

RESOLUTION NO. R-2005- 0154

RESOLUTION APPROVING ZONING APPLICATION DOA2004-00654  
CONTROL NUMBER (1980-054)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF CYPRESS ISLAND PROPERTY OWNERS ASSOCIATION INC.,  
AND ESTATES OF PENNOCK POINT LLC  
BY KILDAY & ASSOCIATES, INC. - KIERAN J KILDAY, AGENT  
(CYPRESS ISLAND PUD)

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 Application DOA-2004-00654 was presented to the Board of County Commissioners at a public hearing conducted on January 27, 2005; 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 Application DOA2004-654, the application of Cypress Island Property Owners Association Inc., and Estates of Pennock Point LLC, by Kilday & Associates, Inc., agent, for a Development Order Amendment to delete/add land area and reconfigure the master plan of a Special Exception for a Residential Planned Unit Development 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 27, 2005, 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:

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 27, 2005.

Filed with the Clerk of the Board of County Commissioners on 9TH day of FEBRUARY, 2005.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON BOCK, CLERK AND COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:


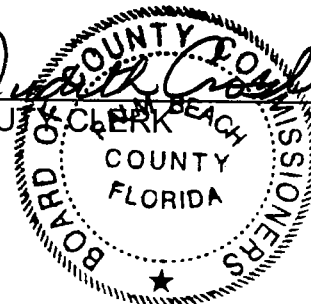
  
DEPUTY CLERK  


EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF THE PLAT OF CYPRESS ISLAND P.U.D. AS RECORDED IN PLAT BOOK 59 AT PAGES 1 THROUGH 3 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA TOGETHER WITH A PARCEL OF LAND SITUATE IN SECTION 20, TOWNSHIP 41 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF SAID PLAT OF CYPRESS ISLAND P.U.D.

TOGETHER WITH THE FOLLOWING:

BEGIN AT THE SOUTHERN MOST NORTHWEST CORNER OF TRACT "Y" AS SHOWN ON SAID PLAT OF CYPRESS ISLAND P.U.D.; THENCE SOUTH 87°43'14" EAST 149.29 FEET ALONG THE NORTH LINE OF SAID TRACT "Y" TO THE INTERSECTION OF SAID NORTH LINE AND THE NORTHWESTERLY LINE OF EASEMENT "E" AS SHOWN ON SAID PLAT; THENCE NORTH 41°31'24" EAST 76.92 FEET ALONG THE EXTENSION OF SAID NORTHWESTERLY LINE; THENCE NORTH 48°28'36" WEST 202.76 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 123.00 FEET AND A RADIAL BEARING OF NORTH 22°23'56" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 07°02'39" AN ARC LENGTH OF 15.12 FEET TO A POINT OF NON-TANGENCY; THENCE SOUTH 40°47'40" WEST 45.58 FEET; THENCE SOUTH 89°36'09" WEST 30.00 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 2904.93 FEET AND A RADIAL BEARING OF SOUTH 89°36'09" WEST, SAID POINT ALSO LYING ON THE EASTERLY RIGHT OF WAY LINE OF PALMWOOD ROAD AS SHOWN ON THE PLAT RECORDED IN ROAD PLAT BOOK 2 AT PAGE 76 OF SAID PUBLIC RECORDS; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°56'57" AN ARC DISTANCE OF 98.83 FEET TO A POINT OF TANGENCY; THENCE SOUTH 01°31'24" WEST 46.55 FEET ALONG SAID EAST LINE; THENCE SOUTH 87°43'14" EAST 28.00 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING:

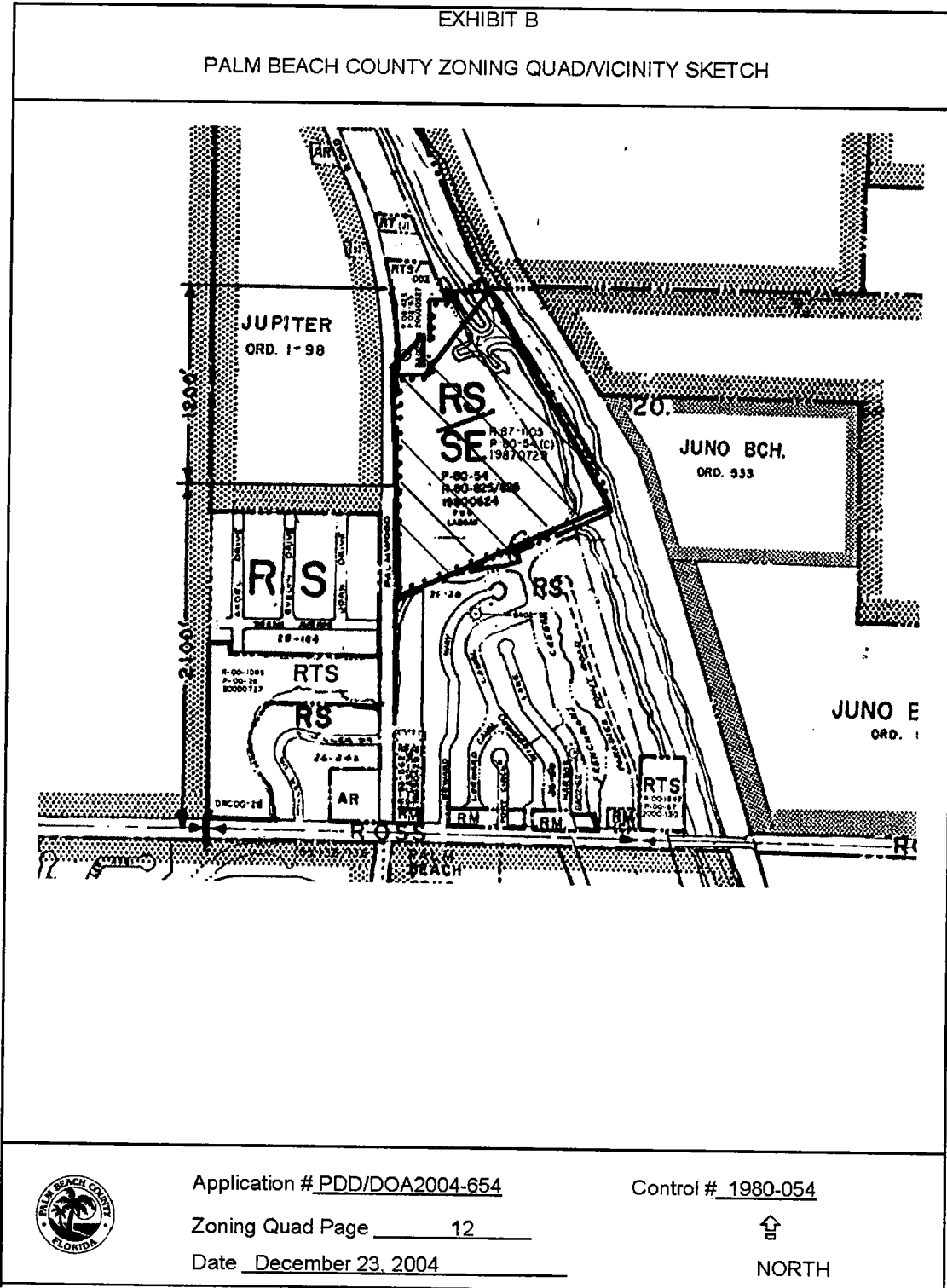
A STRIP OF LAND BEING 28.00 FEET WIDE AND BOUNDED ON THE EAST BY THE WEST LINE OF SAID PLAT OF CYPRESS ISLAND; BOUNDED ON THE WEST BY THE EAST LINE OF PALMWOOD ROAD AS RECORDED IN ROAD PLAT BOOK 2 AT PAGES 75 AND 76 OF SAID PUBLIC RECORDS; BOUNDED ON THE NORTH BY THE INTERSECTION OF THE EXTENSION OF THE SOUTHERN MOST NORTHERLY LINE OF SAID TRACT "Y" AND THE SAID EAST RIGHT OF WAY LINE OF PALMWOOD ROAD; BOUNDED ON THE SOUTH BY THE INTERSECTION OF THE EXTENSION OF THE WESTERN MOST SOUTH LINE OF SAID PLAT OF CYPRESS ISLAND AND THE SAID EAST RIGHT OF WAY LINE OF PALMWOOD ROAD.

LESS THE FOLLOWING:

BEGIN AT THE NORTHEAST CORNER OF TRACT "Y" AS SHOWN ON SAID PLAT OF CYPRESS ISLAND P.U.D.; THENCE NORTH 87°43'14" WEST 129.99 FEET ALONG THE NORTH LINE OF SAID TRACT "Y" TO THE NORTHERN MOST NORTHWEST CORNER OF SAID TRACT "Y"; THENCE SOUTH 01°33'06" WEST 356.85 FEET ALONG THE WESTERLY LINE OF SAID TRACT "Y"; THENCE SOUTH 48°28'36" EAST 34.83 FEET; THENCE NORTH 41°31'24" EAST 304.92 FEET ALONG THE EXTENSION OF THE NORTHWESTERLY LINE OF SAID EASEMENT "E" TO A POINT ON THE COMMON LINE OF SAID TRACT "Y" AND TRACT "M-A" AS SHOWN ON THE SAID PLAT OF CYPRESS ISLAND P.U.D.; THENCE NORTH 31°12'32" WEST 171.11 FEET TO THE NORTHEAST CORNER OF TRACT "Y", SAID POINT ALSO BEING THE POINT OF BEGINNING.

SAID LANDS LYING, SITUATE AND BEING IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 1,566,590.600 SQUARE FEET (35.964 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. Previous condition 1 of Resolution R-80-1105, Petition 1980-054C, which currently states:

**The developer shall comply with all previous conditions of approval unless expressly modified herein.**

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-87-1105 (Petition 80-054(C)) 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 November 12, 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 2004-654 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)

#### B. USE LIMITATIONS

1. **Use of the project's marina and clubhouse facilities shall be limited to members only. There shall be no commercial development or land use within the project. There shall be no on-premise signage visible from adjacent public streets indicating existence of the marina and clubhouse, other than customary directional signs.** (Previous condition 5 of Resolution R-80-1105, Petition 1980-054C)

#### C. LANDSCAPING

1. **Existing native vegetation within the twenty-five (25) PUD buffer, building setback areas, open space and recreation tracts shall be incorporated into the project design. Clearing shall be limited to: roadways, retention and marina facilities, building pads and prohibited species. No mangrove trimming shall be permitted without first obtaining proper permits.** (Previous Condition 2 of Resolution R-80-1105, Petition 1980-054C)

D. HEALTH

1. In the event that saltwater intrusion by this development is demonstrated to affect well water of abutting existing dwellings, the petitioner shall take appropriate remedial action to provide potable water to these properties. (Previous Condition 10 of Resolution R-80-1105, Petition 1980-054C)

E. ENGINEERING

1. Prior to master plan certification, the master plan shall be amended to indicate a clear corner distance of twenty-five (25) feet at the intersection of two (2) public rights-of-way. (Previous Condition 2 of Resolution R-80-1105, Petition 1980-054C)[COMPLETED]
2. All property included in the legal description of this petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's Office which shall provide, among other things, for: Formation of a single "master" property owner's association, and automatic membership in the "master" association by any party holding title to any portion of the property included in the Planned Unit Development. (Previous Condition 3 of Resolution R-80-1105, Petition 1980-054C) [COMPLETED]
3. The developer shall retain the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However at a minimum, this development shall retain onsite the first one inch of the stormwater runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. (Previous Condition 6 of Resolution R-80-1105, Petition 1980-054C)
4. The property owner shall convey for the ultimate right-of-way of Prosperity Farms Road (Palmwood Road) 68 feet from centerline (approximately an additional 28 feet) within 90 days of the approval of the Resolution approving this project or prior to Certification of the Master Plan whichever shall first occur. (Previous Condition 7 of Resolution R-80-1105, Petition 1980-054C) [COMPLETED]
5. Previous Condition E.8. of Resolution R-80-1105, Petition 1980-054C, which currently states:

**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 presently is:**

- a) **\$804.00 per single-family dwelling unit under 2,000 square feet.**
- b) **\$1,045 per single-family dwelling unit over 2,000 square feet.**
- c) **\$562 per multi-family dwelling unit.**

Is hereby deleted. [Reason: Impact fees are now code requirement]

6. The property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed for Prosperity Farms Road, 70 feet from centerline on or before, June 1, 2006. Right of way conveyance shall be along the projects northerly 145.38 feet, 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. (DATE: MONITORING - Eng)

7. Prior to June 1, 2005, the property owner shall convey a temporary roadway construction easement along Prosperity Farms 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. (DATE: MONITORING - 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)