

RESOLUTION NO. R-2004- 2432

RESOLUTION APPROVING ZONING PETITION DOA2004-223
(CONTROL NO. 1980125)
DEVELOPMENT ORDER AMENDMENT
PETITION OF 400 WEST ONTARIO
BY COTLUER & HEARING INC., AGENT
(ROCKING HORSE SUBDIVISION)

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 DOA2004-223 was presented to the Board of County Commissioners at a public hearing conducted on November 18, 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 DOA2004-223, the petition of 400 West Ontario, by Cotluer & Hearing Inc., agent, for a Development Order Amendment to add land area, add units and modify a 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 November 18, 2004, subject to the conditions of approval 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 KOONS and, upon being put to a vote, the vote was as follows:

Tony Masilotti, Chairman	- AYE
Addie L. Greene, Vice Chairperson	- AYE
Karen T. Marcus	- AYE
Jeff Koons	- AYE
Warren H. Newell	- ABSENT
Mary McCarty	- ABSENT
Burt Aaronson	- AYE

The Chair thereupon declared that the resolution was duly passed and adopted on November 18, 2004.

Filed with the Clerk of the Board of County Commissioners on 10th day of JANUARY, 2005

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

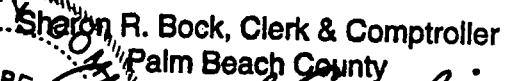
DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:

DEPUTY CLERK


Sharon R. Bock, Clerk & Comptroller
Palm Beach County


Deputy Clerk

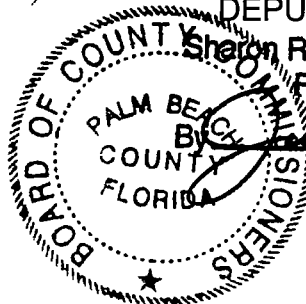


EXHIBIT A
LEGAL DESCRIPTION

THE EAST 190 FEET OF LOT 70, ALL OF LOTS 71 AND 72, SQUARE LAKE, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 23, PAGE 141, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS THE NORTHERLY 7.45 FEET OF LOT 70, CONVEYED FOR ROAD PURPOSES RECORDED IN DEED BOOK 973, PAGE 694.

EXHIBIT B
VICINITY SKETCH

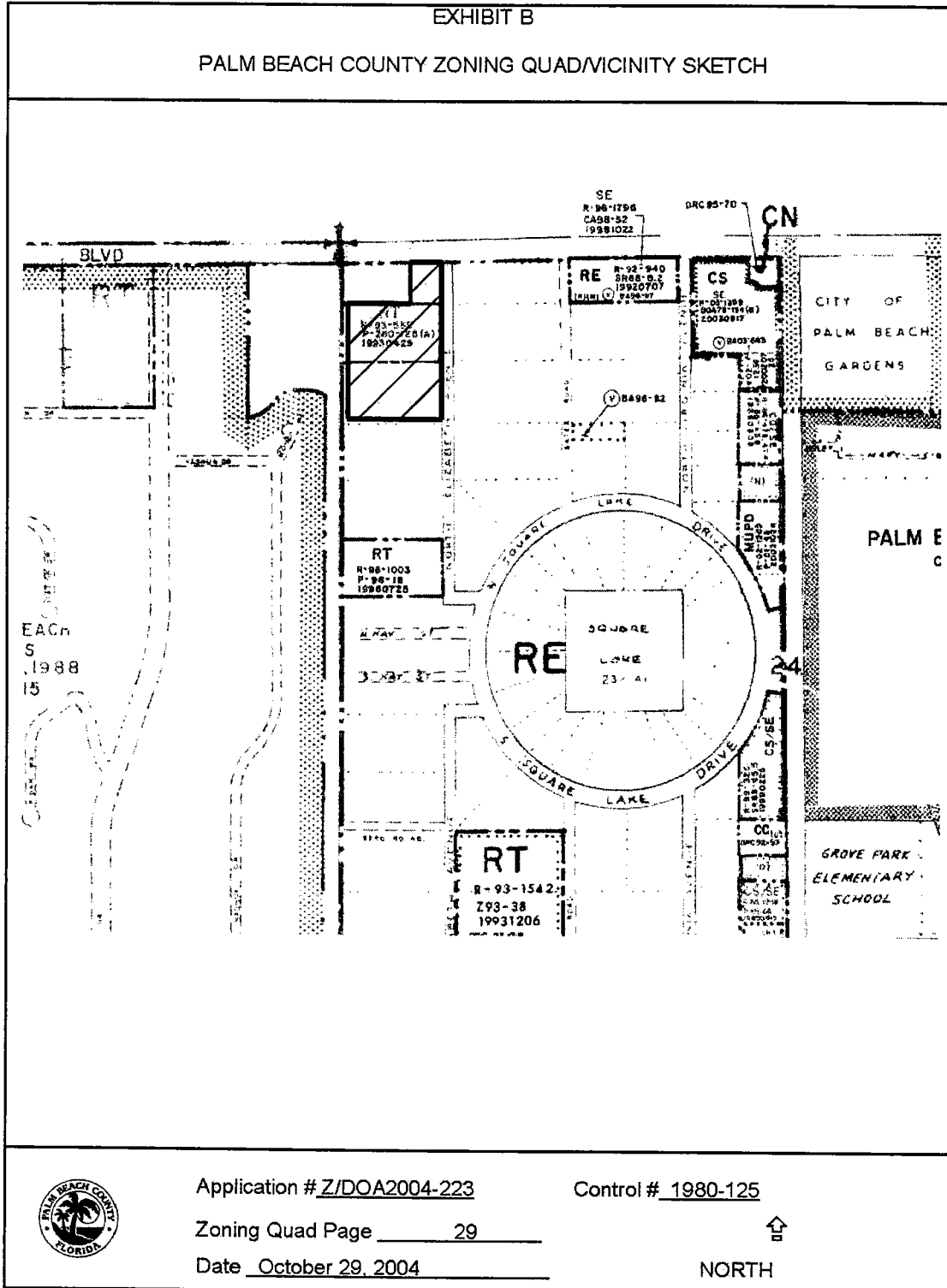


EXHIBIT C

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 applicable to the subject property, as contained in Resolutions R-93-559 (Petition 80-125(A)) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)
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 July 27, 2004. 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-Zoning)
3. The petitioner shall have three (3) years from adoption of the resolution approving Petition 2004-223 to commence development on the site. Only one (1) administrative time extension for a maximum of twelve (12) months may be granted. (DATE: MONITORING-Zoning)
4. Previous condition A.1 of Resolution R-93-559, Petition 1980-125(A), which currently states:

The subject property shall not be subdivided into more than 2 parcels of land, a minimum of 1.25 acres in size, containing a maximum of one (1) dwelling unit on each platted parcel of land.

Is hereby amended to read:

The subject property shall consist of a minimum one (1) acre lots containing a maximum of one (1) dwelling unit on each platted parcel of land. (PLAT: BLDG PERMIT – Zoning)

B. LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (FRONTAGE OF NORTH ELIZABETH AVENUE AND ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the south and east property lines shall be upgraded to include:
 - a. a minimum 15-foot wide landscape buffer strip;
 - b. a two-railed fence with a minimum height of three (3)-feet;
 - c. one (1) native canopy tree for each twenty-five (25) linear feet of the property line, with a maximum tree spacing no greater than fifty (50) feet on center;
 - d. one (1) slash pine for each thirty (30) linear feet of the property line, and to be planted in a group with a minimum of three (3) pine trees;
 - e. one (1) native small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum of eighteen (18) inches at installation;

- f. one (1) medium shrub (Saw Palmetto or similar species acceptable to the Landscape Section) for each four (4) linear feet of the property line. Shrub shall be a minimum of twenty-four (24) inches at installation;
- g. prior to final site plan approval by the Development Review Officer (DRO), the property owner shall provide a Landscape Plan to the Landscape Section for review and approval. (DRO: LANDSCAPE - Zoning); and,
- h. where existing vegetation may affect the proposed perimeter landscaping as indicated in B.1.b through B.1.g. An Alternative Landscape Plan (ALP) may replace the Landscape Plan. The ALP shall also be subject to review and approval by the Landscape Section. (DRO: LANDSCAPE – Zoning)

C. SITE DESIGN

- 1. Prior to final approval by the Development Review Officer (DRO), the master/site plans shall be revised to indicate a landscape focal point within the cul-de-sac island. The focal point shall be subject to review and approval by the Landscape Section. (DRO: DRO/LANDSCAPE – Zoning)
- 2. Decorative pavers (stamped concrete or paving blocks) shall be provided along the internal driveway and T-intersections as indicated on the master plan dated July 27, 2004. The minimum dimension for each focal point shall be as follows:
 - a. Main access point – 800 square feet;
 - b. Cul-de-sac – Cover the entire area of the applicable drive aisle surface. (DRO/BLDG PERMIT: DRO/ZONING – Zoning)
- 3. Prior to final site plan approval by the Development Review Officer (DRO), the property owner(s)/developer shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRO: LANDSCAPE - Zoning)
- 4. No gate, fence, or other physical barrier that is intended to restrict access shall be permitted at point of ingress/egress to the spine road into the development. (DRO/BLDG PERMIT: ZONING – Zoning)

There are no D conditions of approval.

E. ENGINEERING

- 1. **The developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivisions and Required Improvements Regulations 90-8 as amended. The platting of this property may be phased in accordance with a phasing plan acceptable to the office of the County Engineer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety. (PLAT: ENG – Eng)**
- 2. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
No Building Permits for the site may be issued after December 2, 2007. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study, which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2 Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

3. Prior to issuance of a Building Permit the Developer shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)
4. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING-Eng)
5. The property owner shall convey to Palm Beach County Land Development Division by warranty deed for Northlake Boulevard, 60 feet from centerline on or before May 1, 2005, 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. The 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. The Grantor also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (DATE/BLDG. PERMIT: MONITORING-Eng)
6. Prior to the approval of the final subdivision plan by the DRO the property owner shall submit a complete approved drainage study for the site, verifying the site plan shown to Board of County Commissioners at the November 18, 2004 Zoning Commission Meeting is in accordance with all permitting agencies, and meets the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District. (DRO: ENGINEERING – Eng)

F. SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD-School Board)

G. 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)