

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	* <u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

Is Item Included In Current Budget? Yes _____ No _____

Budget Account No.:

Fund _____ Dept. _____ Unit _____ Object _____ Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

* This item has no additional fiscal impact.

C. Departmental Fiscal Review: Adwillhite

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

[Signature] 9/16/09
 OFMB
 [Initials] 9/10

[Signature] 9/21/09
 Contract Dev. and Control
 The Impact Fee Manager
 concurs with this item.

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

(This summary is not to be used as a basis for payment.)

Background and Justification (Continued from Page 1)

“The fee payer may elect to propose construction of a portion of the major road network system in addition to any required site related improvements. The fee payer shall submit the proposed construction along with a certified engineer's cost estimate to the Impact Fee Coordinator, with a copy to the County Engineer. The County Engineer shall determine if the proposed construction is eligible for road impact fee credit, based on the following criteria:

1. The proposed road construction must be on the major road network;
2. The proposed road construction must not be site-related improvements;
3. The proposed road construction must be required to meet the requirements of Traffic Performance Standards for the development as defined in Article 12, Traffic Performance Standards.

Exceptions to criteria No. 3 above may only be made upon approval of the Board of County Commissioners. No exceptions shall be made to criteria No.'s 1 and 2. If the proposed road construction meets the criteria for credit, the County Engineer shall determine the amount of credit to be given, and the timetable for completion of the proposed construction, and shall recommend the approval and the amount of credit to the Impact Fee Coordinator.”

Military Trail is on the Thoroughfare Right-of-Way Identification Map and is considered part of the major road network. The improvement restricts access to the site. For this reason the improvements are not considered site related.

The improvements are not mandatory to meet the requirements of Traffic Performance Standards. The Board of County Commissioners must make the required exception to criteria No. 3 for a road impact fee credit to be granted.

Morrison Avenue provides access to the proposed car wash, an existing retail building, and several residential properties. The proposed car wash will increase the traffic volume on Morrison Avenue. This is the reason staff is recommending a fifty percent roadway impact fee credit.

Staff recommends approval of this roadway impact fee credit of \$9,815 which is fifty percent of the estimated \$19,630 cost of constructing a restricted median opening at the intersection of Military Trail and Morrison Avenue for Palm Center Car Wash.

R42

See pg 80

R43

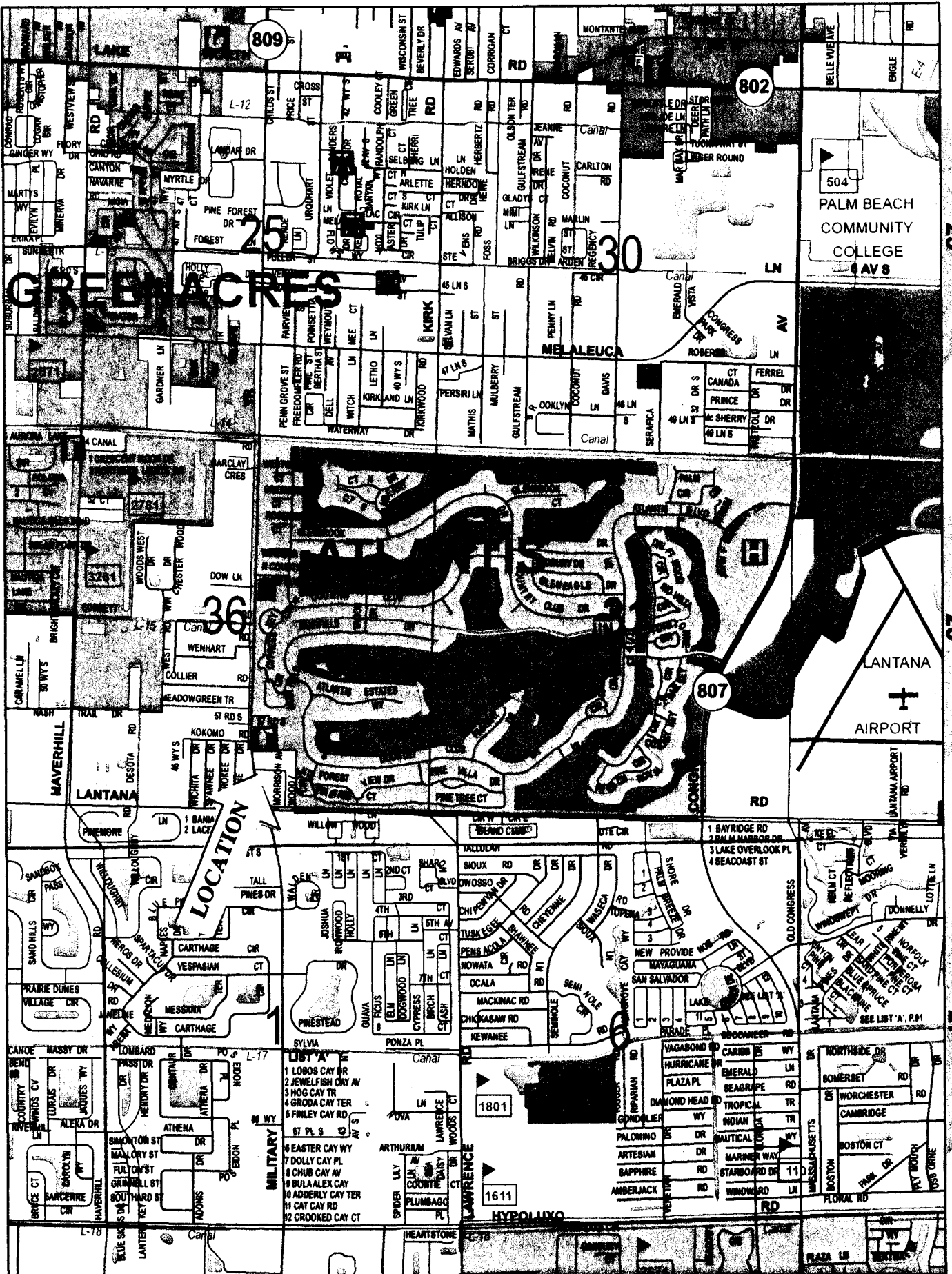
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Email: richard.chip.carlson@usa.net

July 8, 2009

via email -pdf format
wswoope@pbcgov.org

Willie Swoope, Impact Fee Coordinator
2300 Jog Road, Second Floor
West Palm Beach, FL 33414

Re: Building Permit #09-00813 - Median Restriction - Impact Fee Credit
- Zoning Application No. Z2008-296

Dear Willie:

I represent Jason Bibi/Palm Center Car Wash relative to their request for road impact fee credit for road work to Military Trail. Thanks for discussing the matter with me today.

You requested that I provide you with a copy of the condition requiring the road improvement. I understand from Jason that this was provided, and it is also attached.

The condition - Engineering 4 - states:

The Property owner shall construct a restricted median opening on Military Trail at Morrison Avenue to prohibit left turns from the east approach. 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. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

- a. Permits required from 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.

Clearly this road improved is intended to improve the operational capacity of Military Trail by preventing left turn movements into the left turn storage lane of the

Lantana Road/Military Trail intersection. The design of the left turn lane serving Morrison Avenue continues south without restriction to become the left turn/storage lane for the Lantana/Military intersection. Because of this design condition, the restricted median construction serves the major road network, and in particular the left turn operation of the Lantana/Military intersection.

Conversely, the road improvement is not site-related. Access to the property is by way of Orange Avenue right-of-way to the south (the shared access with the Mobil station to the south) and Morrison Avenue. The left turn lane to which this median restriction will be added does not serve the site. It is a left turn lane onto a side street, not to the site itself.

I note Section 13.A.11.A.8 of the ULDC provides for Special Provisions for Road Credits, including the following:

The feepayer may elect to propose construction of a portion of the major road network system in addition to any required site related improvements. The feepayer shall submit the proposed construction along with a certified engineer's cost estimate to the Impact Fee Coordinator, with a copy to the County Engineer. The County Engineer shall determine if the proposed construction is eligible for road impact fee credit, based on the following criteria:

- 1) The proposed road construction must be on the major road network;
- 2) The proposed road construction must not be site-related improvements;
- 3) The proposed road construction must be required to meet the requirements of TPS for the development as defined in Article 12, TRAFFIC PERFORMANCE STANDARDS.

Exceptions to criterion number three above may only be made upon approval of the BCC. No exceptions shall be made to criteria one and two. If the proposed road construction meets the criteria for credit, the County Engineer shall determine the amount of credit to be given, and the timetable for completion of the proposed construction, and shall recommend the approval and the amount of credit to the Impact Fee Coordinator.

Please advise on your interpretation of this section. Note that it clearly applies where the feepayor has proposed road construction. In the matter presented, the road construction was not proposed by the feepayor and, in fact, was not desired by the feepayor. Rather, it was imposed as a requirement to the zoning approval.

Notwithstanding the inapplicability of the section, the criteria for credit are met. The work is an improvement to the major road network and is not site related. Although it was not needed to meet Traffic Performance Standards, that criterion may be waived.

If you determine that the section applies, please advise whether there is a general policy or practice of Board of County Commission (BCC) approval for these circumstances. That is, has the BCC established a general approval for these circumstances? If so, do the facts involved in this matter meet that standard?

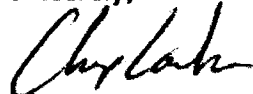
Further, if you decide the section applies, and there is no general BCC approval for these facts, please process this matter for BCC consideration.

As a general principle of impact fee law, I note that the work involved is such that impact fee credit is required notwithstanding the criterion that it must be required to meet Traffic Performance Standards. The construction improves the operational capacity of the road system and is work for which impact fee dollars are spent. It is thus an in-kind contribution in lieu of funds paid. By requiring the work and not giving credit, the County would be levying the road impact fee twice on this property owner.

Please process the request as expeditiously as possible. I realize that the process may take some time, and if a decision favorable to my client is not made today, he would like to post whatever bond is necessary to allow the issuance of the building permit while the matter is pending.

We appreciate your and other's assistance and consideration and look forward to hearing from you soon. Please advise if you or others need any further information or wish to discuss this. I may be reached by phone at 561-632-5832 or email.

Sincerely,



Richard W. Carlson, Jr., Esq.

Attachment

c: Jason Bibi

Residential & Commercial Developers

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By
Design
Inc.

Palm Beach County
2300 North Jog Road
West Palm Beach, Florida 33411
Mr. Willie Swoope
Impact Fee Manager

June 2, 2009

RE: PR 09-8113

Dear Mr. Swoope:

Per our meeting and per your request, please find a certified bid of \$19,630.00 for the cost of improvement that I am implementing on Military Trail, just north of Lantana Road, to enhance the traffic flow.

I am respectfully requesting that the cost of the improvement be applied toward the car wash impact fee of \$13,801.89. I do understand that a credit can only be applied up to the impact fee of \$13,801.89.

These are difficult times for small business owners. I do appreciate your assistance and cooperation in this matter. Please feel free to contact me at (561) 901-2323 if I could be of any assistance.

Sincerely,



Jason Bibi, Owner/President
Homes By Design, Inc.

950 Peninsula Corporate Circle • Suite 1008 • Boca Raton, FL 33487
Telephone: (561) 392-6000 • Facsimile: (561) 826-1550

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