

RESOLUTION NO. R-2009- 0161

RESOLUTION APPROVING ZONING APPLICATION DOA/EAC/ABN-2008-01037
(CONTROL NUMBER 1994-00036)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF Republic Services of Palm Beach
BY Gunster, Yoakley & Stewart, PA, AGENT
(Republic Services)

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, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA/EAC/ABN-2008-01037 was presented to the Board of County Commissioners at a public hearing conducted on January 29, 2009; and

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

WHEREAS, this approval is subject to Article 2.E (Monitoring), 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 purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, 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.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) 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 Application DOA/EAC/ABN-2008-01037, the application of Repulic Services of Palm Beach, by Gunster, Yoakley & Stewart, PA, agent, for a Development Order Amendment to to delete Conditions 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 January 29, 2009, 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 Aaronson and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
District 4	-	
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 29, 2009.

Filed with the Clerk of the Board of County Commissioners on February 17, 2009.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY:


COUNTY ATTORNEY

BY:

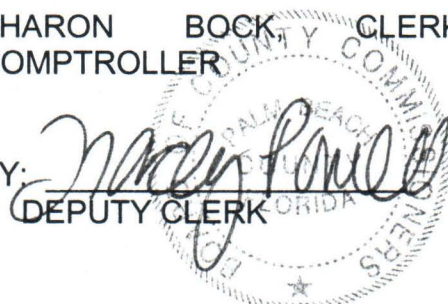

DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF TRACTS 2, 10, and 11, BLOCK 6, OF THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF TRACT 2, BLOCK 6 OF SAID PLAT; THENCE SOUTH 00°58'52" EAST, ALONG THE WEST LINE OF SAID TRACT 2, BLOCK 6, (SAME LINE BEING THE EAST LINE OF TRACT 1, BLOCK 6), A DISTANCE OF 37.84 FEET TO THE POINT OF BEGINNING; THENCE NORTH 88°59'58" EAST, A DISTANCE OF 495.14 FEET; THENCE SOUTH 00°58'52" EAST, ALONG THE EAST LINE OF THE WEST 1/2 OF SAID TRACT 2, BLOCK 6, A DISTANCE OF 621.70 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT 2, BLOCK 6; THENCE SOUTH 88°58'34" WEST, ALONG THE SOUTH LINE OF SAID TRACT 2, BLOCK 6, A DISTANCE OF 165.05 FEET; THENCE SOUTH 00°58'56" EAST, ALONG THE EAST LINE OF THE WEST FIVE ACRES OF TRACT 11, OF BLOCK 6, A DISTANCE OF 634.93 FEET TO A POINT 25 FEET NORTH OF THE SOUTH LINE OF TRACT 11, BLOCK 6; THENCE SOUTH 88°58'34" WEST, ALONG THE LINE THAT IS 25 FEET NORTH OF THE SOUTH LINE OF SAID TRACT 11, BLOCK 6, (SAME LINE BEING THE SOUTH LINE OF TRACT 10, BLOCK 6), A DISTANCE OF 330.10 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 11, BLOCK 6, AND THE EAST LINE OF TRACT 10, BLOCK 6; THENCE NORTH 00°58'52" WEST, ALONG THE WEST LINE OF SAID TRACT 11 AND THE EAST LINE OF SAID TRACT 10, BLOCK 6, A DISTANCE OF 634.93 FEET TO A POINT ON THE NORTHWEST CORNER OF SAID TRACT 11, BLOCK 6, AND THE SOUTHWEST CORNER OF SAID TRACT 2, BLOCK 6; THENCE CONTINUE NORTH 00°58'52" WEST, ALONG THE WEST LINE OF SAID TRACT 2, BLOCK 6, A DISTANCE OF 621.90 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 517,464 SQUARE FEET (11,879 ACRES), MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

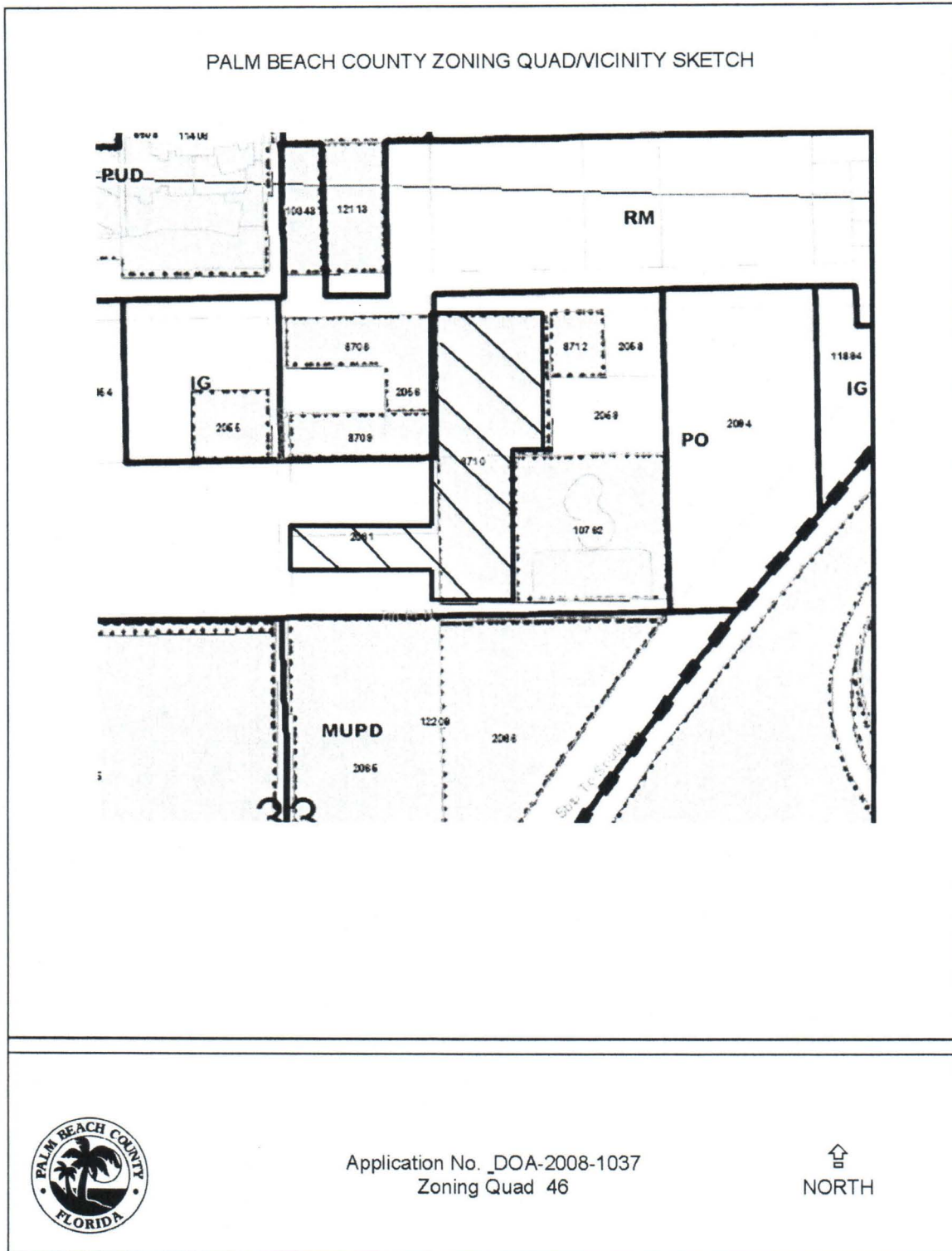


EXHIBIT C

CONDITIONS OF APPROVAL

ENGINEERING

1. Previous condition E.1 of Resolution R-2003-1770, Control 1994-036, which currently states: No building permits shall be issued after December 31, 2005 (the expiration date of the Belvedere Road CRALLS) unless a time extension has been approved by the County Engineer's Office based upon an approved traffic study which complies with the mandatory Traffic Performance Standards in place at the time of the request. (BLDG PERMIT: MONITORING-Eng) (Previous Engineering Condition E2 of Resolution R-2003-1770.2, Control Number 1994-036)

is hereby amended to read:

No building permits for the site shall be issued after December 31, 2011. 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.E of the Unified Land Development Code. (DATE: MONITORING Eng)

2. The property owner has voluntarily agreed to convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Seventh Place South 40 feet from centerline prior to March 15, 1995 or prior to the issuance of the first Building Permit, whichever shall first occur. This right of way shall be along the project's entire frontage, 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. (DATE: MONITORING-Eng) (Previously Condition E.1 of Resolution R-1994-1086, Control Number 1994-036)

[Note: Complete]

3. Access onto 7th Place shall only be allowed for existing uses. Any expanded use of the property shall access only onto Belvedere Road. (Previously Condition E.2 of Resolution R-1994-1086, Control Number 1994-036)

Is hereby deleted. [Reason: Revisions to development now require access onto 7th Place North]

4. Prior to final approval of the Site Plan by the Development Review Officer, the Property owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels. The stormwater management system shall then be designed to accept this historical drainage and required drainage easements shall be shown on the plat. (DRO: ENGINEERING-Eng)

5. Prior to issuance of the first building permit, the property owner shall combine the existing parcels into one legal lot of record in accordance with the plat or waiver of plat process as applicable with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

6. Landscape Within the Median of Belvedere Road.

The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Belvedere Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for

maintenance as set forth in Paragraph c and d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

c. At property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING-Eng)

d. Alternately, at the option of the Property Owner, and prior to the issuance of the first Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Belvedere Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDG PERMIT: MONITORING -Eng)

7. The Property owner shall construct:

- i. Left turn lane north approach on Pike Rd at project's northern entrance as approved by the County Engineer.
- ii. Left turn lane north approach on Pike Rd at 7th Place N as approved by the County Engineer.
- iii. Left turn lane east approach on 7th Place N at Pike Rd

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 by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy (CO: MONITORING-Eng)

ENVIRONMENTAL

1. A Native Vegetation Mitigation Plan shall be approved by ERM prior to DRO Site Plan approval. (DRO:ERM-ERM)

2. All vegetation mitigation, pursuant the approved Vegetation Mitigation Plan shall be completed prior to the issuance of the CO. (CO:MONITORING-ERM)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to Platting, or the issuance of any Lake Worth Drainage District permits, the District will require that the owner convey either by warranty or exclusive easement deed the North 53 feet of Tract 2, Block 6, PALM BEACH FARMS COMPANY PLAT NO. 3, PB 2, PG 45 (less what the District owns) for the right-of-way for the L-3 Canal.

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)

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; revocation of any concurrency; and/or

a. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

b. 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

c. Referral to code enforcement; and/or

d. 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.

Departmental administrative actions made pursuant to this condition may be appealed as 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 Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)