

RESOLUTION NO. R-2009- 1224

RESOLUTION APPROVING ZONING APPLICATION DOA/EAC-2009-01497
(CONTROL NUMBER 2004-00202)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF Palm Beach County
BY Palm Beach County and Urban Design Kilday Studios, AGENT
(Mid-County Center)

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-2009-01497 was presented to the Board of County Commissioners at a public hearing conducted on July 23, 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.
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, is consistent with applicable Neighborhood Plans in accordance with BCC policy;
8. This Development Order Amendment has a concurrency determination and complies with Article 2.F Concurrency - Adequate Public Facility Standards of the ULDC.
9. 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-2009-01497, the application of Palm Beach County, by Palm Beach County, Urban Design Kilday Studios, agent, for a Development Order Amendment to to modify a Voluntary Commitment (Engineering) 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 July 23, 2009, subject to the voluntary commitments 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 Burt 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
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 23, 2009.

Filed with the Clerk of the Board of County Commissioners on August 31, 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

BY:


COUNTY ATTORNEY

SHARON BOCK, CLERK &
COMPTROLLER

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

Parcel 1:

Subdivision A, less the north 35 feet thereof, Subdivisions B, C, D, and E, less the south 70 feet of said Subdivision E, all in Tract 11, and subdivisions A, B, C, D, and E in Tract Twenty-Two (22) according to the Palm Beach Farms Company Plat No. 7, recorded in Plat Book 5, Page 72, Palm Beach County, Florida being a subdivision in Section 30, Township 44 South, Range 43 East.

Parcel 2:

Lot A less the north thirty-five (35) feet thereof, lots B, C, D, and E, less the south seventy feet thereof, block 12, Palm Beach Farms Company Plat No. 7, according to the plat thereof recorded in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 5, Page 72, Public Records of Palm Beach County, Florida.

EXHIBIT B
VICINITY SKETCH

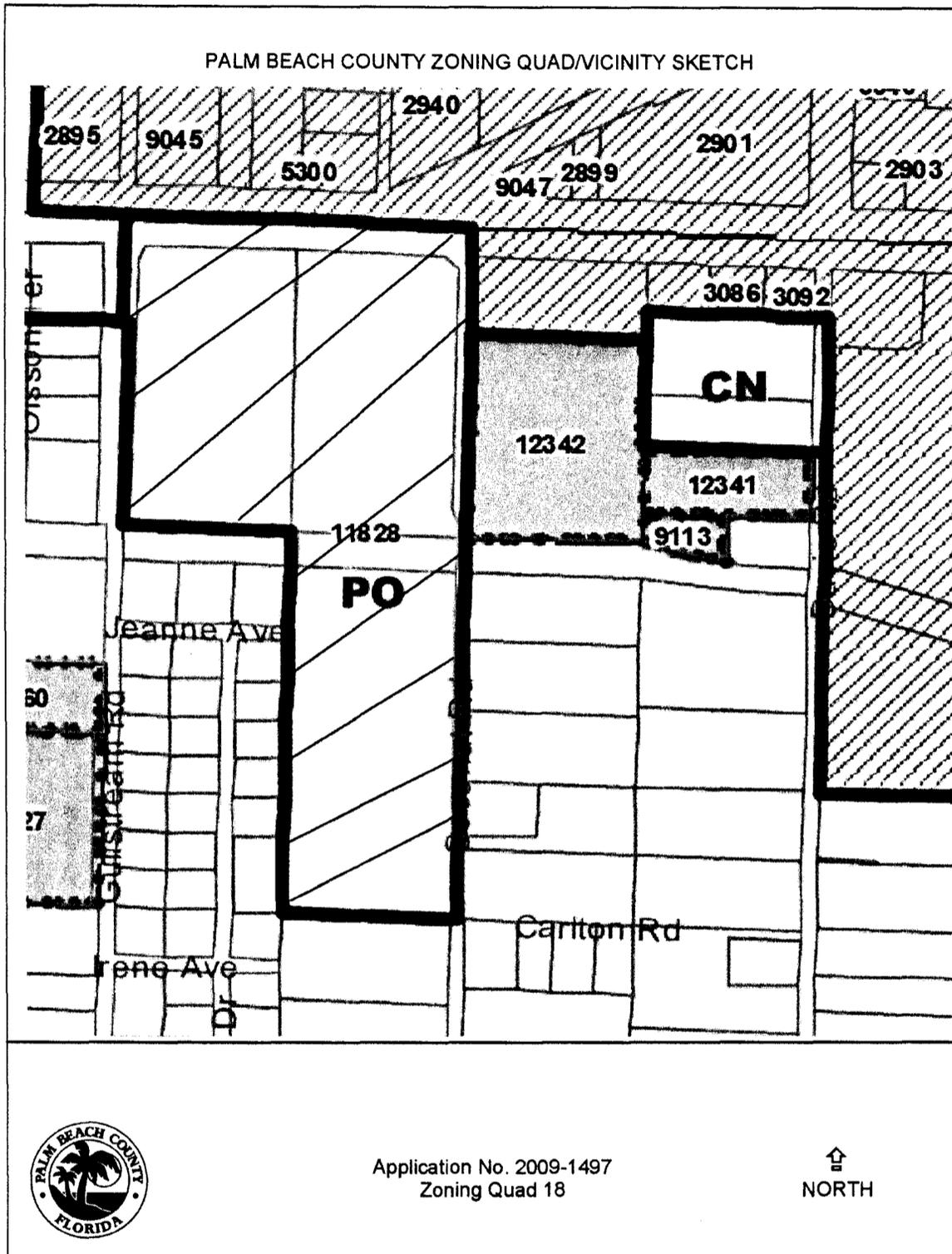


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous voluntary commitments applicable to the subject property, as contained in Resolution R-2005-389 (Control 2004-202), have been consolidated as contained herein. The property owner shall comply with all previous voluntary commitments and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

ENGINEERING

1. Corridor Conveyance of Right of Way Gulfstream Road and Coconut Road

The property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed for:

- i. Gulfstream Road, 30 feet from centerline;
- ii. Coconut Road, 40 feet from centerline from Lake Worth Road to the project entrance road; and,
- iii. Coconut Road, 30 feet from centerline from the project entrance road, south, to the projects south property line.

All right of way shall be conveyed on or before September 23, 2005, or prior to the issuance of a 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 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. 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) (Previous Voluntary Commitment Engineering 1 of Resolution R-2005-0389, Control 2004-202) [Note: Completed]

2. Prior to issuance of a building permit, the property owner shall convey a temporary roadway construction easement along Gulfstream Road and Coconut Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING - Eng) (Previous Voluntary Commitment Engineering 2 of Resolution R-2005-0389, Control 2004-202) [Note: Completed]

3. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENGINEERING - Eng) (Previous Voluntary Commitment Engineering 3 of Resolution R-2005-0389, Control 2004-202)

4. Voluntary Commitment Engineering 4 of Resolution R-2005-0389, Control 2004-202 which currently states:

In order to comply with the mandatory Traffic Performance Standards, the property owner shall be restricted to the following phasing schedule:

a. No Building Permits shall be issued until the contract has been awarded at the intersection of Congress Avenue and Lake Worth Road for the construction of:

1. an additional south approach through lane;
2. an additional north approach through lane;

3. south approach right turn lane;
4. an additional west approach left turn lane; and,
5. an additional east approach left turn lane. (BLDG PERMIT: MONITORING - Eng)

b. No Building Permits for the site may be issued after October 28, 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)

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the property owner shall be restricted to the following phasing schedule:

a.No Building Permits shall be issued until the contract has been awarded at the intersection of Congress Avenue and Lake Worth Road for the construction of:

1. an additional south approach through lane;
 2. an additional north approach through lane;
 3. south approach right turn lane;
 4. an additional west approach left turn lane; and,
 5. an additional east approach left turn lane. (BLDG PERMIT: MONITORING - Eng)
- [Note: Completed]

5.The property owner shall construct:

- i. a right turn lane north approach on Coconut Road at the project entrance onto Coconut Road;
- ii. a left turn lane south approach on Coconut Road at Lake Worth Road; and,
- iii.a left turn lane south approach on Gulfstream Road at Lake Worth Road.
- iv. The above construction (5.E.i through E.5.iii.) shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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 the construction in E.5.iii. shall be obtained prior to the issuance of the first Building Permit for phase one, Adult Day Care and Senior Community Center. Required drainage for these improvements shall be accommodated within this sites internal drainage system subject to the approval of the County Engineer. (BLDG PERMIT: MONITORING - Eng) [Note: Completed]

b.Permits required by Palm Beach County for the construction in E.5.i. and E.5.ii. shall be obtained prior to the issuance of the first Building Permit for phase two, Child Day Care. Required drainage for these improvements shall be accommodated within this sites internal drainage system subject to the approval of the County Engineer. (BLDG PERMIT: MONITORING - Eng) [Note: E.5.ii is Completed]

c.Construction for the improvements in E.5.iii. shall be completed prior to the issuance of the first Certificate of Occupancy for phase one, Adult Day Care and Senior Community Center (CO: MONITORING - Eng) [Note: Completed]

d.Construction for the improvements in E.5.i. and E.5.ii. shall be completed prior to the issuance of the first Certificate of Occupancy for phase two, Child Day Care. (CO: MONITORING - Eng) (Previous Voluntary Commitment Engineering 5 of Resolution R-2005-0814, Control 2004-202) [Note: E.5.ii is Completed]

6. LANDSCAPE WITHIN THE MEDIAN OF LAKE WORTH ROAD

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Lake Worth 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 the property owner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless the property owner provides payment for maintenance as set forth in Paragraph 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 the 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. Also, prior to the issuance of a Building Permit, and at the option of the property owner, 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 Lake Worth 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. (ONGONG: ENGINEERING - Eng) (Previous Voluntary Commitment Engineering 6 of Resolution R-2005-0389, Control 2004-202) [Note: Completed]

PLANNING

1. At the time of submittal for a building permit, the property owner shall provide a site layout plan or DRO site plan depicting decorative sidewalks at the pedestrian crossing areas at the entrances to the site from Lake Worth Road, Gulfstream Road and Coconut Road, consistent with the conceptual site plan dated August 16, 2004.

a. These decorative pedestrian pathway areas shall be constructed of pavers, brick, and decorative/stamped concrete or similar pavement treatment.

b. Development of the site shall be consistent with the approved site plan. (BLDG PERMIT/CO: MONITORING/LANDSCAPE - Planning) (Previous Condition Planning 1. of Resolution R-2005-814, Control No. 2004-1497)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the applicant 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 voluntary commitments of this approval. (ONGOING: MONITORING - Zoning)

2.Failure to comply with any of the voluntary commitments 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 Unified Land Development Code (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 voluntary commitments; 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 the 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 Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any voluntary commitment of approval. (ONGOING: MONITORING - Zoning)