

RESOLUTION APPROVING ZONING PETITION Z97-45
OFFICIAL ZONING MAP AMENDMENT (REZONING)
PETITION OF NISIZE REALTY INC.
BY STEVE MYOTT, AGENT
(PALM BEACH SURGICAL ASSOCIATES)

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 notice and public hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended), have been satisfied; and

WHEREAS, Zoning Petition Z97-45 was presented to the Board of County Commissioners at a public hearing conducted on July 24, 1997; 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 recommendation of the Zoning Commission; and

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

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11 (Adequate Public Facilities Standards) of the Palm Beach County Unified Land Development Code; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3D.9 (Action by Board of County Commissioners) 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 Z97-45, the petition of Nisize Realty Inc., by Steve Myott, agent, for an OFFICIAL ZONING MAP AMENDMENT (REZONING) from the Neighborhood Commercial (CN) Zoning District to the General Commercial (CG) Zoning District on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on July 24, 1997 subject to the voluntary commitments described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus 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:

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

The Chair thereupon declared that the resolution was duly passed and adopted on July 24, 1997.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: [Signature]
-COUNTY ATTORNEY

BY: [Signature]
DEPUTY CLERK

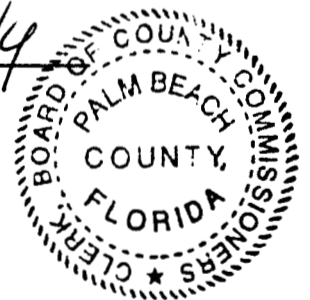


EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION:

A tract of land, situated lying and being in Palm Beach County, Florida and more particularly described as follows, to wit:

A parcel of land lying and being in Tract 106 MODEL LAND COMPANY SUBDIVISION of Section 20, Township 44 South, Range 43 East as recorded in Plat Book 5 at Page 7V of the public records of Palm Beach County, Florida, said parcel of land being specifically described as follows:

From the Southwest corner of said Section 20 run Easterly along the South line of said Section 20, a distance of 838.10 feet; thence turn an angle of 91 05'4.5" from East to North and 90 Northerly a distance of 40 feet to the Point of Beginning .

Thence continue Northerly along the last described course a distance of 251.83 feet; thence turn an angle of 90 59'25" from South to West and run Westerly a distance of 161.1 feet more or less to the West line of said Tract 106; thence run Southerly along the West line of said Tract 106 to a line that is 40 feet Northerly of the Section line and parallel to the South line of said Section 20; thence run Easterly along said South line a distance of 165 feet more or less to the Point of Beginning.

(From Warranty Deed recorded in ORB 1010 Page 108 of the Palm Beach County public records)

and

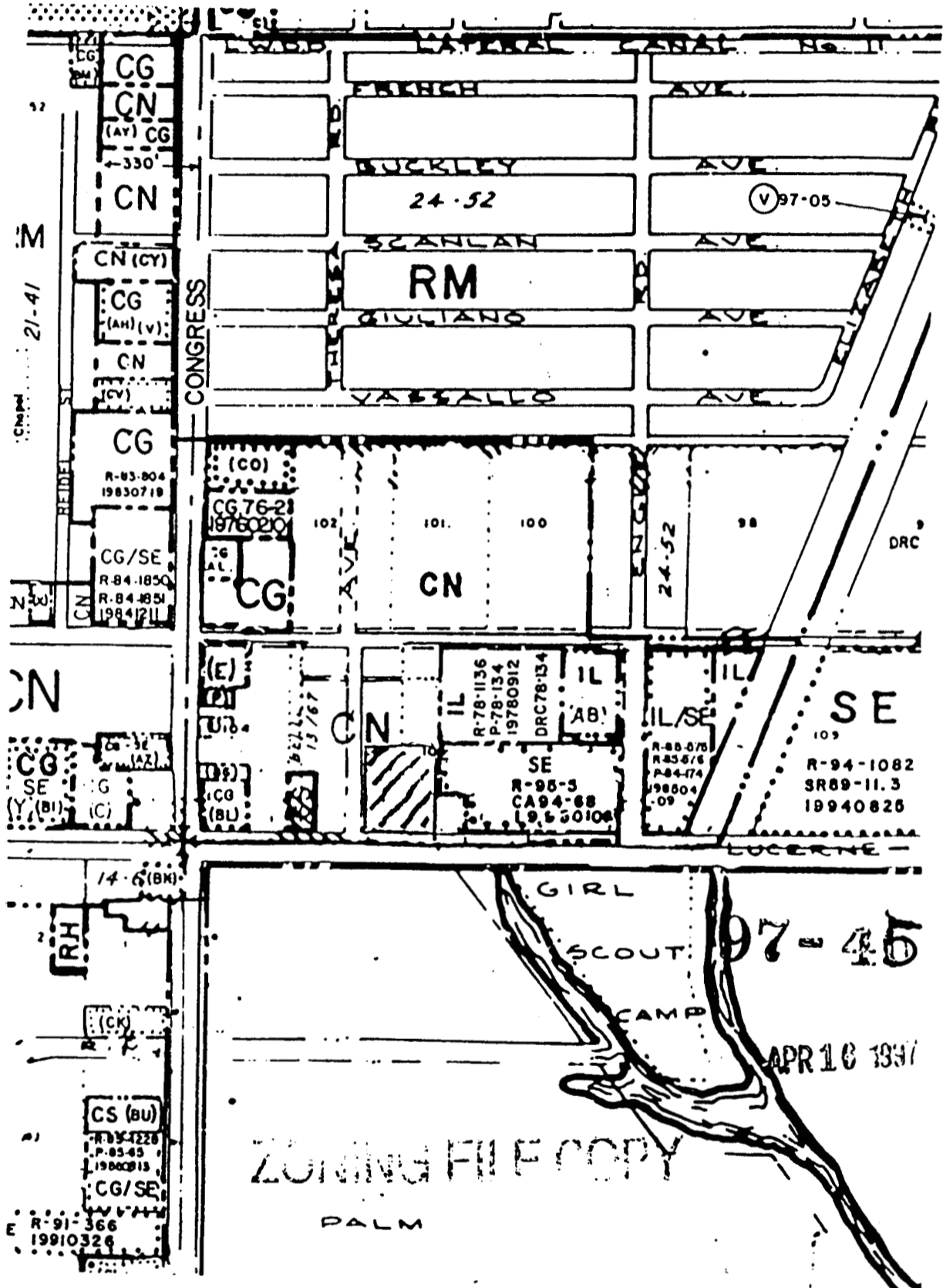
Lots 20 through 26 inclusive, BELLEVUE PARK, according to the plat thereof on file in the office of the clerk of the circuit court in and for Palm Beach County, Florida recorded in Plat Book 13 Page 67 and that certain strip of land 5.00 feet in width and being part of an alley as shown on BELLEVUE PARK, a subdivision of Section 20, Township 44 South, Range 43 East, Palm Beach County, Florida, bounded as follows:

Bounded on the West by the East line of Lots 22, 23, 24, 25, and 26 of said BELLEVUE PARK; bounded on the South by the Northerly right-of-way line of Lake Worth Road; bounded on the East by the Easterly boundary line of said BELLEVUE PARK, said line being 5.00 feet Easterly of and parallel with the West line of said Lots 22-26; and bounded on the North by the Easterly prolongation of the North line of said Lot 26;

Containing 1,258 Square Feet or 0.0289 Acres

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH/ZONING



Petition Number: 97-45
 Zoning Quad Page _____
 Date: April 16, 1997



EXHIBIT C

VOLUNTARY COMMITMENTS

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 site plan is dated June 6, 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. BUILDING AND SITE DESIGN

1. Total gross floor area shall ~~be~~ limited to a maximum of 10,400 square feet. (DRC: ZONING)
2. The maximum height for all structures, measured from finished grade to highest point, shall not exceed thirty five (35) feet. (BLDG PERMIT: BLDG - Zoning)
3. All air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color, character and architectural style of the principle structure. (BLDG PERMIT: BLDG - Zoning)

C. HEALTH

1. Application and engineering plans to construct an onsite sewage treatment and disposal system (OSTDS) in accordance with Rule 10D-6FAC and Palm Beach County ECR-1 must be submitted to the Palm Beach County Health Department prior to final site plan approval. DRC: HEALTH
2. Any biomedical waste which may ~~be~~ generated at this site shall be properly handled and disposed of in accordance with Rule 10D-104 FAC. ONGOING: HEALTWCODE ENF
3. Any toxic or hazardous waste which may be generated at this site shall be properly handled and disposed of in accordance with Rule 62-730FAC. ONGOING: HEALTWCODE ENF
4. There shall be no food ~~service~~ or processing allowed onsite when an OSTDS is required. ONGOING: HEALTH/CODE ENF

D. LANDSCAPING - STANDARD

1. All canopy 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. Credit may ~~be~~ given for existing ~~or~~ relocated trees provided they meet current 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 or grey wood, whichever is greater;
 - 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)

E. ENGINEERING

1. Prior to the issuance of a building permit the property owner shall convey a roadway construction easement along the project entire frontage of Lake Worth Road to Palm Beach County. Construction within this easement shall conform to Palm Beach County Standards. (BLDG PERMIT: MONITORING-Eng)
2. The property owner shall to convey to Palm Beach County Land Development Division by road right-of-way warranty deed for:
 - a) Bellevue Avenue, 40 feet from centerline and
 - b) Lake Worth Road, 55 feet from centerline

This additional right of way shall be conveyed on or before June 1, 1998 or prior to the issuance of the first Building Permit whichever shall first occur. Right of way conveyance shall be along the projects entire frontage 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. (DATE/BLDG PERMIT: MONITORING-Eng)

3. LANDSCAPE WITHIN MEDIAN OF LAKE WORTH ROAD
 - A. Prior to issuance of a building permit, the property owner shall submit a completed DOT permit application to the Land Development Division, Permit Section, of the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of Lake Worth Road. When permitted by the Florida DOT, 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, shall be consistent with the landscaping theme adopted for this roadway and supplement any existing landscape material previously planted in this **median**. All landscaping installation and maintenance requirements shall be subject to the standards as 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 at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the property Owner 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. The maintenance responsibility of any existing trees within the median shall also become the responsibility of this property owner. All landscape material shall be installed concurrent with the improvements with the first certificate of occupancy. (CO:MONITORING - Eng)
- C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to recordation of the first certificate of occupancy. (CO:MONITORING - Eng)

- 4. The Developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. This plat shall be recorded prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING - Eng)

F. LANDSCAPING - INTERIOR

- 1. One landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRC: ZONING)
- 2. Interior grade-level tree planters shall be required within all applicable parking areas in accordance with Section 7.3.E.2.a.(2)(b) of the ULDC. (CO: LANDSCAPE)
- 3. Foundation landscape planter strip shall be provided along the front and side facades of all structures. The minimum width of the required planter shall be five (5) feet. The combined length of the required planter shall be no less than 40% of the total length of the applicable side of the structure. All required planter shall be planted with a minimum of one (1) tree or palm every 20 feet on center and appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE)

G. LANDSCAPING ALONG NORTH AND EAST PROPERTY LINES
(ABUTTING COMMERCIAL/INDUSTRIAL)

- 1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. A minimum five (5) foot wide landscape buffer strip; and
 - b. One (1) canopy tree planted every thirty (30) feet on center;
 - b. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum 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
 - c. Thirty six (36) 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 seventy-two (72) inches. (CO: LANDSCAPE)

H. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING R-O-W)

1. Landscaping and buffering along the south property line shall include:
 - a. A minimum fifteen **(15)** foot wide landscape buffer strip;
 - b. **One (1)** canopy tree planted at thirty (30) feet on center;
 - c. **One (1)** palm tree for each twenty-five **(25)** linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three or more palm may supersede the requirement for a canopy tree in that location; and
 - d. **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. (CO: LANDSCAPE)

I. LANDSCAPING ALONG WEST PROPERTY LINE (ACROSS R-O-W)

1. Landscaping and buffering along the west property line shall include:
 - a. a minimum ten **(10)** foot wide landscape buffer strip;
 - b. **one (1)** canopy tree planted at thirty (30) feet on center;
 - d. **one (1)** palm for each twenty-five **(25)** linear feet of property line with a maximum spacing of sixty **(60)** feet on center between clusters. A group of three **(3)** palms may supersede the requirement for a canopy tree in that location; and
 - e. Thirty (30) inch high shrub or hedge material Shrub or hedge material, spaced no more than shall be spaced no more than twenty four **(24)** inches on center at installation, to be maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

J. SIGNS

1. Freestanding signs shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - eight **(8)** feet;
 - b. Maximum sign face area per side - 60 square feet;
 - c. Maximum number of signs - one (1)
 - d. Style - monument style only. (CO: **BLDG**)
2. Condition ~~H~~ J.1. shall not apply to directional signs or wall signs. (CO: BLDG)

K. 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 noncompliance, 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)