

RESOLUTION NO. R-95-1735

RESOLUTION APPROVING ZONING PETITION DOA80-167(B)
DEVELOPMENT ORDER AMENDMENT
PETITION OF COMMERCIAL PROPERTIES DEVELOPMENT CORP.
BY D.M. SHEPERD, AGENT

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 DOA80-167(B) was presented to the Board of County Commissioners at a public hearing conducted on December 4, 1995; 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 therefore 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 DOA80-167(B) the petition of Commercial Properties Development Corp. by Don M. Shepherd, agent, for a Development Order Amendment (DOA) to increase square footage (+5,000 SF) within a previously approved planned development 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 December 4, 1995, 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 Roberts and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted December 4, 1995.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Richard Altier*
COUNTY ATTORNEY

BY: *Joan Hawley*
DEPUTY CLERK

DEC 6 1995

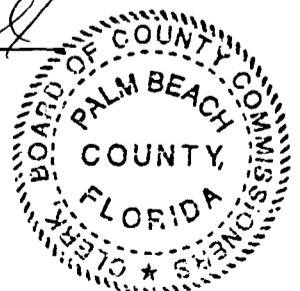


EXHIBIT A

LEGAL DESCRIPTION

A tract of land in the Southeast Quarter of Section 1, Township 44 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the point of intersection of the Easterly right-of-way line of Military Trail (St Road No. 809) as shown on right-of way map recorded in Road Plat Book 3, Page 75, Public Records of Palm Beach County, Florida, with a line parallel with and 549.27 feet Southerly from (measured at right angles to) the North line of the South half of the Southeast quarter of said Section 1; thence Easterly along said parallel line a distance of 743.00 feet to a point in a line at right angles to the South line of said Section 1; and the Point of Beginning thence Southerly along last said line a distance of 82.5 feet to a point in a line parallel with and 631.77 feet Southerly from (measured at right angles to) the said North line of the South half of the South east quarter; thence Easterly along said parallel line a distance of 111.22 feet to a point in a line at right angles to the South line of said Section 1; thence North along last said line a distance of 142.5 feet to a point in a line parallel with and 489.27 feet Southerly from (measured at right angles to) the said North line of the South half of the Southeast quarter; thence Westerly along said parallel line a distance of 111.22 feet, more or less, to a point in a line that is at right angles to the South line of said Section 1; thence Southerly along last said line 60.0 feet to the Point of Beginning.

EXHIBIT B
VICINITY SKETCH

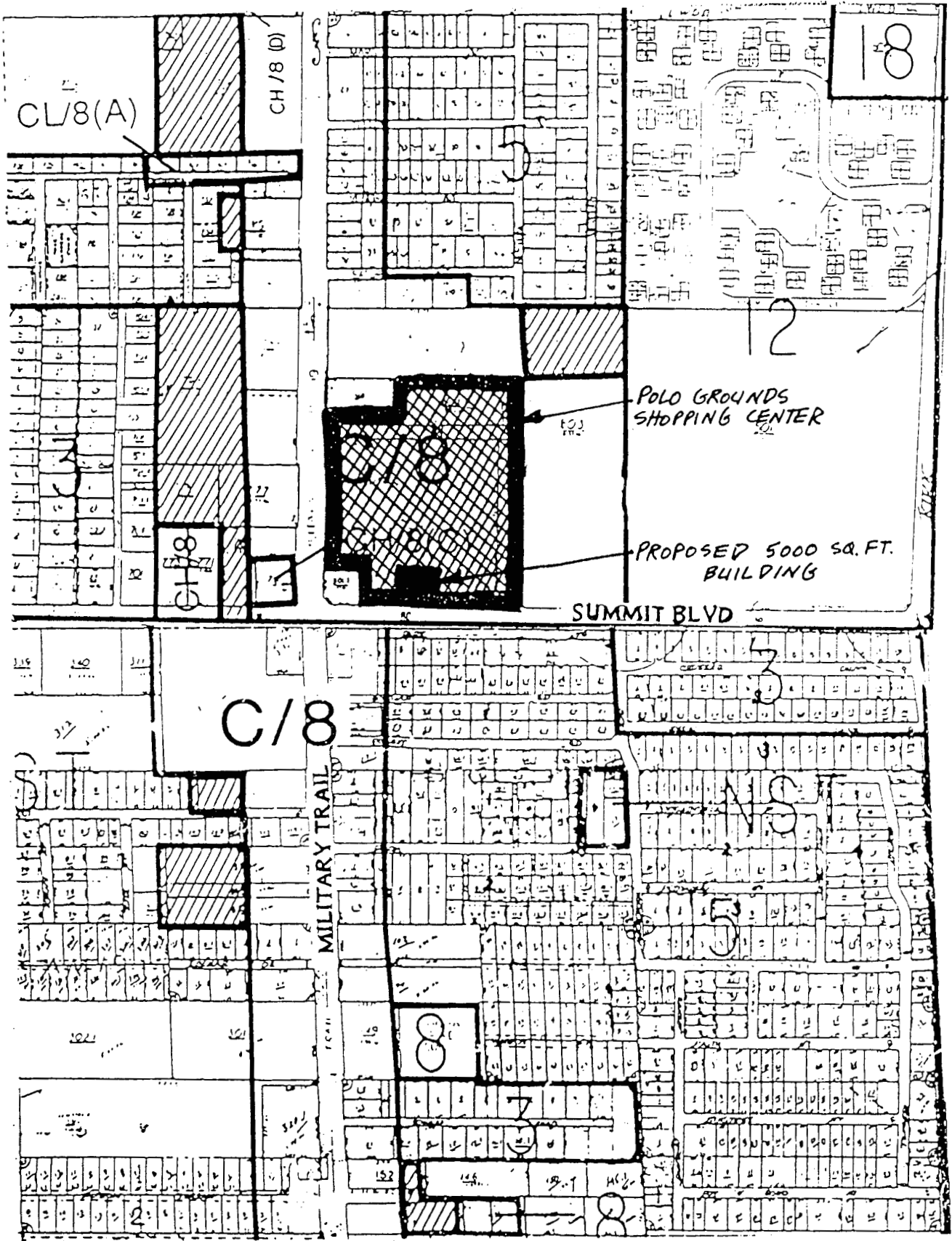


EXHIBIT C

CONDITIONS OF APPROVAL

A. GENERAL

1. The petitioner shall comply with all previous conditions of approval (R-77-593, R-78-1134 and R-80-1601) 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 approved by the Board of County Commissioners (Exhibit dated November 21, 1995). 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. LANDSCAPE

1. All trees required to be planted on site by the conditions of approval below shall meet the following minimum standards at time of 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. (LANDSCAPE-Zoning)
2. The petitioner shall install native evergreen trees along the Military Trail and Summit Boulevard property lines at an equivalent of one tree per thirty (30) linear feet of landscape buffer. Credit may be given for existing trees provided they meet current ULDC requirements. (LANDSCAPE-Zoning)
3. The petitioner shall install thirty (30) inch high hedge or shrub material spaced twenty four (24) inches on center in the landscape buffers along Military Trail and Summit Boulevard. Credit may be given for existing hedge material provided they meet current ULDC requirements. (LANDSCAPE-Zoning)
4. The petitioner shall construct one interior landscape island for every minimum twelve (12) parking spaces. (LANDSCAPE-Zoning)
5. The petitioner shall install native evergreen trees along both sides of the main entrance to the site from Military Trail to be spaced approximately thirty (30) feet on center. (LANDSCAPE-Zoning)
6. All required landscaping shall be installed prior to December 31, 1996 or issuance of a Certificate of Occupancy for the proposed building, whichever occurs first. (LANDSCAPE-Zoning)

C. PARKING AREAS

1. Prior to site plan certification by the Development Review Committee (DRC), the site plan shall be amended to indicate:
 - a. Minimum of one interior landscape island for every twelve (12) parking spaces;
 - b. Interior landscape islands opposite the main entrance from Military Trail and to the east of the proposed Summit Boulevard concrete traffic diverter; and
 - c. An internal pedestrian sidewalk system with at grade bicycle and pedestrian cuts, as required below (Condition D.1.). (ZONING)

D. INTERNAL SIDEWALKS

1. Prior to issuance of a Certificate of Occupancy for the proposed building (Petition 80-167B), the petitioner shall construct:
 - a. Five (5) foot wide concrete sidewalks along both sides of the main entrances from Military Trail and Summit Boulevard to provide a pedestrian connection to the remainder of the shopping center.
 - b. A five (5) foot wide concrete sidewalk along the north side of the existing 3150 sq. ft. free standing building and the proposed 5000 sq. ft. building. This sidewalk shall be continued to the east to provide a pedestrian connection to the remainder of the shopping center. (BUILDING-Zoning)

E. ENGINEERING

1. The Property owner shall re-construct the existing entrance onto Summit Boulevard to provide for a raised median subject to approval by the County Engineer. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner.
 - a) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit.
 - b) Construction shall be completed prior to the issuance of the first Certificate of Occupancy for the new structure. (BUILDING - Engineering)
2. The property owner 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, Zoning Petition 80-167(B), which is to be paid at the time of issuance of the Building Permit presently is \$10,670.00 (194 additional trips X \$55.00 per trip). (IMPACT FEE COORDINATOR)
3. Prior to site plan approval by the Development Review Committee, the property owner shall record a cross access easement with the property owner to the north (Polo Market Place). The location and width shall be approved by the County Engineer. The form and content shall be subject to approval by the County Attorney. (COUNTY ATTORNEY/ENGINEERING)

4. LANDSCAPE WITHIN MEDIAN

- a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median(s) of Military Trail. When permitted by 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. 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. (BUILDING - Engineering)
- 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 the next Certificate of Occupancy. (BUILDING - Engineering)
- 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. (BUILDING - County Attorney)

F. 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.

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)