

RESOLUTION NO. R-2005- 0156

RESOLUTION APPROVING ZONING APPLICATION DOA2004-655
(CONTROL NUMBER 2002-063)
DEVELOPMENT ORDER AMENDMENT
PETITION OF ESTATES OF PENNOCK POINT LLC
BY KILDAY & ASSOCIATES, INC. , AGENT
(HARBOR PLACE)

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 DOA2004-655 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 DOA-2004-655, the application of Estates of Pennock Point LLC and Cypress Island Property Owners Association, Inc., by Kilday & Associates, Inc., agent, for a Development Order Amendment to add/delete land area and reconfigure site plan 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

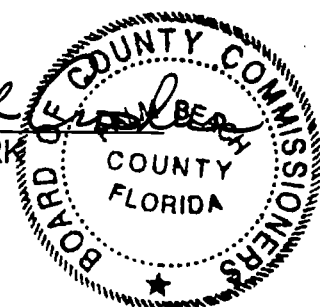


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATE IN SECTION 20, TOWNSHIP 41 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF TRACT "M-A" AS SHOWN ON 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; THENCE SOUTH $31^{\circ}12'32''$ EAST 171.11 FEET ALONG THE WESTERLY LINE OF SAID TRACT "M-A" AS SHOWN ON SAID PLAT; THENCE SOUTH $41^{\circ}31'24''$ WEST 304.92 FEET ALONG THE EXTENSION OF THE NORTHERLY LINE OF EASEMENT "E" AS SHOWN ON SAID PLAT; THENCE DEPARTING SAID NORTHERLY LINE NORTH $48^{\circ}28'36''$ EAST 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 $22^{\circ}23'56''$ WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $07^{\circ}02'39''$ AN ARC LENGTH OF 15.12 FEET TO A POINT OF NON-TANGENCY; THENCE SOUTH $40^{\circ}47'40''$ WEST 45.58 FEET; THENCE SOUTH $89^{\circ}36'09''$ 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 $89^{\circ}36'09''$ 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 NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $12^{\circ}13'15''$ AN ARC LENGTH OF 619.60 FEET TO A POINT OF NON-TANGENCY, SAID POINT ALSO LYING ON THE SOUTH LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3455 AT PAGES 1003 AND 1004 OF SAID PUBLIC RECORDS; THENCE SOUTH $87^{\circ}43'14''$ EAST 468.51 FEET TO A POINT ON THE WEST LINE OF THE EAST ONE-HALF OF THE FLORIDA EAST COAST CANAL AS RECORDED IN DEED BOOK 443 AT PAGE 430 OF SAID PUBLIC RECORDS; THENCE SOUTH $31^{\circ}11'37''$ EAST 239.83 FEET ALONG SAID WEST LINE TO A POINT ON THE NORTH LINE OF SAID TRACT "M-A"; THENCE SOUTH $58^{\circ}47'28''$ WEST 213.89 FEET ALONG THE NORTH LINE OF SAID TRACT "M-A" TO THE POINT OF BEGINNING.

SAID LANDS LYING, SITUATE AND BEING IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 272,447.983 SQUARE FEET (6.255 ACRES) MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

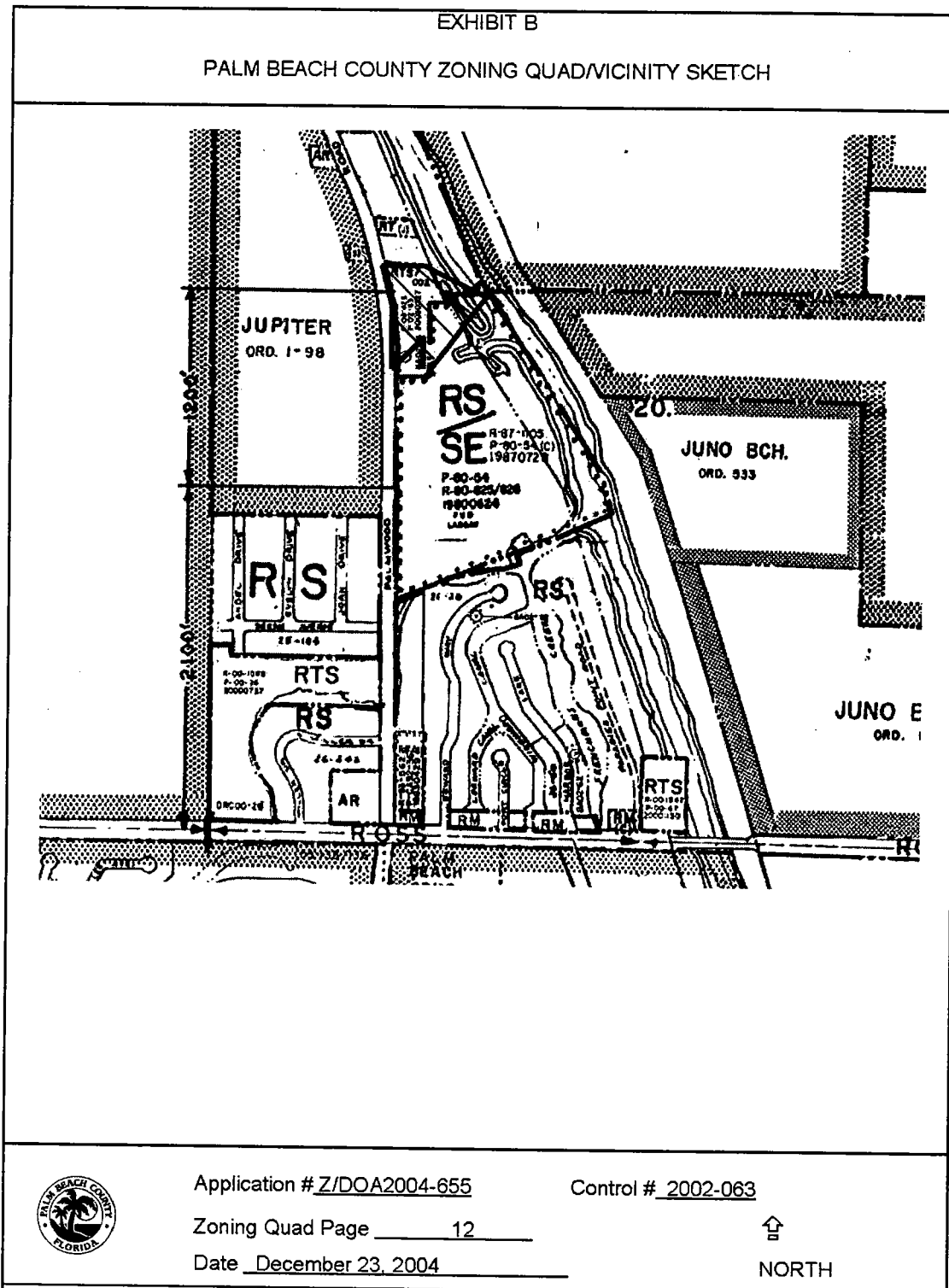


EXHIBIT C

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 applicable to the subject property, as contained in Resolutions R-03-0423 (Petition 2002-063) 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. Previous condition A.1 of Resolution R-2003-0423, Petition 2002-063, which currently states:

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 January 16, 2003. 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.

Is hereby amended to read:

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 2004-655 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. LANDSCAPING - STANDARD

1. **Fifty-percent (50%) of trees to be planted in the perimeter buffers shall be native canopy trees unless specified otherwise, and meet the following minimum standards at installation:**
 - a. **Tree height: Fourteen (14) feet;**
 - b. **Trunk diameter: 3.5 inches measured at 4.5 feet above grade;**
 - c. **Canopy diameter: Seven (7) feet - diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length; and,**
 - d. **Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous condition B.1 of Resolution R-2003-0423, Petition 2002-063)**
2. **All palms required to be planted in perimeter buffers shall meet the following minimum standards at installation:**
 - a. **Palm heights: twelve (12) feet clear trunk;**

- b. **Clusters: staggered heights twelve (12) to eighteen (18) feet; and,**
 - c. **Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous condition B.2 of Resolution R-2003-0423, Petition 2002-063)**
3. **All shrub or hedge materials required to be planted in perimeter buffers shall be native, and planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:**
- a. **Eighteen (18) to twenty-four (24) inches - groundcover and small shrub;**
 - b. **Twenty-four (24) to thirty-six (36) inches - medium shrub;**
 - c. **Forty-eight (48) to seventy-two (72) inches - large shrub;**
 - d. **Shrubs shall be installed on the exterior side of a wall, where applicable; and,**
 - e. **This condition shall not apply where a single-row of shrubs or hedges are required on one (1) side of a wall. (CO: LANDSCAPE - Zoning) (Previous condition B.3 of Resolution R-2003-0423, Petition 2002-063)**
4. **All trees and palms required to be planted in perimeter buffers shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning) (Previous condition B.4 of Resolution R-2003-0423, Petition 2002-063)**
5. **Prior to final Development Review Committee (DRC) certification of the landscape plan, the petitioner shall coordinate with Palm Beach County Landscape staff to ensure that landscaping is similar to and/or consistent with materials provided in the Bears Club PUD landscape buffer on the west side of Palmwood Road. (DRO: LANDSCAPE - Zoning) (Previous condition B.5 of Resolution R-2003-0423, Petition 2002-063)**
6. **Prior to final approval of the site plan by the Development Review Officer (DRO) the property owner shall submit an Alternative Landscape Plan (ALP) for the 410 feet of the northeast buffer abutting the intracoastal waterway.**

C. LANDSCAPING ALONG WEST PROPERTY LINE (PALMWOOD ROAD FRONTAGE)

1. **Landscaping along the west property line fronting on Palmwood Road, shall be upgraded to include:**
- a. **One (1) native canopy tree for each thirty (30) linear feet of property line, of which a minimum of fifty (50) percent shall be oak trees;**
 - b. **One (1) palm or pine tree for each thirty (30) linear feet of property line, of which a minimum of fifty (50) percent shall be pine trees, to be planted in clusters with a minimum spacing of ninety (90) feet;**
 - c. **One (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches;**
 - d. **One (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches; and**
 - e. **One (1) large shrub for each eight (8) linear feet of property line, to be installed at a minimum height of thirty (30) inches. (BLDG**

D. 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 HOME BUYERS/TENANTS"

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) 434-81 00 for the most current school assignment(s). (ONGOING: SCHOOL BOARD - School Board) (Previous condition D.1 of Resolution R-2003-0423, Petition 2002-063)

E. ENGINEERING

1. Condition E.1. of Resolution R-2003-0423, Petition 2002-063, which currently states:

Prior to December 15, 2003, or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Palmwood Road, an additional 30 feet of right-of-way of right of way along the Project's entire frontage. This additional right of way shall be 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 "Corner Clips" where appropriate at intersections as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING - Eng) (Previous condition E.1 of Resolution R-2003-0423, Petition 2002-063)

Is hereby amended to read:

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, 2005. 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. (DATE: MONITORING - Eng)

2. Previous Condition E.2 of Resolution R-2003-0423, Petition 2002-063, which currently states:

Prior to issuance of a building permit, the property owner shall convey a temporary roadway construction easement along Palmwood 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) -063)

Is hereby amended to read:

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)

3. **Prior to issuance of a building permit, the property owner shall convey a roadway construction easement to Palm Beach County at the Projects Entrance Road. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owner's road right of way. Construction by the applicant within this easement shall conform to 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 condition E.3 of Resolution R-2003-0423, Petition 2002-063)**

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) (Previous condition F.1 of Resolution R-2003-0423, Petition 2002-063)**
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) (Previous condition F.2 of Resolution R-2003-0423, Petition 2002-063)