

RESOLUTION NO. R-2001- 0611

RESOLUTION APPROVING ZONING PETITION DOA1978-239(B)
DEVELOPMENT ORDER AMENDMENT
PETITION OF ST. HERMANS ORTHODOX CHURCH AND ANN THROGMORTON
BY SARA LOCKHART, AGENT
(ST. HERMANS ORTHODOX CHURCH)

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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA1 978-239(B) was presented to the Board of County Commissioners at a public hearing conducted on April 26, 2001; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

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

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development **Order Amendment** is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, 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 Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development **Order Amendment** meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, 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 Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 DOA1978-239(B), the petition of St. Hermans Orthodox Church and Ann Throgmorton, by Sara Lockhart, agent, for a Development Order Amendment (DOA) to add/delete land area, reconfigure site plan, add and relocate an access point and to modify/delete conditions of approval 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on April 26, 2001, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty 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	-	Absent
Karen T. Marcus		Absent
Mary McCarty	-	Aye
Burt Aaronson		Aye
Tony Masilotti		Aye
Addie L. Greene		Aye

The Chair thereupon declared that the resolution was duly passed and adopted on April 26, 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

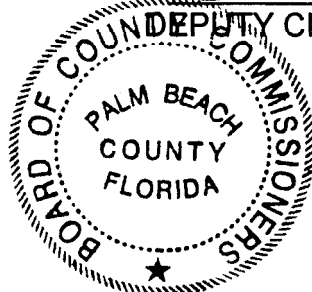


EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF TRACT 1 IN THE NORTHWEST ¼ OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, OF THE "AMENDED PLAT OF SEC. 12 TWP. 45 S. R. 42 E. ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 9 AT PAGE 74 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT NORTH ¼ CORNER OF SAID SECTION 12; THENCE SOUTH 03° 11' 52" WEST ON THE EAST LINE OF THE NORTHWEST ¼ OF SAID SECTION 12 FOR 401.98 FEET; THENCE NORTH 89° 12' 21" WEST FOR 77.65 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL AND ON THE ARC OF A 11,392.16 FOOT RADIUS NON-TANGENT CURVE CONCAVE TO THE WEST WHOSE RADIUS POINT BEARS NORTH 85° 44' 20" WEST; THENCE SOUTHERLY ON THE ARC OF SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 00° 23' 29" FOR AN ARC DISTANCE OF 77.81 FEET TO A POINT OF TANGENCY; THENCE SOUTH 04° 39' 09" WEST FOR 130.00 FEET; THENCE SOUTH 86° 59' 19" WEST FOR 30.28 FEET; THENCE NORTH 89° 12' 21" WEST FOR 160.88 FEET; THENCE NORTH 04° 39' 09" EAST FOR 209.84 FEET; THENCE SOUTH 89° 12' 21" EAST FOR 190.69 FEET TO THE POINT OF BEGINNING.

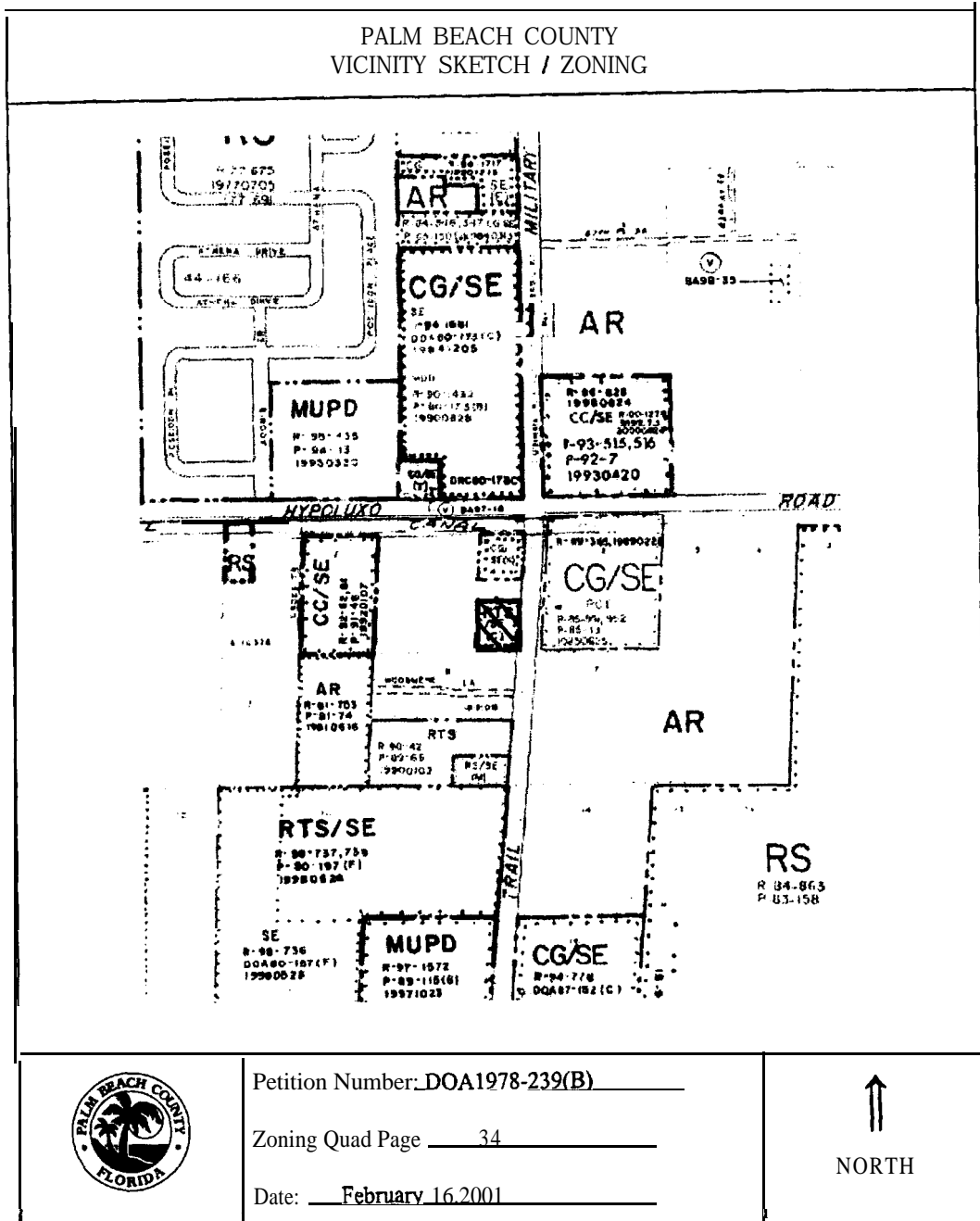
SAID LANDS SITUATE, LYING, AND BEING IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 39,943 SQUARE FEET (0.9170 ACRES) MORE OR LESS.

NOTES:

- 1) THIS SITE LIES IN SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA
- 2) BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHWEST ¼ OF SECTION 12-45-42 BEING S03° 11' 52" W.
- 3) THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.

EXHIBIT B
VICINITY SKETCH

EXHIBIT 5



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EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All 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 Resolutions R-78-1420 (Petition 78-239), 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) (Previously Condition A. 1 of Resolution R-97-660, Petition DOA78-239(A))**

2. Condition A.2 of Resolution R-97-660, Petition DOA78-239(A) which currently states:

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 30, 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)

Is hereby amended to read:

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 March 22, 2001. 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)

3. Prior to April 26, 2002 , the petitioner shall remove the wood sign located on the frontage of Military Trail. (DATE: ZONING)

B. BUILDING AND SITE DESIGN

1. **The church shall be limited to a maximum of 135 seats. (DRC / ONGOING BUILDING -Zoning) (Previously Condition B. 1 of Resolution R-97-660, Petition DOA78-239(A))**

C. LANDSCAPING

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. (CO: LANDSCAPE-Zoning) (Previously Condition C.1 of Resolution R-97-660, Petition DOA78-239(A))**

2. **A minimum ten (10) foot wide right-of-way buffer shall be installed along Military Trail . The buffer shall include one (1) canopy tree every twenty (20) feet on center. (CO: BUILDING - Zoning) (Previously Condition C.2 of Resolution R-97-660, Petition DOA78-239(A))**

3. Condition C.3 of Resolution R-97-660, Petition DOA78-239(A) which currently states:

A minimum 10 foot wide Alternative 3 landscape buffer shall be installed along the north and west property lines. (DRC: ZONING)

Is hereby deleted. Reason: [New landscaping will be code requirements.]

4. Condition C.4 of Resolution R-97-660, Petition DOA78-239(A) which currently states:

Landscape requirements along the north property line may be amended by the Development Review Committee (DRC) upon approval of an Alternative Landscape Betterment Plan (ALBP) by the DRC. However, the right-of-way buffer for Military Trail shall be a minimum of ten (10) feet in width. All other ULDC landscape requirements shall apply. (DRC: ZONING)

Is hereby deleted. Reason: [New landscaping will be code requirements.]

D. 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. (ONGOING: BLDG / CODE ENF-Zoning) (Previously Condition D. 1 of Resolution R-97-660, Petition DOA78-239(A))**

2. **All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (ONGOING: BLDG - Zoning) (Previously Condition D.2 of Resolution R-97-660, Petition DOA78-239(A))**

E. ENGINEERING

1. **Within ninety days of the Special Exception approval, petitioner shall convey to Palm Beach County sixty-seven (67) feet from the existing centerline for Military Trail right-of-way. (Previously Condition E.1 of Resolution R-97-660, Petition DOA78-239(A)) [Condition Completed]**

2. Condition E.2 of Resolution R-97-660, Petition DOA78-239(A), which currently states:

Prior to final DRC approval the property owner shall amend the site plan to reflect access onto Military Trail. The existing access onto Cross Trail

shall be eliminated. Existing paved access onto Cross Trail shall be removed prior to the issuance of a Certificate of Occupancy. (CO: MONITORING/Eng)

Is hereby deleted: [REASON: No longer required.]

3. Condition E.3 of Resolution R-97-660, Petition DOA78-239(A), which currently states:

LANDSCAPE WITHIN MEDIAN

- a. **Prior to issuance of a building permit, the property owner shall apply to the Land Development Division, Permit Section, of the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by the Land Development Division Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the “Low Cost Planting Concept” outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards and shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng)**
- b. **All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner’s Association and/or Homeowners’s Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy. (CO: MONITORING - Eng)**
- c. **Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (CO: MONITORING - Eng)**

Is hereby deleted. [REASON: The adjacent commercial site will be assuming the landscape requirements of this church.]

4. Prior to December 15, 2001 the property owner shall record a 50 foot access easement along the project’s south property line. Prior to recordation of the access easement the location shall be approved by the County Engineer and the content approved by the County Attorney. DATE:MONITORING-Eng)

F. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the Planning Division shall determine whether this site plan conforms with Recommendation #37 of the West Boynton Area Community Plan. To address this recommendation, the site plan shall be revised to include a shaded landscaped pathway/sidewalk system, excluding palm trees, on the northern and southern property lines of the church. The applicant shall also submit cross section details depicting this shaded landscaped pathway/sidewalk system. (DRC: LANDSCAPE-Planning)
2. Prior to final site plan approval by the Development Review Committee, the site plan shall be revised to included a shaded landscaped pathway, excluding palm trees, along the sidewalk fronting Military Trail. The applicant shall also submit cross section details depicting this shaded landscaped pathway/sidewalk system. (DRC: LANDSCAPE-Planning)

G. 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) (Previously Condition F.I of Resolution R-97-660, Petition DOA78-239(A))

2. 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)