

RESOLUTION R-98- 15

RESOLUTION AMENDING RESOLUTION R-97-2073
RESOLUTION APPROVING ZONING PETITION OF
SECURITY CAPITAL ATLANTIC, INC.
PETITION DOA93-39(A)

WHEREAS, Security Capital Atlantic, Inc., petitioned the Palm Beach County Board of County Commissioners on December 4, 1997 for Development Order Amendment (DOA) to add land area (13.78) and add units (+112 MFR); and

WHEREAS, Resolution R-97-2073, adopted on December 4, 1997 confirming the action of the Board of County Commissioners inadvertently contained errors in Exhibit C; and

WHEREAS, Exhibit C of Resolution R-97-2073 should have read as shown on attached Exhibit C.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are hereby affirmed and ratified.
2. Exhibit C of Resolution R-97-2073 is hereby amended.

Commissioner Roberts moved for the approval of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted on January 8, 1998.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Andrew Celler*
COUNTY ATTORNEY

BY: *Joan Haverley*
DEPUTY CLERK

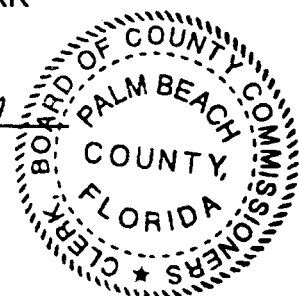


EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: ~~A~~ previous conditions of approval are shown in BOLD and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution 94-110 (Petition 93-39), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)
2. 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 August 22, 1997. 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. CIVIC SITE

Condition A.1 of Resolution R-94-110, Petition 93-39, which currently states:

1. To ensure compliance with the requirements of the ULDC and all conditions of approval, prior to certification by the DRC, the petitioner shall pay all applicable fees to PREM in lieu of providing the required Civic site or amend the Preliminary Development Plan to indicate the location of the required civic site pursuant to Section **6.8.** of the ULDC.

~~It~~ hereby amended to read:

The private civic site for this petition totals .71 acre.

- a. The Phase 1 civic site portion is .49 acre which has been approved by the BCC to be cashed *out* for \$31,613. This payment shall be due and payable on **October 28, 1997**. No administrative time extensions beyond **October 28th, 1997** will be allowed. (DATE: MONITORING - PREM)
- b. Phase 2 shall maintain its .22 acre private civic portion with the option to **cash-out** still available to the Petitioner. (ONGOING: PREM)

C. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on this site. All existing onsite sewage disposal systems must be abandoned in accordance with Chapter 10D-6, FAC., and Palm Beach County **ECR-I**, (Previously Condition C. 1 of Resolution R-94-110, Petition 93-39) (ONGOING: HEALTH)

2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing onsite potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II. (Previously Condition C.2 of Resolution R-94-110, Petition 93-39) (ONGOING: HEALTH)

D. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within **500** feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations **and/or** the South Florida Water Management District. The cost for connection shall be borne by the property owner. (Previously Condition D.1 of Resolution R-94-110, Petition 93-39) (ONGOING: UTILITIES)

E. ENGINEERING

1. The Property owner shall fund construction of a left turn lane, east approach on West Atlantic Avenue at the project's entrance road. Cost for this left turn lane shall be approved by the County Engineer. The construction shall be concurrent with the widening of West Atlantic Avenue. Funding to Palm Beach County shall be completed prior to receiving Technical Compliance for the first plat. (Previously Condition E.1 of Resolution R-94-110, Petition 93-39) (TC PLAT: BLDG - Eng)
2. The Developer shall also provide within this project's internal storm water management system an equivalent amount of stormwater runoff for the road drainage of West Atlantic Avenue. The amount of runoff required to be stored onsite shall be based upon the applicable County Water Control District, South Florida Water Management District and Palm Beach County Engineering Requirements. (Previously Condition E.2 of Resolution R-94-110, Petition 93-39) (ONGOING: ENG)
3. The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently at the time of the Building Permit is **\$228,690.00 (1,386 trips X \$165.00 per trip)**. (Previously Condition E.3 of Resolution R-94-110, Petition 93-39) (IMPACT FEE COORD)
4. In order **to** comply with the mandatory traffic performance standards, no building permits for the site shall be issued until West Atlantic Avenue is under construction from **Jog** Road to Congress Avenue as **a six** lane median divided roadway. (Previously Condition E.4 of Resolution R-94-110, Petition 93-39) (ONGOING: ENG) [Completed]
5. The Developer shall install signalization if warranted as determined by the County Engineer at West Atlantic Avenue and project entrance. Appropriate surety shall be posted with the Office of the County Engineer concurrent with the final plat. Should signalization not be warranted after **5** years (**60** months) of the final Certificate of Occupancy this property owner shall be relieved from this condition. Surety **for** this signalization shall be posted **concurrent** with filing **of** the final plat. (Previously Condition **E.5** of Resolution R-94-110, Petition 93-39) (**FINAL PLAT: ENG - Bldg**)

6. Prior to the issuance of a building permit for Phase 2, the property owner shall convey a roadway construction easement along the projects entire frontage of West Atlantic Avenue and Simms Road to Palm Beach County. Construction within this easement shall conform to Palm Beach County Standards. (BLDG PERMIT: MONITORING - Eng) [Completed]
7. Prior to the issuance of a building permit for Phase 2 the property owner shall convey a roadway construction easement to Palm Beach County at the Projects Entrance Road(s). This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners road right of way. Construction within this easement shall conform to Palm Beach County Standards. (BLDG PERMIT: MONITORING - Eng)
8. The property ~~owner~~ shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for Sims Road, **80 feet** as shown on the Alignment Map filed in the Zoning Division's Cameron Park PUD file dated June 19, 1997. This additional right of way shall be conveyed on or before **August 1, 1998** or prior to the issuance of the first Certificate of Occupancy for Phase 2 whichever shall first occur. Right of way conveyance shall be along the projects east property line 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. The developer shall purchase any necessary right of way from the Lake Worth Drainage District for Sims Road to accomplish the final alignment as identified above. This final alignment shall have no greater than a four feet offset with Sims Road north of the West Atlantic Avenue Intersection. (DATE / BLDG PERMIT: MONITORING - Eng)
9. On or before **August 1, 1998**, or the issuance of the first Certificate of Occupancy for Phase 2, whichever shall first occur, the property ~~owner~~ shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Sims Road along the property frontage; and a maximum **800** feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum **20** foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of **24 inch closed** piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. (DATE: MONITORING - Eng)

10. In order **to** comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a) Building Permits for more than 99 dwelling units shall not be issued until construction has begun for Military Trail as a 6 lane section from **West** Atlantic Avenue to Linton Boulevard plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - Eng)
11. Prior to approval of the site plan by the DRC the property owner shall amend the Master Plan to reflect an access onto Sims Road from the site subject **to** the approval of the County Engineer. (DRC: ENG)

F. LANDSCAPE WITHIN MEDIAN

1. The petitioner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of West Atlantic Avenue concurrent with the required improvements for the first plat. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist **of** appropriate ground cover. Funds equal to a minimum of one **(1)** fourteen **(14)** foot tall native tree for each **thirty (30)** linear feet of the adjacent median shall be used in the installation of upgraded ground cover. **All** landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected for the following list:

Ground cover:

Wedilia

Bahia Grass

Alternative species may be allowed subject **to** approval by the County Engineer. **All** plant material shall be installed and selected according to xeriscape principles and shall conform with the following:

- a) All plants shall be container grown **or** field collected and transplanted from the project site.
 - b) All plantings shall be done in accordance with detailed planting plans and specifications to be submitted and approved **by** the County Engineer concurrent with Site Plan certification. (Previously Condition **F.1** of Resolution R-94-110, Petition 93-39) (BLDG / ENG)
2. Condition **F.2** of Resolution R-94-110, Petition 93-39, which currently states:

All required median landscaping, including watering, shall be installed prior to **July 1, 1995** and be the perpetual maintenance obligation of **the** petitioner and its successors, legal heirs **or** assignees **or** duly established Property Owner's Association and/or Homeowners's Association.

Is hereby amended to read:

All required median landscaping, including watering, shall be installed prior to July 1, 1998 and be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. (DATE: BLDG / ENG - Zoning)

3. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to the filing of the first plat to reflect this obligation. Maintenance shall be in accordance with the issued permits. If West Atlantic Avenue six laning has not been completed prior to the filing of the first plat, then these documents shall be recorded prior **to** the finaling of the landscape permit. (Previously Condition F.3 of Resolution R-94-110, Petition 93-39) (PLAT: BLDG / ENG - Co Attny)

G. LANDSCAPING -GENERAL

1. Condition ~~G.1~~ of Resolution R-94-110, Petition 93-39, which currently states:

To insure adequate buffering with adjacent single family residences, 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. Clear trunk: five **(5)** feet.

~~Is~~ hereby amended to read:

To ensure adequate buffering with adjacent single family **residences**, all canopy trees required to **be** planted on site by this approval, except on individual residential lots, 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. Clear trunk: **five (5)** feet; and,
- e. Credit may **be** given **for** existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING ALONG ALL PROPERTY LINES

1. Condition H.1 of Resolution R-94-110, Petition 93-39 ~~which~~ currently states:

To insure adequate buffering for adjacent property, landscaping along all property lines abutting residential uses shall be upgraded to include:

- a. **One (1) native canopy tree planted every twenty (20) feet on center;**
- b. **One (1) native palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location. No more than twenty five percent of the required trees may be superseded by this requirement; and**
- c. **Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation to be maintained a minimum of sixty (60) inches in height.**

Is hereby amended to read:

To ensure adequate buffering for adjacent property, landscaping along all perimeter PUD property lines, except the north property line (West Atlantic Avenue), shall be upgraded to include:

- a. One (1) native canopy tree planted every twenty (20) feet on center;
- b. One (1) native palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location. No more than twenty five percent of the required trees may be superseded by this requirement; and,
- c. **Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation to be maintained a minimum of sixty (60) inches in height. (CO: LANDSCAPE - Zoning)**

I. LANDSCAPING ALONG WEST ATLANTIC AVENUE

- 1. **To ensure adequate buffering for adjacent property to the north and to provide a uniform streetscape along West Atlantic Avenue, landscaping along the PUD's north property line shall be upgraded to include:**
 - a. A minimum twenty (20) foot wide;
 - b. One (1) native canopy tree planted every twenty (20) feet on center;
 - c. One (1) native palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location. No more than twenty five percent of the required trees may be superseded by this requirement;
 - d. A minimum one (1) to three (3) foot high endulating berm, with an average height of two (2) feet, measured from the top of the curb; and,
 - e. Thirty (30) inch high shrub or hedge material located on the plateau of the berm spaced twenty-four (24) inches on center at installation to be maintained a minimum of sixty (60) inches in height. (CO: LANDSCAPE - Zoning)

J. MASS TRANSIT

- 1. a. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING)

- b. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of the certificate of occupancy for the 77th unit. The petitioner shall accommodate the requirement for mass transit **access**, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for **mass transit** shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property ~~or~~ in common areas shall be the maintenance responsibility of the property owner. (BLDG PERMIT: MONITORING - Eng)

K. SCHOOL BOARD

1. **All** sales and notice literature and purchase agreements for the ~~within~~ development shall include a **statement/** notice that students **may** not be assigned to the nearest school and that all prospective buyers are encouraged to contact the Palm Beach County School Board to determine which school assignment will apply to their children. (Previously Condition **K.1** of Resolution R-94-110, Petition 93-39) (**SCHOOL BOARD**)
2. Prior to master plan certification, **petitioner(s)** shall demonstrate that they have met with the School Board and discussed the potential of entering into an agreement to help achieve racial balance and **allow** the children who reside within the development to attend the **nearest** available schools. (Previously Condition **K.2** of Resolution R-94-110, Petition 93-39) (**ZONING-School Board**)

L. SIGNS

1. To ensure compliance with the regulating plan submitted by the petitioner, entry or project identification sign fronting on West Atlantic Avenue 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)** on West Atlantic Ave.
 - d. Type - monument style only. (Previously Condition 11 of Resolution R-94-110, Petition 93-39) (**BUILDING**)

M. SITE DESIGN

1. Street lights a maximum of twenty **(20)** feet in height, measured from finish grade to highest point, shall be installed, maintained and operated by the property owner along all platted access tracts, easements **or** road ways. (Previously Condition **B.1** of Resolution R-94-110, Petition 93-39) (**ONGOING: ZONING / ENG**)
2. Street trees shall **be** planted no more than **fifty (50)** feet on center **along** both sides of all streets within all access tracts, access easements, road ways or **right-of-ways** that are interior to the PUD **subject** to approval by the County Engineer. (Previously Condition **B.2** of Resolution R-94-110, Petition 93-39) (**ENG**)

3. **All** utilities shall be underground pursuant to Article 6.8.23.d(5) of the Palm Beach County Unified Land Development Code. (Previously Condition **B.3** of Resolution R-94-110, Petition 93-39) (ZONING/ENG)
4. **All** residential structures shall not exceed three (3) stories in **height**. (Previously Condition 8.4 of Resolution R-94-110, Petition 93-39) (ONGOING: BLDG)

N. VEGETATION PRESERVATION

1. The petitioner shall **preserve or** relocate existing native sabal palms on site and shall incorporate them into the project design. (Previously Condition **J.1** of Resolution R-94-110, Petition 93-39) (ZONING)
2. Prior to issuance of a Vegetation Removal Permit, the petitioner shall complete the following:
 - a. All sabal palms to be relocated **or** preserved shall be identified in the field, tagged and numbered.
 - b. The sabal palms shall receive appropriate protection **during** site development. **No** clearing shall commence until all protection devices are installed by the petitioner, and inspected and approved **by** the Zoning Division. (Previously Condition **J.2** of Resolution R-94-110, Petition 93-39) (ZONING)
3. **All** prohibited species shall be removed from the property prior to the issuance **of** the first Certificate **of** Occupancy (C.O.). (Previously Condition 5.3 of Resolution R-94-110, Petition 93-39) (BUILDING)

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 ~~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)