

RESOLUTION NO. R-2004-0968

RESOLUTION APPROVING ZONING PETITION DOA1974-081F
DEVELOPMENT ORDER AMENDMENT
PETITION OF TARGET CORPORATION
BY GREENBERG TRAUIG, AGENT
(FOX DRI - NORTH MUPD)

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 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA1974-081F was presented to the Board of County Commissioners at a public hearing conducted on May 27, 2004; 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 2.E (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 has considered the findings in the staff report and 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 2.K.3.b 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 DOA1974-081F, the petition of Target Corporation, by Greenberg Traurig, agent, for a Development Order Amendment to modify a DRI condition of approval 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 May 27, 2004, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	-	Aye
Tony Masilotti, Vice Chairman	-	Absent
Jeff Koons	-	Absent
Warren H. Newell	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on May 27, 2004.

Filed with the Clerk of the Board of County Commissioners on 22 day of June, 2004.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

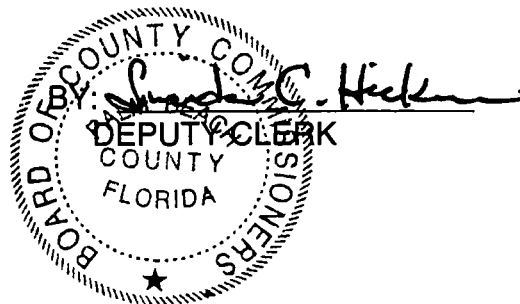


EXHIBIT A
LEGAL DESCRIPTION

PARCEL "5-R" OF FOX PROPERTIES PARCEL "5" REPLAT AS RECORDED IN PLAT BOOK 94, PAGES 60 THRU 61, LESS THAT PORTION OF SAID "PARCEL "5-R" DESCRIBED IN OFFICIAL RECORDS BOOK 13644, PAGE 1488; TOGETHER WITH PARCEL "13" OF "FOX PROPERTIES PLAT", AS RECORDED IN PLAT BOOK 83, PAGES 65 THRU 67, ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA. SUBJECT TO ALL PERTINENT MATTERS OF RECORD.
(CONTAINING 24.270 ACRES, MORE OR LESS)

EXHIBIT B
VICINITY SKETCH

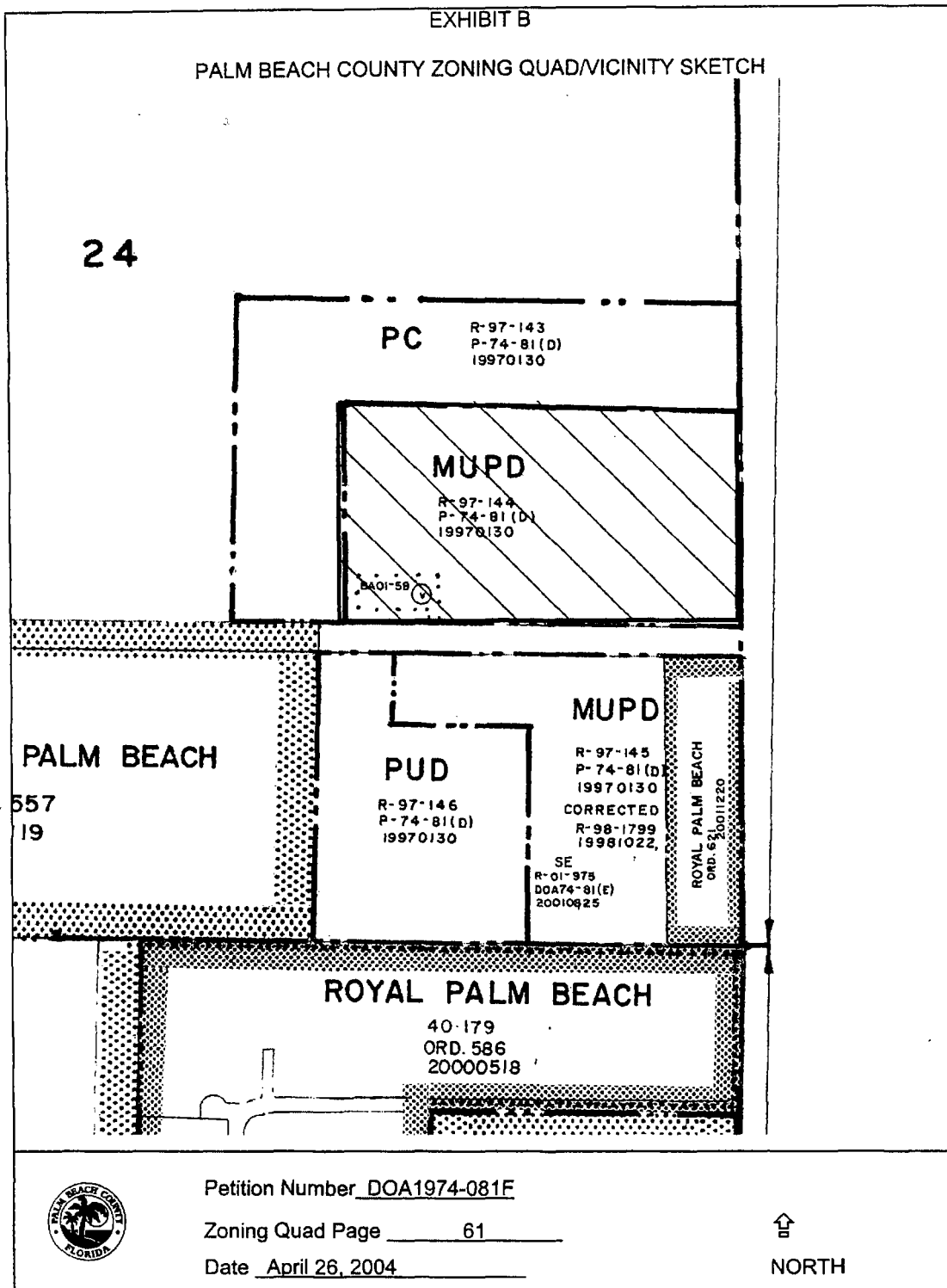


EXHIBIT C

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 previous conditions of approval, unless expressly modified herein, shall remain in full force and effect. (ONGOING: MONITORING-Zoning)

There are no Conditions B, C and D.

E. ENGINEERING

FROM R94-1465 ATTACHMENT II EXHIBIT "K"

**ATTACHMENT II
EXHIBIT "K"**

**REVISED PALM BEACH COUNTY TRANSPORTATION CONDITIONS,
IMPROVEMENTS AND DEDICATIONS**

Internal Road System

- 1) All major collector roads within the Fox Property site shall have 80-foot right-of-way widths. (ONGOING:ENGINEERING-Eng)
- 2) The geometries on all 80-foot right-of-way collector roads shall be for a 40 mph design speed. (ONGOING:ENGINEERING-Eng)
- 3) Within the 80-foot right-of-way on the internal site collector roads, two 12-foot lanes shall be constructed with lanes at all major road entrances as determined by the County Engineer. (ONGOING:ENGINEERING-Eng)
- 4) If the school site is not purchased on the portion of Fox Property south of Okeechobee Boulevard, then the Service Road running parallel to Okeechobee Boulevard shall be continued west from the Geriatric Center/commercial outparcels to serve residential Pods 1, 2 and 3 and to connect with Okeechobee Boulevard. (ONGOING)

Right-Of-Way Dedication

- 5) Developer shall dedicate the necessary right-of-way on S.R. 7 and Okeechobee Boulevard to provide for a fully-expanded intersection at the junction of these two roads. (ONGOING:ENGINEERING-Eng)
- 6) Developer shall dedicate right-of-way on Okeechobee Boulevard within the Fox Property boundaries to provide for an ultimate 120-foot right-of-way, and shall dedicate additional right-of-way at the two main Fox Property driveway entrances on Okeechobee Boulevard to accommodate separate right turn lanes in both the eastbound and west bound directions. (ONGOING:ENGINEERING-Eng)

Access to External Arterial Roads

- 7) No direct access shall be permitted from the commercial outparcels to either Okeechobee Boulevard or S.R. 7. (ONGOING)

8) **The following access points shall be permitted to the external arterial system:**

a) **On S.R. 7 south of Okeechobee:**

one right turn in, right turn out entrance about 300 feet south of the intersection of S.R. 7/Okeechobee

b) **On S.R. 7 north of Okeechobee:**

one right turn in, right turn out entrance north of the intersection of S.R. 7/Okeechobee. If this entrance is built, it shall be located sufficiently north of Okeechobee Boulevard to accommodate required turn lanes at the intersection of S.R. 7/ Okeechobee.

c) **On Okeechobee west of S.R. 7:**

one right turn in, right turn out entrance about 400 feet west of the intersection S.R. 7 to serve the shopping center directly and not any commercial out parcels. Full entrances at about 1100 feet and 2600 feet west of the intersection of Okeechobee/ S.R. 7.

All entrances shall be subject to the appropriate State and County permits at the time of construction. The County shall not withhold issuance of a permit based on location, if the location conforms to the Master Land Use Plan. (ONGOING)

Site-Related Road Construction Requirements

9) **At the intersection of S.R. 7 and Okeechobee Boulevard, Developer shall construct, prior to issuance of a certificate of occupancy (C.O.) for the shopping center on the north side of Okeechobee Boulevard, the necessary laneage with tapers as required to provide for the following geometrics, and the County will procure the right-of-way necessary for these improvements on the east side of S.R. 7 to allow the following:**

a. **south approach: two left turn lanes, two thru lanes
south departure: two thru lanes**

b. **east approach: addition of one right turn lane
east departure: three thru lanes**

c. **west approach: one left turn lane, two thru lanes, one right turn lane**

d. **north approach: two left lanes, two thru lanes
north departure: two thru lanes (ONGOING:ENGINEERING-Eng)**

Condition.9.e of Resolution R94-1465, Attachment II Exhibit "K" which currently states:

e. **Construct S-R. 7 from Okeechobee Boulevard to the northern most entrance for the proposed shopping center to a 4-lane divided cross-section compatible with an ultimate 6 lanes.**

Is hereby amended to read:

9) e. **Prior to issuance of a certificate of occupancy (C.O.) for the Super Target Center located in the northwest corner of the intersection of Okeechobee Boulevard at SR 7 extension, the Developer shall fund the construction of SR 7 as a 4-lane divided cross-section, compatible**

with an ultimate 6 lanes. Limits of the SR 7 construction shall be from Okeechobee Boulevard to the northernmost entrance to the Super Target. Funding shall be provided to the Land Development Division in the amount of \$639,391. Palm Beach County shall then complete this required road construction for the Property Owner/Developer as part of the SR 7 extension construction. (CO: MONITORING-Eng)

The foregoing improvements shall not be required as a condition of Developer receiving C.O.'s for any or all of the out-parcels approved for the north side of Okeechobee Boulevard.

- 10) **The requirements of condition 9 relating to the section of S.R. 7 north of Okeechobee Boulevard shall be constructed prior to the C.O. if the right-of-way to the northern most entrance for the proposed shopping center is available and this construction is permissible. If S.R. 7 right-of-way north of Okeechobee Boulevard is not available, or if the construction is not permissible at the time of C.O., then the requirement for construction north of Okeechobee Boulevard shall be automatically released. If said entrance to the shopping center from S.R. 7 is built, it shall be located sufficiently north of Okeechobee Boulevard to accommodate required turn lanes at the intersection of Okeechobee t:/ S.R. 7. (CO:MONITORING-Eng)**
- 11) **No impact fee credit shall be given for construction in condition 9. (ONGOING:ENGINEERING-Eng)**

Condition 12 of Resolution R94-1465, Attachment II Exhibit "K" which currently states:

- 12) **During the stated Fox Property buildout time frame, the Developer shall fund all signalization determined to be warranted by the County Engineer at the intersection of onsite roadways and the intersections of Fox Property Driveways with external roadways**

Is hereby amended to read:

- 12) During the stated Fox Property buildout time frame, the Developer shall fund all signalization determined to be warranted by the County Engineer at the intersection of onsite roadways and the intersections of Fox Property driveways with external roadways. Permanent Signalization funding associated with the Super Target Center shall include Mast Arm Installation for an eight lane Okeechobee Boulevard. Signalization shall be subject to the approval of the County Engineer. (ONGOING:ENGINEERING-Eng)

Land Use and Traffic Impact

- 13) **To the extent the Developer engages in wetlands mitigation through eradication of exotic species, Palm Beach County shall receive a credit for use in obtaining permits in connection with the construction of S.R. 7 between Okeechobee Boulevard and Persimmon Boulevard to the extent not utilized by the Developer in obtaining its own permits. (ONGOING)**
- 14) **The developer agrees that when and if State Road 7 is constructed to nine (9) lanes north of Okeechobee Boulevard and the County or the State of Florida requires drainage for the first 827 feet of roadway north of Okeechobee Boulevard, then the developer shall:**
 - (a) **accept into it's lake/drainage system the run-off from that portion of State Road 7 extending west from the centerline of State Road 7 to the eastern boundary of the developer's property, a distance of 827 feet from the north boundary of Okeechobee Boulevard and;**

- (b) **accept into its lake/drainage system the run-off from that portion of State Road 7 extending east from the centerline of State Road 7 to the eastern boundary of State Road 7, a distance of 827 feet from the north boundary of Okeechobee Boulevard, to the extent such damage is not accepted into the lake/drainage system of the adjoining property owner to the east.**
(ONGOING:ENGINEERING-Eng)

F. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. 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; revocation of any concurrency; 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.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master 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 Article 2.E 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. (ONGOING: MONITORING - Zoning)