

RESOLUTION NO. R-2008- 1358

RESOLUTION APPROVING ZONING APPLICATION PDD2007-02012
(CONTROL NO. 2007-00482)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
APPLICATION OF REALTY DUKE
BY MILLER LAND PLANNING, AGENT
(JOG DISTRIBUTION)

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 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 PDD2007-02012 was presented to the Board of County Commissioners at a public hearing conducted on July 24, 2008; 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 recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the Palm Beach County Unified Land Development Code (ULDC) 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 official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan.
2. This official zoning map amendment (rezoning) is consistent with the stated purpose and intent and requirements of the Palm Beach County Unified Land Development Code. The rezoning request is also consistent with the requirements of all other applicable local land development regulations.
3. This official zoning map amendment (rezoning) is compatible and generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land.
4. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
5. This official zoning map amendment (rezoning) will result in a logical, orderly and timely development pattern.
6. This official zoning map amendment is consistent with applicable Neighborhood Plans.
7. This official zoning map amendment (rezoning) complies with Article 2.F (Concurrency) of the Palm Beach County Unified Land Development Code.

8. The applicant has demonstrated that there are sufficient changed conditions or circumstances that require an amendment.

WHEREAS, Article 2.A.1.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 PDD2007-2012, the application of Realty Duke, by Miller Land Planning, agent, for an Official Zoning Map Amendment to a Planned Development District rezoning from the Agricultural Residential Zoning District to the Multiple Use Planned Development Zoning District in the MUPD Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on July 24, 2008, 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:

Addie L. Greene, Chairperson	¥ Aye
Jeff Koons, Vice Chair	¥ Aye
Karen T. Marcus	¥ Aye
Robert J. Kanjian	¥ Aye
Mary McCarty	¥ Absent
Burt Aaronson	¥ Aye
Jess R. Santamaria	¥ Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 24, 2008.

Filed with the Clerk of the Board of County Commissioners on July 29, 2008.

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 R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

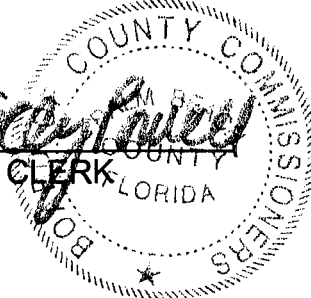


EXHIBIT A

LEGAL DESCRIPTION

All of that portion of Tracts 9 and 15 and that portion of a 30 foot wide Right-of-Way lying in Block 4, Palm Beach Farms Company Plat No.3, as recorded in Plat Book 2, Page 45 through 54, Public Records of Palm Beach County, Florida. Lying Northwesterly of the Sunshine State Parkway (Florida's Turnpike) Less Northerly 47.19 feet for Lake Worth Drainage District Lateral 2 Canal, as recorded in O.R. Book 6495, Page 761, Public Records of Palm Beach County, Florida. Said Parcel lying in section 27 and 28, Township 43 South, Range 42 East, Palm Beach County, Florida.

ALSO DESCRIBED AS:

A parcel of land lying in Sections 27 and 28, Township 43 South, Range 42 East, Palm Beach County, Florida, said parcel being a portion of Tracts 9 and 15 and that portion of a 30 foot wide Right-of-Way lying in Block 4, Palm Beach Farms Company Plat No.3, as recorded in Plat Book 2, Page 45 through 54, Public Records of Palm Beach County, Florida, being more particularly described as follows:

Commencing at a found Palm Beach County brass disc, said disc being the intersection of the West line of said Block 4 and the centerline of the 30.00 foot wide right-of-way between Tracts 3 and 10 of said Block 4;

thence North 89°02'44" East, along said centerline, a distance of 1344.62 feet;

thence South 00°57'28" East, along the West line of said Tract 9 and the Northerly extension thereof, a distance of 62.19 feet to the POINT OF BEGINNING;

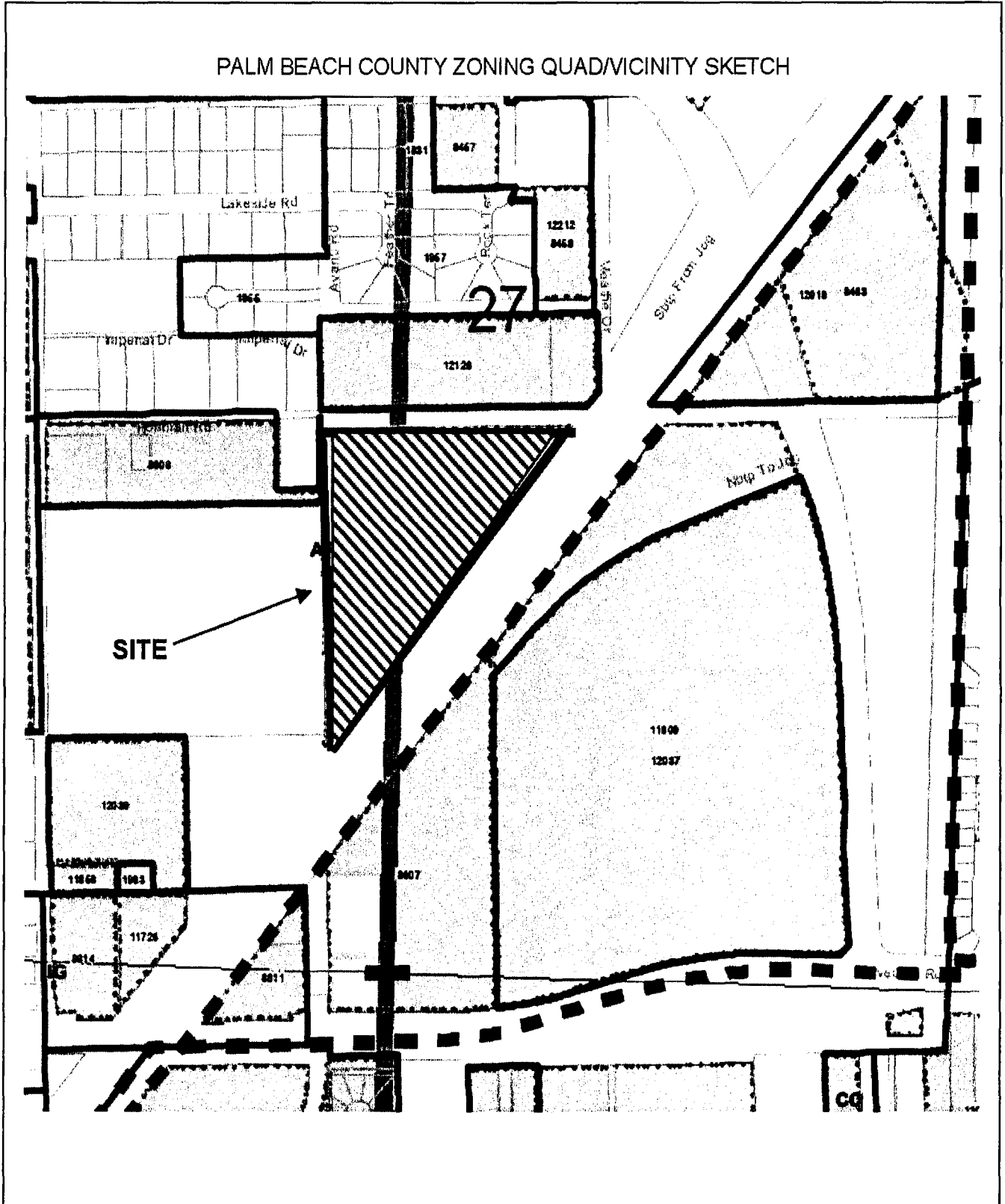
thence North 89°02'44" East, along a line 47.19 feet South of and parallel with the North line of said Tract 9, also being the South line of the Lake Worth Drainage District L-2 Canal Right-of-Way, a distance of 1192.99 feet to the Northwesterly Right-of-way line of the Florida Turnpike (Sunshine State Parkway) as per Florida State Turnpike Authority Right-of-way map Station 2795+00 to Station 2909+37.62;

thence South 40°38'55" West, along said Northwesterly Right-of-way line, a distance of 1796.66 feet;

thence North 00°57'28" West, along the West line of said Tracts 9 and 15, and the extensions thereof, a distance of 1343.48 feet to the POINT OF BEGINNING.

The above-described property contains 18.397 acres, more or less.

EXHIBIT B
VICINITY SKETCH



Application No. 2007-2012
Zoning Quad 31
Date July 3, 2008



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated March 17, 2008. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the wholesale building shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

ENGINEERING

1. CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY

The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for the north-south access road and associated cul-de-sac as shown on the applicants accompanying site plan. This additional right of way shall be 80 feet in width on an alignment approved by the County Engineer plus right of way to provide for a cul-de-sac at the terminus of the roadway. All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of a Building Permit. Right of way conveyance shall be free of all encroachments and encumbrances. 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. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of 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. 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 provisions for Expanded Intersection Details and "Corner Clips." The Property Owner shall not record these required deeds or related documents. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG. PERMIT: MONITORING-Eng)

2. The Property owner shall construct:

- the north-south access road along the projects east property line from the present paved terminus south of Jog Road, south to the projects entrance road. This road shall be to collector street standards, 2-12 foot travel lanes.
- a restricted median opening at the north south access road and Jog Road
- right turn lane north approach on Jog Road at the north south access road.

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)

3. 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 for the site may be issued after January 1, 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, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

B) Building Permits for more than 147,500 gross leasable floor area shall not be issued until contract has been awarded for the construction of Okeechobee Boulevard as a 8 lane facility from Royal Palm Beach High School Entrance to the Florida Turnpike plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)

ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING:ERM-ERM)

2. An upland set-aside preserve equal to or greater than 1.87 acres shall be depicted on the site plan in a location that contains the highest quality native vegetation and is approved by ERM. (ONGOING:ERM-ERM)

3. A Preserve Management Plan and form of recordation such as Conservation Easement, Restrictive Covenant or Plat, shall be approved by ERM prior to final site plan approval. (DRO:ERM-ERM)

LANDSCAPING-STANDARD

1. Prior to the issuance of the first building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

2. A minimum of sixty-five (65) percent of all canopy trees required to be planted in the landscape buffers shall be native 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. (BLDG PERMIT: LANDSCAPE - Zoning)

3. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation, unless otherwise indicate herein:

- 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. (BLDG PERMIT: LANDSCAPE - Zoning)

4. Field adjustment of wall and plant material location may be permitted to provide pedestrian sidewalks and bike paths, and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

5. Preservation areas along the west 360 feet of the north property line and the north 390 feet of the west property line may be excluded from perimeter landscape buffer planting and berm requirements, subject to the following:

- a. prior to final approval by the Development Review Officer (DRO), documentation that demonstrates native preserve area vegetation will meet or exceed the screening provided by required perimeter landscaping shall be submitted to the Landscape Section for review and approval; and,
- b. additional native vegetation may be relocated or added to preserve areas to meet the intent of this condition. (DRO: LANDSCAPE - Zoning)

LANDSCAPING ALONG THE NORTH PROPERTY LINE

6. A minimum five (5) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted; and,
- a. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPING ALONG THE SOUTHEAST PROPERTY LINE (ADJACENT TO THE SUNSHINE STATE PARKWAY- FLORIDA TURNPIKE)

7. In addition to the code requirements, landscaping and or buffer width on the southeast property line adjacent to the Florida Turnpike, shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip; and,
- b. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPING ALONG THE WEST PROPERTY LINE

8. In addition to the proposed landscaping and code requirements, landscaping and/or buffer adjacent to the west property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a six (6) foot hedge at time of installation. Hedge to be maintained at six (6) feet in height in perpetuity. (BLDG PERMIT: LANDSCAPE – Zoning)

SIGNS

1. Freestanding signs fronting on Meathe Drive shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - six (6) feet;
- b. maximum sign face area per side - sixty (60) square feet;
- c. maximum number of signs - one (1);
- d. style - monument style only;
- e. location - within one hundred (100) feet of the entryway on Meathe Drive. (BLDG PERMIT: BLDG-Zoning)

USE LIMITATIONS

1. Repair or maintenance of vehicles shall not be permitted on the property, excluding emergency and/or incidental repairs. (ONGOING: CODE ENF - Zoning)

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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, 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 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 a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)