

RESOLUTION NO. R-2002- 2199

RESOLUTION APPROVING ZONING PETITION CA2002-024
CLASS A CONDITIONAL USE
PETITION OF BOYNTON BEACH COMMUNITY CHURCH
BY KEVIN MCGINLEY, AGENT
(BOYNTON BEACH COMMUNITY 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, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, 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 5 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA2002-024 was presented to the Board of County Commissioners at a public hearing conducted on December 9, 2002; 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 recommendations of the Zoning Commission; 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 (ULDC) 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 Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. 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.
5. 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.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. 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.
10. This Class A Conditional Use, 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 CA2002-024, the petition of Boynton Beach Community Church, by Kevin McGinley, agent, for a Class A Conditional Use to allow a church or place of worship and a general daycare in the Residential Transitional Suburban Zoning 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 December 9, 2002, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Koons moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	-	Aye
Tony Masilotti, Vice Chairman	-	Aye
Jeff Koons	-	Aye
Warren H. Newell	-	Absent
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Addie L. Greene	-	Aye

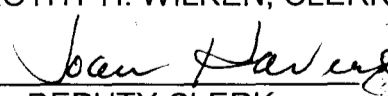
The Chair thereupon declared that the resolution was duly passed and adopted on December 9, 2002.

Filed with the Clerk of the Board of County Commissioners on 14 day of January, 2002.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

DOROTHY H. WILKEN, CLERK
BY: 
DEPUTY CLERK

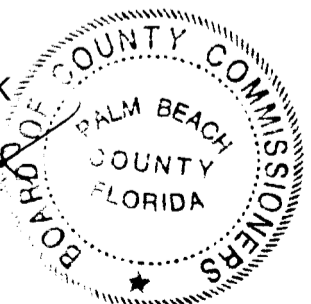


EXHIBIT A
LEGAL DESCRIPTION

THE SOUTH 2 OF TRACT 9, LESS THE SOUTH 165 FEET THEREOF, AND LESS THE RIGHT-OF-WAY OF STATE ROAD 809, AND THE SOUTH 2 OF THE NORTH 2 OF TRACTS 10 AND 11, LESS THE SOUTH 165 FEET THEREOF, SUBDIVISION OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 45, SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 9, AT PAGE 74, LESS THAT PORTION CONVEYED TO THE STATE OF FLORIDA IN DEED BOOK 893 AT PAGE 337, AND LESS THAT PORTION CONVEYED TO PALM BEACH COUNTY IN DEED BOOK 909 AT PAGE 208 AND OFFICIAL RECORDS BOOK 6090, AT PAGE 385, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

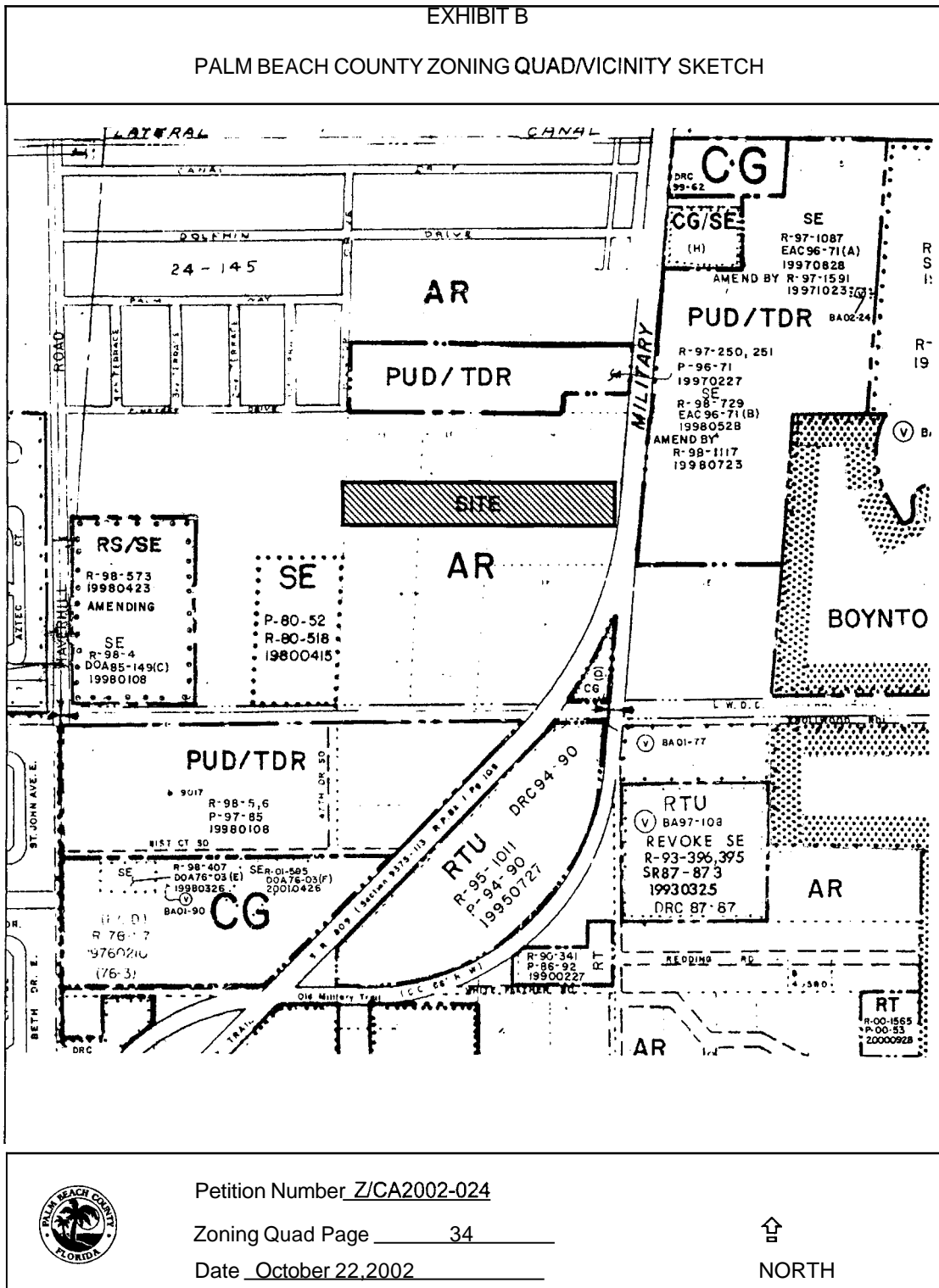


EXHIBIT C

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 preliminary development plan is dated October 24, 2002. 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-Zoning)

B. CONCURRENCY

1. Prior to final site plan approval by the Development Review Committee (DRC) the petitioner shall revise the concurrency reservation to match the uses and square footages as shown on the approved site plan dated October 24,2002. (DRC: ZONING-Zoning)

C. ENVIRONMENTAL

1. All existing native vegetation depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING:ERM-Erm)

D. HEALTH

1. An application and engineering plans to construct an onsite sewage treatment and disposal system (OSTDS) in accordance with Rule 64E-6 FAC and Palm Beach County ECR-1 must be submitted to the Palm Beach County Health Department prior to the final site plan review. (DRC: HEALTH-Health)
2. Prior to the issuance of a child daycare license for this project, the applicant must connect to public sewer. (BLDG PRMT: MONITORING - Health)
3. Architectural plans must be submitted to the Institutional/Child Care Section, Palm Beach County Health Department in accordance with Rule 64E-13 FAC prior to issuance of a building permit. (BLDG PRMT: HEALTH/BLDG-Health)

E. ENGINEERING

LANDSCAPE WITHIN THE MEDIAN OF MILITARY TRAIL

1. The petitioner shall design, install and perpetually maintain the median landscaping within the Median of Military Trail. This landscaping and irrigation shall strictly conform with the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Exceptions for additional landscaping beyond OTIS require Board of County Commissioners approval. Sites with additional landscaping shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County.
 - a. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first Building Permit. (BLDG PRMT: 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)

At the petitioner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner-installed landscaping, payment for the maintenance may be provided to the County. 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 petitioner. The Developer shall first be required to correct any deficiencies in the landscaping and irrigation.

In the event that the County installs trees, irrigation, and sod under its OTIS program along this project's frontage prior to the petitioner installing this landscaping and irrigation, then the option for the petitioner to install and maintain shall no longer be available without Board of County commissioners approval, and the petitioner shall contribute to the County's beautification program, as outlined in the second part of this condition, as follows:

Alternately, at the option of the petitioner,

Prior to the issuance of a Building Permit, the petitioner shall make a contribution to the County's Only Trees, Irrigation and Sod (OTIS) unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage length along Military Trail. The payment shall be in the amount and manner that complies with the schedule for such payments, as it currently exists, or from time to time may be amended.

NOTE: Payments under this program do not guarantee the installation of landscaping and irrigation along this project's frontage during any particular time frame.

F. LANDSCAPING - STANDARD

1. Fifty-percent (50%) of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:
 - a. tree height: fourteen (14) feet;
 - b. trunk diameter: 3.5 inches measured at 4.5 feet above grade;
 - c. canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)
2. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. palm heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
(CO: LANDSCAPE - Zoning)
3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:

- a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. this condition does not apply to the five (5) foot wide compatibility buffer or where a single row of hedge is required on one or both sides of a wall/fence. (CO: LANDSCAPE - Zoning)
4. All trees, palms and shrub material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)

G. LANDSCAPING ALONG EAST PROPERTY LINE (FRONTAGE OF MILITARY ROAD)

1. Landscaping and buffering along the east property line shall be upgraded to include:
- a. a minimum twenty (20) foot wide landscape buffer strip;
 - b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb. Field adjustment of berm location may be permitted for transverse of utility easement or pedestrian walkways or to accommodate existing vegetation.
 - c. one (1) native canopy tree for each thirty (30) linear feet of the property line;
 - d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
 - e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
 - g. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE-Zoning)

H. LANDSCAPING ALONG THE NORTH, SOUTH, AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the north, south, and west property lines shall be upgraded to include:
- a. a minimum fifteen (15) foot wide landscape buffer strip;
 - b. a six (6) foot high opaque wood fence. The fence shall only be required, and shall be located beginning at 160 feet west of the north property line and measure approximately 460 linear feet, and shall be connected to the existing fence on the adjacent property.
 - c. one (1) canopy tree planted for each twenty (20) linear feet of the property line;
 - d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - e. one (1) large shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation; and shall maintained at a minimum height of seventy-two (72) inches at maturity. Height adjustment may be permitted in area where fence is required.
 - f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation.

- g. the required plant materials may be located interior or exterior to the fence in area where the fence is required. (CO: LANDSCAPE-Zoning)

I. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)
2. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor, freestanding lighting fixtures shall be setback twelve (12) feet from the north and south property lines. (CO: BLDG - Zoning)
4. All outdoor lighting shall be extinguished no later than 9:30 p.m. excluding security lighting only. (ONGOING: CODE ENF-Zoning)
5. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF-Zoning)

J. PLANNING

1. Prior to final site plan certification by the Development Review Committee (DRC), the Planning Division shall ensure that this site plan conforms with the plan presented to the BCC including those recommendations of the West Boynton Area Community Plan incorporated onto the site plan dated August 27, 2002 (Rec.# 35, 36, 37, 41, and 47) regarding shaded pedestrian pathways and vehicular and pedestrian connections. (DRC:PLANNING-Planning)
2. Prior to final site plan approval by the Development Review Committee, the notations at the northern and southern property lines that read "future vehicle/pedestrian connection (WBACP)" shall be amended to read "proposed vehicular and pedestrian cross access to be paved to the property line". (DRC:PLANNING-Planning)
3. Prior to the issuance of a certificate of occupancy, the petitioner shall pave the two (2) vehicular and pedestrian cross access points, and install shade trees to the edge of their respective property lines at the locations shown on the final certified site plan that will read "proposed vehicular and pedestrian cross access to be paved to the property line." (CO:MONITORING-Planning)
4. Prior to final site plan certification by the Development Review Committee (DRC), the site plan shall include street cross section details of a landscaped pathway/sidewalk along the sidewalk along Military Trail in order to provide shade/canopy for the sidewalk. (DRC:LANDSCAPE-Planning)
5. Prior to final site plan certification by the Development Review Committee (DRC), in order to comply with Recommendation 41 from the West Boynton Area Community Plan, the applicant shall provide cross-section details depicting landscaped and shaded sidewalks for pedestrian circulation for all internal sidewalks shown in this project. (DRC: PLANNING-Planning)

K. SIGNS

1. Freestanding point of purchase signs fronting on Military Trail shall 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 – sixty (60) square feet;
 - c. maximum number of signs - one (1);
 - d. style - monument style only;
 - e. location - Military Trail frontage; and,
 - f. Signs shall be limited to identification of tenants only and schedule of service. (CO: BLDG-Zoning)

L. USE LIMITATIONS

1. The day care center shall be limited to a maximum of 95 children. (ONGOING: HEALTH-Zoning)
2. All services shall be held within the church and the hours of operation shall be limited to 7:00 a.m. to 9:00 p.m. daily excluding holiday services. (ONGOING: CODE ENF-Zoning)
3. Accessory outdoor uses such as temporary sales events shall be limited to a maximum of 4 events per year and shall be setback a minimum of 50 feet from all perimeter property lines. No temporary amusements or special events shall be permitted on the site. (ONGOING/SPECIAL PERMIT: CODE ENF - Zoning)

M. 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 Code Enforcement Special Master 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)