

RESOLUTION NO. R-90-45

RESOLUTION APPROVING ZONING PETITION NO. 88-139
SPECIAL EXCEPTION PETITION OF MCINTOSH COWIE, INC.

WHEREAS, the Board of County Commissioners, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 425, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements as provided for in Chapter 402.5 of the Palm Beach County Zoning Code have been satisfied; and

WHEREAS, Petition No. 88-139 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on July 27, 1989; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, has considered the evidence and testimony presented by the applicant and other interested parties and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, this approval is subject to Zoning Code Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, 402.5 of the Zoning Code requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 88-139 the petition of MCINTOSH COWIE, INC., by Robert E. Basehart, Agent, for a SPECIAL EXCEPTION TO PERMIT A PLANNED UNIT DEVELOPMENT on a parcel of land lying on the Southwest $\frac{1}{4}$ of Section 26, Township 45 South, Range 42 East, less the North 1089.00 feet of the West 1600.00 feet thereof, subject to right of ways and easements of record, being located on the south side of 105th Street South, being bounded on the west by El Clair Ranch Road and on the east by lake Worth Drainage District Equalizing Canal No. 3, in a RS-Single Family Residential Zoning District, was approved on July 27, 1989, as advertised, subject to the following conditions:

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.

2. At the time of recording the first plat or within **twelve** (12) months of the Resolution approving this project or when requested by the County Engineer (whichever shall first occur), the property owner shall convey to Palm Beach County **Land** Development Division by road right-of-way warranty deed for El Clair Ranch Road, 55 feet from centerline 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.
3. The Property owner shall construct:
 - a. left turn lane, west approach and a right turn lane, east approach on S.W. 15th Avenue at the project's entrance road
 - b. left turn lane, north approach and a right turn lane, south approach on El Clair Ranch Road at the project's entrance onto El Clair Ranchconcurrent with **onsite** paving and drainage improvements. Construction shall be completed prior to the issuance of a Building Permit, except for models.
4. The Property owner shall convey to Palm Beach County, at the time of recording the first plat or within twelve (12) months of the Resolution approving this project or when requested by the County Engineer (whichever shall first occur), adequate road **drainage** easements through the project's internal **surface** water management system to provide legal positive outfall for all runoff from those segments of El Clair Ranch Road and S.W. 15th Avenue along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along El Clair Ranch Road and S.W. 15th Avenue. Said easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the stormwater discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District the ultimate Thoroughfare Plan Road Section(s) the included segment.
5. The property owner shall convey to the Lake Worth #Drainage District the south 35 feet of the north 55 feet of the southwest **1/4** of Section 26, Township 45 South, Range 42 East less the west 1,600 feet thereof for the required right-of-way for Equalizing Canal

No. 25 and the west 35 feet of the east 75 feet of the southwest **1/4** of said Section 26 for the required right-of-way for Equalizing Canal No. 3, by Quit Claim Deed or an Easement Deed in the form provided by said District, at the time of recording of the first plat or within twelve (12) months, of the approval of the Resolution approving this project (**whichever** shall first occur).

6. The Developer shall install signalization if warranted as determined by the County Engineer:
 - a. El Clair Ranch Road and S.W. 15th Avenue;
 - b. Project's entrance road and S.W. 15th Avenue:
and,
 - c. Project's entrance and El Clair Ranch Road.

Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.

7. The Developer shall **plat** the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance 73-4 as amended.
8. Palm Beach County shall construct at the intersection of **S.W.** 15th Avenue and Military Trail:
 - a. Dual left turn lane, east and west approach;
 - b. 2 through lanes, east approach;
 - c. A separate right turn lane, east approach;
 - d. Separate right turn lane, north and south approaches; and,
 - e. Dual left turn lanes, north and south approaches.

All construction on the east and west approaches shall be concurrent with the S.W. 15th Avenue construction while construction on the north and south approaches shall be concurrent with the Military Trail construction.

9. The project shall be limited to **450** single-family units of 2,000 square feet or less living area or equivalent traffic generation associated with larger single-family units as approved by the County Engineer.
10. 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 \$361,800.00** (4,500 x \$80.40 per trip).

Credit for the cost of plan preparation and construction listed in Condition Nos. **8.a., 8.c., 8.d., 8.e., 12,** 13, 14, 15, 16, 17, 20, 21 and 22 shall be given against the existing traffic impact fee and also against any increases in the Fair Share Fee, should the "**Fair** Share Contribution for Road Improvements Ordinance" be amended.

11. **The property** owner shall provide construction plans for S.W. 15th Avenue (Woolbright Road) as a six-lane median divided section from west of Congress Avenue to I-95 with the appropriate paved tapers. The construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. These construction plans shall be started by July 1, 1989 and shall be completed prior to January 1, 1991. All canal crossing (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division.
12. The property owner shall provide all necessary right-of-way acquisition documents including but not limited to surveys, property owner's map, legal descriptions for acquisitions, and parcelled right-of-way maps required for the construction of S.W. 15th Avenue as referenced above and subject to the approval of the County Engineer. These documents shall include a title search for a minimum of 25 years. The right-of-way documents shall be provided by January 1, 1990.
13. The property owner shall fund construction plans for Military Trail as a six-lane median divided section from Steiner Road to Boynton Beach Boulevard with the appropriate paved tapers. These construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum construction Plan Standards as they presently exist or as they may from time to time be amended. All canal crossing (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. These construction plans shall be completed prior to October 1, 1991. The property owner shall provide the funds to Palm Beach County on or before October 1, 1990.
14. The property owner shall fund all necessary **right-of-way** acquisition documents including, but not limited to surveys, property owner's map, legal descriptions for acquisition, and parcelled right-of-way maps required for the construction of Military Trail as referenced above and subject to the approval of the County Engineer. These documents shall include a title search for a minimum of 25 years. The right-of-way documents shall be provided by January 1, 1991.
15. The property owner shall fund construction of **S.W.** 15th Avenue as a six-lane median divided section from Congress Avenue to I-95 in

accordance with the conditions above. Construction shall be commenced by February 1, 1991 and completed by January 1, 1992. Palm Beach County shall acquire all necessary **Right-of-Way** for this section.

16. Palm Beach County shall consider modification of its **Five-Year** Road Program to provide that Palm Beach County will acquire all necessary right-of-way **and** construct Military Trail as a six-lane median divided section from Steiner Road to Boynton Beach Boulevard in accordance with the conditions above. All construction shall be scheduled in Fiscal Year **1991/92**. The property owner shall contribute to Palm Beach County \$575,000, less the cost of Condition No. 14. These funds shall be made available to Palm Beach County in a form and time frame to allow Palm Beach County to commence the construction during Fiscal Year **1991/92**. Palm Beach County shall consider modifying the Five-Year Road Program for **Fiscal Year 1991/92** by allocating funds which will be added to the property owner's funds to complete the construction of Military Trail. The modification of the Five-year Road Program by Palm Beach County shall be addressed in the annual update which occurs in October, 1989. If the Board of County Commissioners does not modify the Five-year Road Program to add this project, then this approval shall be null and void and shall be readdressed by the Board of County Commissioners. No further approvals of this project (site plan, building permit etc.) shall be given until such time as the Board of County Commissioners has approved adding this section of roadway to the Five-year Road Program.
17. In order to comply with the mandatory traffic performance standards, the property owner shall be restricted to the following phasing schedule:
 - a. PHASE I: Maximum of 29 single family units, until construction commences for the widening of Military Trail as a minimum of four lanes from Old **Boynton** Road to Miner Road by Palm Beach County (scheduled for FY 1988-89).
 - b. PHASE II: Maximum of 94 single-family units, until construction commences for the widening of Boynton Beach Boulevard as a minimum of four lanes from El Clair Ranch Road to Military Trail by the Florida Department of Transportation (scheduled for FY 1988-89).

- c. PHASE III: Maximum of 120 single-family units, until construction commences for the widening of S.W. 15th Avenue (Woolbright Road) as a minimum of six lanes from Congress Avenue to I-95 (currently uncommitted). This phasing restriction shall be lifted after February 1, 1991, based upon fulfilling the time frames specified in Conditions No. 12, 13 and 16.
- d. PHASE IV: Maximum of 136 single-family units, until construction commences for the **widening** of Military Trail as a minimum of six lanes from Lake Ida Road to Steiner Road by Palm Beach County (scheduled for FY 1989-90).
- e. PHASE V: Maximum of 167 single-family units, until construction commences for the widening of Military Trail from Atlantic Avenue to Lake Ida Road by Palm Beach County (scheduled for FY 1989-90).
- f. PHASE VI: Maximum of 179 single family units, until construction commences for the four-lane extension of **S.W.** 15th Avenue from Congress Avenue to Military Trail by Palm Beach County (scheduled for FY 1990-91).
- g. PHASE VII: Maximum of 187 single-family units, until construction commences for the widening of Boynton Beach Boulevard as a minimum of four-lanes from Jog Road to El Clair Ranch Road by the Florida Department of Transportation (scheduled for FY 1988-89).
- h. PHASE VIII: Maximum of 214 **single-** family units, until construction commences for the widening of Military Trail as a minimum of six-lanes from Miner Road to Hypoluxo Road by Palm Beach County (scheduled for FY 1988-89).
- i. PHASE IX: Maximum of 250 single-family units, until construction commences for widening of Military Trail as a minimum of six lanes from Steiner Road to Boynton Beach Boulevard (currently uncommitted). This phasing restriction shall be lifted after September 30, 1992, based upon fulfilling the time frames specified in Conditions 14, 15 and 17.
- j. PHASE X: Maximum of 300 single family units, until construction commences for widening of Military Trail as a minimum of **six** lanes from Boynton Beach Boulevard to Miner Road (as required of the Boynton West Development (Petition No. **87-92**) but currently uncommitted). This phasing restriction shall be lifted after December **1**, 1991, based upon Palm Beach County's Five Year Road Program and fulfillment of the time frames and commitments outlined in Condition No. 22.

- k. PHASE XI: Maximum of 328 single-family units, until construction commences for widening of Boynton Beach Boulevard as a minimum of four-lanes from Florida's Turnpike to **Jog** Road by the Florida Department of Transportation (scheduled for FY 1988-89).
 1. PHASE XII: Maximum of 333 single-family units, until construction commences for the widening of Congress Avenue as a minimum of six lanes from Boynton Beach Boulevard to N.W. **22nd** Avenue (as required of the Boynton West Development (Petition No. 87-92) but currently uncommitted). This phasing restriction shall be lifted after December 1, 1991, based upon fulfillment of the time frames and commitments outlined in Condition No. 20.
18. The construction listed in Sub-paragraphs a, d, e, f and h above, which is scheduled as part of Palm Beach County's Five Year Road Program is considered to be assured construction. Each of these phasing controls shall be lifted at the end of the fiscal year following the fiscal year of scheduled construction if the scheduled construction is delayed.
 19. In order to further comply with the mandatory traffic performance standards, the following shall apply:
 - a. The property owner shall fund construction plans for Congress Avenue as a six-lane divided section from Boynton Beach Boulevard to N.W. 22nd Avenue with the appropriate paved tapers. All canal crossing (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. The property owner shall provide the funds to Palm Beach County on or before August 1, 1990.
 - b. The property owner shall fund all necessary right-of-way acquisition documents including but not limited to surveys, property owner's maps, legal descriptions for acquisition, and parcelled right-of-way required for the construction of Congress Avenue as referenced above and subject to the approval of the County Engineer. These documents shall include a title search for a minimum of 25 years. The right-of-way documents shall be provided in the same time frame as the construction plans.
 - c. The property owner shall construct Congress Avenue as a six-lane divided section from Boynton Beach Boulevard to N.W. 22nd Avenue in accordance with the Condition above. All construction shall be commenced at the 333th Building permit and shall be completed within one year of commencement.

- d. The property owner shall provide surety in the amount of 110 percent of the estimated cost **for the** off-site improvements listed in this condition by June 1, 1991. Should Boynton West fail to fulfill its surety requirement.
 - e. Conditions **20a, 20b,** 20c and 20d are required in the PUD Conditions of Approval for the Boynton West Development (Petition No. 87-92). This condition (20) shall only apply to the Cambridge PUD if surety for the construction of Congress Avenue from Boynton Beach Boulevard to N.W. 22nd Avenue is not posted by Boynton West Development or others, and as necessary for Condition 18.1.
20. Surety based upon a certified engineering cost estimate shall be posted for the developer's obligations as required in Condition No. 16, prior to October 1, 1990 and for Condition No. 17, prior to January 2, 1991.
21. In order to comply with the mandatory traffic performance standards, the following shall **apply:**
- a. The property owner shall fund construction plans for Military Trail as a six-lane divided section from Boynton Beach Boulevard to Old Boynton Road with the appropriate paved tapers. All canal crossing (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. The property owner shall provide the funds to Palm Beach County on or before August 1, 1990.
 - b. The property owner shall fund all necessary right-of-way acquisition documents including but not limited to surveys, property owner's maps, legal descriptions for acquisition, and parcelled right-of-way maps required for the construction of Military Trail as referenced above and subject to the approval of the County Engineer. These documents shall include a title search for a minimum of 25 years. The right-of-way documents shall be provided in the same time frame as the construction plans.
 - c. The property owner shall fund the construction of Military Trail as a **six-lane** divided section from Boynton Beach Boulevard to Old Boynton Road in accordance with the Condition above. All construction shall be commenced at the 300th Building **permit and shall be completed within one** year of commencement.

- d. The property owner shall provide surety in the amount of **110** percent of the estimated **cost** for the off-site improvements listed in this Condition by June **30, 1990, should** Boynton **West** fail to fulfill its surety requirement.
 - e. Conditions **22a, 22b, 22c** and **22d** are **required** in the PUD Conditions Of Approval for the Boynton West Development (Petition No. 87-92). This Condition (22) shall only **apply** to the Cambridge **PUD** if **surety** for the construction of Military Trail from Boynton Beach Boulevard to Old Boynton Road is not posted by Boynton West development or others, and as necessary for Condition No. **18.j**.
- 22. The project's main entrance onto El **Clair** Ranch Road shall be relocated a minimum distance of 660 feet north of S.W. 15th Avenue.
 - 23. **The** property owner shall construct the existing bike path along S.W. 15th Avenue to the minimum distance **as** defined by the Florida Department of Transportation Green Book standards relative to the distance of the bike path to the existing travel lanes of S.W. 15th Avenue.
 - 24. Prior to certification, the master plan shall be amended to indicate the following:
 - a. Open space tabular computation in accordance with Section **500.21.J** of the Zoning Code.
 - b. Delete from the tabular data reference to plus or minus.
 - 25. The native slash pine identified in the northeast portion of the property and along the northern property line shall be preserved and incorporated into the site design to the greatest extent possible.
 - 26. Prior to Master Plan Certification, the petitioner shall:
 - a. Dedicate the civic site by unencumbered fee simple title deed to Palm Beach County, 2% of the gross area of the planned unit development (2.2 acres); or
 - b. The petitioner may exchange the required on-site dedication of land for civic uses either for a **parcel** of land off-site equal in acreage or cash of equal value. In the event that the off-site land dedication is of less cash value than the on-site dedication, petitioner shall also contribute an amount in cash equal to the difference between the value of the on-site and off-site land dedications. The value of the **on-site** land dedication shall be based upon its value as a civic site. This contribution shall be used to offset the identifiable impacts directly attributable to this **project**. If an off-site land or cash contribution is **accepted** by Palm Beach County, the petitioner shall be

deemed to have satisfied the intent of Zoning Code Section 500.21.H.

27. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
28. **Water** service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
29. Failure to comply with any conditions of approval may result in the denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, **commercial-owner**, lessee, or user of the subject property. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code.

Commissioner Marcus moved for approval of the Resolution.

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

Carol J. Elmquist, Chair	--	AYE
Ron Howard	--	AYE
Karen T. Marcus	--	AYE
Carole Phillips	--	AYE
Carol Roberts	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 2nd day of January, 1990.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLEE, CLERK

BY:


COUNTY ATTORNEY

BY: 
DEPUTY CLERK

