eng)

F. HEALTH

1. Application and engineering plans to construct an onsite sewage treatment and disposal system (OSTDS) in accordance with Chapter 10D-6 FAC and Palm Beach County ECR-I must be submitted to the Palm Beach County Health Unit prior to final site plan approval. (DRC:HEALTH)
2. Location of the proposed OSTDS shall be shown on site plan. (DRC: HEALTH)

G. LANDSCAPING - STANDARD

1. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) 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)
2. All palms required to be planted on site by this approval shall meet the following minimum standards at time of installation:
 - a. Palm heights: twelve (12) feet clear trunk;
 - b. Clustering: staggered heights twelve (12) to eighteen (18) feet; and
 - c. Pruning: minimum six (6) fronds, no clipped or spiked cuts.
 - d. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING ALONG NORTH SOUTH AND EAST PROPERTY LINES (ABUTTING R-O-W)

1. Landscaping and buffering along the north, south and east property, lines shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide buffer;
 - b. One (1) canopy tree planted every twenty (20) feet on center
 - c. One (1) palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and
 - d. Thirty (30) 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 thirty-six (36) inches. (DRC / CO: ZONING / LANDSCAPE)

1. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. A minimum ten (10) foot wide landscape buffer strip; and
 - b. **A six (6) foot high opaque concrete wall.** The exterior side of the wall shall be given a finished architectural treatment which is **compatible** and harmonious with abutting development. (DRC / CO: ZONING / LANDSCAPE)
2. The following landscaping requirements shall **be** installed on the exterior side of the required wall:
 - a. One (1) canopy tree planted every twenty (20) feet on center
 - b. One (1) palm or pine tree for each twenty **(20)** linear feet, with a maximum spacing of sixty (60) feet on center; and
 - c. Thirty (30) **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 forty-eight **(48)** inches. (DRC / CO: ZONING / LANDSCAPE)
3. Along the interior side of the required wall, the property owner shall install the following:
 - a. One (1) canopy tree planted every twenty (20) feet on center;
 - b. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. (DRC / CO: ZONING / LANDSCAPE)
 - c. Twenty-four **(24)** inch high shrub or hedge material spaced no more than twenty four **(24)** inches on center, to **be** maintained at a minimum height of thirty-six (36) inches.

J. LANDSCAPING - INTERIOR

1. Landscape islands **shall be** provided along ~~the~~ east **and south** facade(s) of the structure. The minimum width of the required landscape islands shall be five **(5)** feet. **The** combined length of the required landscape islands shall be no less than **40%** of the total length of the applicable side of the structure. **All** required landscape islands shall be planted with a minimum of one (1) tree **or** palm every 20 feet on center and appropriate ground cover. (DRC/CO: ZONING / LANDSCAPE)
2. Landscape buffer areas **shall be** provided along the north and west **facades** of the structures. These buffers shall be located between the **required** perimeter buffers **and** the facades of the building and be planted with a minimum **of** one (1) tree or palm every 20 feet on center and appropriate ground cover. (DRC/CO: ZONING / LANDSCAPE)

K. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall **be of** low intensity, shielded and **directed** down and **away** from adjacent properties and streets. (CO / ONGOING: BLDG / CODE ENF - Zoning)
2. All outdoor light poles shall not exceed twenty (20) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)

3. **All** outdoor light poles over six (6) feet in height shall be located a minimum of thirty (30) feet from residentially zoned properties. (CO: BLDG - Zoning)
4. **All** outdoor lighting, except security lighting, shall be extinguished no later than 10:00 p.m. daily. (ONGOING: CODE ENF)

L. PARKING

1. The parking area along the west property line shall be used for **employee** parking only. Appropriate signs shall be posted restricting this **area** to employee parking only. (CO: BLDG)
2. Prior to **final** site plan certification, the parking area along the east property line shall be revised to reflect angled parking. (DRC: ZONING)
3. Prior to **final** site plan certification, the site plan shall be revised to reflect a minimum queuing distance of twenty (20) feet between the property line and first parking space. (DRC: ZONING)

M. SIGNS

1. Freestanding point of purchase signs on Congress Avenue and Hypoluxo Road shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - one (1) each on Congress Avenue and Hypoluxo Road; and
 - d. Style - monument style only. (CO: BLDG)

N. USE LIMITATIONS

1. The subject property shall be restricted to the following:
 - a. **8,400** square feet of building with no drive-thru facilities. (BLDG PERMIT: BLDG)
 - b. Retail general use. (ONGOING: ZONING/BUILDING)
2. The uses in the CC district will also be allowed, except for the following:
 - a. Automotive service station;
 - b. Car wash and auto detailing;
 - c. Convenience store, no gas sales;
 - d. Convenience store with gas sales;
 - e. Laundry services;
 - f. Lounge, cocktail;
 - g. Restaurant, fast food;
 - h. Restaurant, general;
 - i. Restaurant, specialty;
 - j. Retail sales, mobile, temporary or transient;
 - k. Vehicle inspection center;
 - l. Vehicle repair and related services, mobile minor;
 - m. Vehicle sales and rental;
 - n. Veterinary clinic. (ONGOING: ZONING/BUILDING)
3. Hours of business operation (open to *the* public) shall be limited to 8:00 a.m. to 9:00 p.m. daily. (ONGOING: ZONING/CODE ENF)

4. Prior to final site plan certification, the petitioner shall list the uses permitted in the CC district on the mylar submitted to Palm Beach County. (DRC: ZONING)
5. The petitioner shall perpetually maintain the exterior side of all walls. Maintenance shall include the exterior surface of the wall, landscaping, irrigation and daily garbage/trash pick up. (ONGOING: CODE ENF)

O. COMPLIANCE

1. 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; 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 noncompliance, 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.

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)