

RESOLUTION NO. ZR-97-02

RESOLUTION APPROVING ZONING PETITION CB90-34(A)
CLASS B CONDITIONAL USE
PETITION OF ATRIA COMMUNITIES INC.
BY ROBERT BASEHART, AGENT
(ATRIA CLF)

WHEREAS, the Palm Beach County Zoning Commission, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20) is authorized and empowered to consider, approve, approve with conditions or deny Class B Conditional Uses; 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 CB90-34(A) was presented to the Zoning Commission at a public hearing conducted on June 5, 1997; and

WHEREAS, the Zoning Commission 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 Zoning Commission made the following findings of fact:

1. This Class B Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class B Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class B Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class B Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach county 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 Class B Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class B Conditional Use meets applicable local land development regulations.
7. This Class B Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Class B Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards.
9. This Class B Conditional Use, 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 Class B Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
11. This Class B Conditional Use, with conditions as adopted, is consistent with applicable neighborhood plans.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition CB90-34(A), the petition of Atria Communities Inc., by Robert Basehart, agent, for a Class B Conditional Use (CB) to allow a Congregate living facility - Type 3 (48 beds) 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on June 5, 1997, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Jones moved for the approval of the Resolution.

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

Sherry Hyman, Chair	--	Absent
Kevin Foley, Vice Chair	--	Aye
Frank A. Barbieri, Jr.	--	Absent
Mikel Jones	--	Aye
Peter Carney	--	Aye
Allan Kaplan	--	Aye
William Anderson	--	Aye
Herbert Epstein	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on June 5, 1997.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:

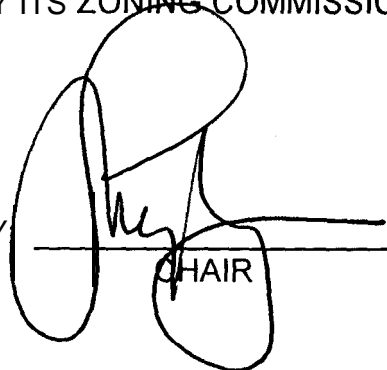

CHAIR

EXHIBIT A

LEGAL DESCRIPTION

A parcel of land lying in the Northeast Quarter (**NE1/4**) of Section 6 and the Northwest Quarter (**NW1/4**) of Section 5, Township 45 South, Range 43 East, Palm Beach County, Florida, said parcel of land being **more** particularly described as follows:

Commencing at the Northeast **corner of said Section 6; thence South 0 degrees 16 minutes 35 seconds East**, along the **East** line of said Section 6, a distance of **1539.94** feet to the point of beginning of the herein described parcel of land; thence North **89 degrees 43 minutes 25 seconds East**, a **distance** of 50.00 feet to a point in the East line of Congress Road; thence South 0 degrees 16 minutes 35 seconds East, along the said East line of Congress Road, said line also being **50.00 feet** East of and parallel to the said East line of Section 6, a distance of 864.30 feet; thence South 87 degrees 20 minutes 55 seconds West, a **distance** of 17.21 feet; thence South 0 degrees 16 minutes 35 seconds East, a distance of 154.49 feet to a point on the curve of the Easterly line of Congress Avenue from which the radius point bears **South 80 degrees 13 minutes 38 seconds West**; thence **Northwesterly** along the **said Easterly line of Congress Avenue** by said **curve** concave to the Southwest having a radius of 1970.08 feet, a central angle of 26 degrees 56 minutes 14 seconds for an arc distance of 926.22 feet to a point; thence with a bearing of North 10 degrees 44 minutes 57 seconds East, a distance of **36.84** feet to a point; thence with a bearing of North 58 degrees 12 minutes 35 seconds East, a distance of **172.19** feet to a point; thence with a curve to the right having a radius of 327.61 feet, a central angle of 31 degrees 30 minutes 50 seconds, **an arc** length of **180.19** feet, more **or** less, to the Point of Beginning.

EXHIBIT B
VICINITY SKETCH

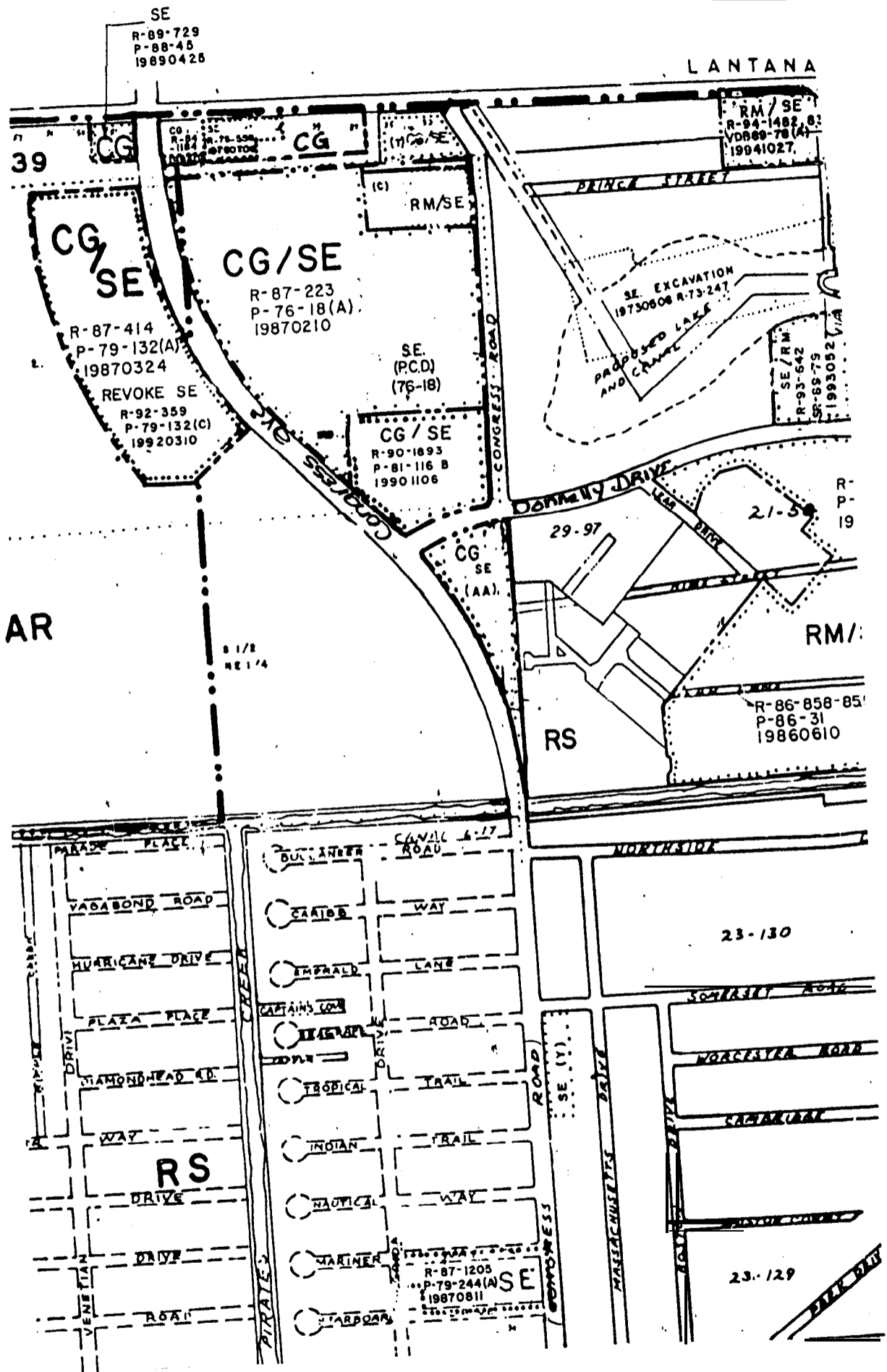


EXHIBIT C

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 conditions of approval contained in Resolution R-90-1 898, Petition 90-34, are hereby repealed. Resolution R-90-1898, granting approval of Petition 90-34, is hereby revoked. (MONITORING)
2. 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 March 28, 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. CONGREGATE LIVING FACILITY

1. The CLF shall be limited to a maximum of 34,470 square feet. Gross floor area may be increased an additional 5% up to 1000 square feet, whichever is less, subject to Development Review Committee (DRC) approval. (DRC: ZONING)
2. The CLF shall limited to two stories with a maximum height of 35 feet. (BLDG PERMIT: BLDG - Zoning)
3. The CLF shall be limited to a maximum of forty-eight (48) Type 3 beds. (DRC: BUILDING / HEALTH - Zoning)
4. The minimum side setback for the main structure adjacent to residential shall be seventy (70) feet from the east property line. (DRC: ZONING)
5. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principle structure or equivalent landscape material. (CO: BLDG - Zoning)

C. LANDSCAPING -STANDARD

- I. All 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. (CO: LANDSCAPE - Zoning)
2. All palms planted on site in compliance with this approval shall meet the following minimum standards at time of 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. Pruning: minimum six (6) fronds, no clipped or spiked cuts.
- d. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

D. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING DONNELLY DR)

- 1. Landscaping along the north property line shall be upgraded to include:
 - a. A minimum ten (10) foot wide landscape buffer strip;
 - b. One (1) canopy tree planted every thirty (30) feet on center;
 - c. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees 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 forty-eight (48) inches. (CO: LANDSCAPE)

E. ENGINEERING

- 1. 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 to be paid at the time of issuance of the Building Permit presently is \$5,656 (103 trips X \$55.00 per trip) (**ONGOING:FAIR SHARE FEE COORDINATOR**).
- 2. LANDSCAPE WITHIN MEDIAN
 - a. Prior to issuance of a building permit, the property owner shall apply to the Land Development Division, Permit Section, of 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 the Land Development Division 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. 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 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.)
3. Prior to issuance of a building permit the property owner shall convey a 10 foot "Temporary Construction Easement" to Palm Beach County along Congress Avenue. This roadway construction easement shall contain an **isosceles** trapezoid connecting the required corner clips across this property owners road right of way. Construction within this easement shall conform to Palm Beach County Standards. (BLDG PERMIT:MONITORING - Engineering).

F. LANDSCAPING ALONG EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the east property line abutting residential shall be upgraded to include a minimum ten (10) foot wide Alternative 3 landscape buffer strip which shall include:
 - a. One (1) canopy tree planted every twenty-five (25) feet on center;
 - b. One (1) palm tree 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 trees or pine trees may not supersede the requirement for a native canopy tree in that location;
 - c. An undulating two (2) foot high berm measured from top of curb;
 - d. A hedge, fence or wall providing a total of six (6) feet in height in combination with the berm. (CO: LANDSCAPE - Zoning)

G. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING CONGRESS AVE)

1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip;
 - b. An undulating two (2) foot high berm measured from top of curb
 - c. One (1) canopy tree planted every thirty (30) feet on center;
 - d. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and
 - e. 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 forty-eight (48) inches. (CO: LANDSCAPE)

H. LIGHTING

1. **All** outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO / ONGOING: BLDG / CODE ENF - Zoning)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)

3. All outdoor lighting shall be extinguished no later than **10:00** p.m., excluding security lighting only. (ONGOING: CODE ENF)

I. SIGNS

1. Signs fronting on Donnelly Road shall be limited to one (1) thirty-two (32) square foot monument sign with a maximum height of six (6) feet. (CO: BLDG)

J. 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)