

RESOLUTION APPROVING ZONING PETITION DOA89-110A
DEVELOPMENT ORDER AMENDMENT
PETITION OF MARTIN HEISE
BY ROBERT E. BASEXART, AGENT
(AUTO CARE CENTER)

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 DOA89-110A was presented to the Board of County Commissioners at a public hearing conducted on August 22, 1996; 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 DOA89-110A, the petition of Martin Heise, by Robert E. Basehart, agent, for a Development Order Amendment (DOA) to increase building square footage and revise site plan 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 August 22, 1996, subject to the conditions of approval 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 Marcus and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on August 22, 1996.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Debra A. Altman*
COUNTY ATTORNEY

BY: *Joan Hawley*
DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION

89-110A
APR 17 1996

THE FOLLOWING DESCRIBED LAND, SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, TO-WIT:

THE SOUTH 200 FEET OF THE WEST 200 FEET OF THAT PORTION OF THE EAST QUARTER OF THE SOUTHWEST QUARTER LYING NORTH OF HYPOLUXO ROAD, BEING IN SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, OF PALM BEACH COUNTY, FLORIDA.

ALSO DESCRIBED AS THE SOUTH 200 FEET OF THE WEST 200 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, LESS THE RIGHTS-OF-WAYS FOR STATE ROAD NO. 809, (MILITARY TRAIL) AND HYPOLUXO ROAD, WHICH SAID LANDS ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE START AT THE SOUTH QUARTER CORNER OF SAID SECTION 1, AND RUN NORTHERLY ALONG THE EAST LINE OF THE SW 1/4 OF SAID SECTION 1, FOR A DISTANCE OF 104.05 FEET; THENCE RUN NORTH 88°59'33" WEST FOR A DISTANCE OF 57.46 FEET TO THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 809 (MILITARY TRAIL) WITH THE NORTH RIGHT-OF-WAY LINE OF HYPOLUXO ROAD, SAID POINT BEING ALSO THE SOUTHEAST CORNER OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN NORTH 88°59'33" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF HYPOLUXO ROAD FOR A DISTANCE OF 605.36 FEET TO THE SOUTHWEST CORNER OF THE PARCEL HEREIN DESCRIBED; THENCE TURNING AN ANGLE OF 91°23'23" WITH THE PREVIOUS COURSE MEASURED FROM EAST TO NORTH AND RUN 1267.72 FEET TO THE NORTHWEST CORNER OF THE PARCEL HEREIN DESCRIBED; THENCE TURNING AN ANGLE OF 89°12'22" WITH THE PREVIOUS COURSE, MEASURED FROM SOUTH TO EAST AND RUN 613.65 FEET TO A POINT IN THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 809, SAID POINT BEING THE NORTHEAST CORNER OF THE PARCEL HEREIN DESCRIBED; THENCE RUN SOUTHERLY ALONG THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 809 WHICH IS AT AN ANGLE OF 90°45'05" WITH THE PREVIOUS COURSE, MEASURED FROM WEST TO SOUTH, A DISTANCE OF 888.09 FEET TO A POINT OF CURVATURE, TO WHICH CURVE THE PREVIOUS COURSE IS TANGENT; THENCE RUN SOUTHERLY ALONG THE SAID ROAD RIGHT-OF-WAY LINE WHICH IS THE ARC OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 11,409.19 FEET, AND A CENTRAL ANGLE OF 1°54'28" A DISTANCE OF 379.90 FEET TO THE POINT OF BEGINNING.

EXCEPTING HOWEVER, THE RIGHT OF WAY FOR HYPOLUXO ROAD AS RECORDED IN OFFICIAL RECORD BOOK 6347, PAGE 214, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

CONTAINING: 37171 SQ. FEET OR 0.85 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, AND RIGHTS OF WAY OF RECORD.

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 Resolution R-90-582 (Petition 89-110), 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: NONITORING-Zoning)
2. Development of the site is limited to the uses and site design approved by the Board of County Commissioners (site plan dated June 28, 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. BUILDING AND SITE DESIGN

1. Prior to Site Plan Review Committee submittal, the site plan shall be amended to indicate:
 - a. Compliance will all minimum Zoning Code requirements and land development regulations;
 - b. A twenty-five (25) foot unobstructed back-up distance for all ninety degrees parking spaces.
 - c. Landscaping along Hypoluxo Road, the north property line and the east property line shall be upgraded with minimum twelve (12) foot high native canopy trees, spaced twenty (20) foot on center with a minimum thirty (30) inch hedge spaced twenty-four (24) inches on center. (DRC: ZONING) (Previously Condition 1 of Resolution R-90-582, Petition 89-110)
2. No disassembled vehicles shall be permitted to be parked or stored on site. No outside storage of disassembled or inoperative vehicles, or parts thereof, shall be permitted. (ONGOING: CODE ENF) (Previously Condition 2 of Resolution R-90-582, Petition 89-110)
3. There shall be no outdoor storage of debris, equipment, or material on the site. (ONGOING: CODE ENF) (Previously Condition 3 of Resolution R-90-582, Petition 89-110)
4. No outdoor loudspeaker system shall be permitted on site. (ONGOING: CODE ENF) (Previously Condition 8 of Resolution R-90-582, Petition 89-110)
5. Condition 19 of Resolution R-90-582, Petition 89-110, which states:

No openings shall be permitted in the western facade of the 4,275 square foot repair facility excepting required emergency exits. (BLW PERMIT: BLDG)

Is hereby deleted. [REASON: western property no longer zoned residential].

C. CROSS-ACCESS

1. Prior to final DRC approval, the property owner shall submit an executed cross access easement between this property owner and the parcel to the west, subject to approval by the County Attorney. In the event the adjoining property owner does not consent to the cross-access easement, the property owner (Petition No. 89-110A) shall record in the public records of Palm Beach County, a cross access easement to the parcel to the west, in a manner and form acceptable to the County Attorney and the Palm Beach County Department of Engineering and Public Works. (DRC: CO ATT / ENG)

E. ENGINEERING

1. The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement. (Previously Condition 15 of Resolution R-90-582, Petition 89-110) (BLDG PERMIT: Monitoring - Eng)

2. Condition 16 of Resolution R-90-582, Petition 89-110 which currently states:

The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site.

Is hereby deleted [REASON: Duplicate condition].

3. Prior to November 1, 1989 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 Hypoluxo Road, in accordance with Palm Beach County's existing right-of-way deed Yo. 87514 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 "Safe Sight Corners" where appropriate at intersections as determined by the county Engineer. (Previously Condition 17 of Resolution R-90-582, Petition 89-110) (BLDG PERMIT/CO: MONITORING - Eng)

[NOTE: Condition has been complied with)

4. 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 presently

is \$15,400.00 (280 trips X \$55.00 per trip). (Previously Condition 18 of Resolution R-90-582, Petition 89-110) (IMPACT FEE COORDINATOR)

5. The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site. (BLDG PERMIT - Monitoring - Eng)
6. Prior to Site Plan approval by the Development Review Committee, the property owner shall submit an executed cross access easement between this property owner and the parcel to the east, subject property subject to approval by the County Attorney. (DRC APPROVAL: ENG)
7. 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 all adjacent median(s) of all abutting rights-of-way. 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 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)

F. HEALTH

1. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (PDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents. (Previously Condition 10 of Resolution R-90-582, Petition 89-110) (ONGOING: HEALTH)
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (Previously Condition 11 of Resolution R-90-582, Petition 89-110) (ONGOING: HEALTH)
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (Previously Condition 12 of Resolution R-90-582, Petition 89-110) (ONGOING: HEALTH)
4. No portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10D-6 F.A.C. (Previously Condition 14 of Resolution R-90-582, Petition 89-110) (ONGOING: HEALTH)

G. LANDSCAPING

1. Condition 5 of Resolution R-90-582, Petition 89-110, which states:

Alternative Landscape Strip No. 3 shall be installed along the west property line and upgraded with twelve (12) foot high native canopy trees, planted twenty (20) feet on center.

Is hereby deleted. [REASON: Western property no longer zoned residential].

2. All 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. (CO: LANDSCAPE - Zoning)
3. Landscape islands shall be provided along the front of the building. The minimum width of the required landscape islands shall be five (5) feet. All required landscape islands shall be planted with a minimum of one (1) tree or palm and appropriate ground cover. (DRC/CO: ZONING/LANDSCAPE)

H. LANDSCAPING - PERIMETERS

1. Landscaping and buffering along the north, south, east and west property lines shall be upgraded to include:
 - a. One (1) canopy tree planted every twenty (20) feet on center;

- b. 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/LANDSCAPING)
2. Landscaping along the Hypoluxo Road frontage shall be upgraded to include:
- a. A continuous two (2) foot high berm;
 - b. A double row of canopy trees thirty (30) feet on center of which 50% can be planted on the interior side of the berm and the remaining 50% on the exterior side of the berm;
 - c. One (1) palm or pine tree for each twenty (20) linear feet, with a minimum 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. Twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be planted at the top of berm and to be maintained at forty-eight (48) inches. (DRC / CO: ZONING / LANDSCAPE)

I. LIGHTING

- 1. Outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent properties and streets. (CO: ZONING/BUILDING) (Previously Condition 9 of Resolution R-90-582, Petition 89-110)

J. MASS TRANSIT

- 1. Prior to final certification of the master plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate bus access and/or a bus stop(s) on or adjacent to the subject property. Bus access and/or bus stops shall be located and constructed by the petitioner in a manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer.

The petitioner shall dedicate additional right-of-way to accommodate this requirement, if requested by the County Engineer. Bus stops, if required, shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use, and bicycle rack. (DRC: ZONING - School Board / Eng / Planning)

K. PARKING

- 1. Vehicle parking shall be limited to the parking spaces designated on the approved site plan. No parking of vehicles shall be permitted in landscape areas, rights-of-way, or interior drives. (ONGOING: CODE ENF) (Previously Condition 4 of Resolution R-90-582, Petition 89-110)

L. RECYCLING OF SOLID WASTE

- 1. The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil. (Previously Condition 13 of Resolution R-90-582, Petition 89-110) (ONGOING:SWA)

M. **SIGNS**

1. **Off-premise signs shall not be permitted on site.**
(ONGOING: CODE ENF) (Previously Condition 6 of Resolution R-90-582, Petition 89-110)
2. **All signage shall comply with the Palm Beach County Sign Code, Ordinance Yo. 72-23, and shall indicate principal uses only. Specifically, no snipe signs, banners, balloons, or other prohibited types of advertisement shall be permitted on site.** (ONGOING: CODE ENF) (Previously Condition 7 of Resolution R-90-582, Petition 89-110)
3. **Prior to the issuance of a building permit, the existing billboard sign shall be removed from the site.** (BLDG PERMIT: ZONING/BLDG)
4. **Point of purchase and/or freestanding signs fronting on Hypoluxo Road shall be limited as follows:**
 - a. **Maximum number of signs - one (1);**
 - b. **Maximum sign height, measured from finished grade to highest point - eight (8) feet;**
 - c. **Maximum sign face area per side - 75 square feet;**
 - d. **Style - monument style only.** (CO: BLDG)

N. **USE LIMITATION**

1. **The site shall have a minimum of 1,468 square feet of office area.** (DRC: ZONING)

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.**

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)