

RESOLUTION NO. R-2008- 1385

RESOLUTION APPROVING ZONING APPLICATION CA2007-01618
(CONTROL NO. 2007-00343)
CLASS A CONDITIONAL USE
APPLICATION OF WESTGATE ONE LLC
BY LAND DESIGN SOUTH, INC., AGENT
(WESTGATE ONE)

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

WHEREAS, the Board of County Commissioners, pursuant to Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; 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 CA2007-01618 was presented to the Board of County Commissioners at a public hearing conducted on August 28, 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 Class A Conditional Use 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 Class A Conditional Use complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Class A Conditional Use also meets applicable local land development regulations. This Class A Conditional Use, 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.
3. This Class A Conditional Use, 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 Class A Conditional Use, 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.
6. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Class A Conditional Use, with conditions as adopted, is consistent with applicable Neighborhood Plans.
8. This Class A Conditional Use 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 Class A Conditional Use.

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 CA2007-01618, the application of Westgate One LLC, by Land Design South, Inc., agent, for a Class A Conditional Use to exceed 10 dwelling units an acre within the Westgate Overlay 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 August 28, 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 McCarty 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	¥

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 28, 2008.

Filed with the Clerk of the Board of County Commissioners on September 2, 2008.

This resolution was filed with the Clerk of the Board of County Commissioners on September 2, 2008.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

SHARON R. BOCK
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK

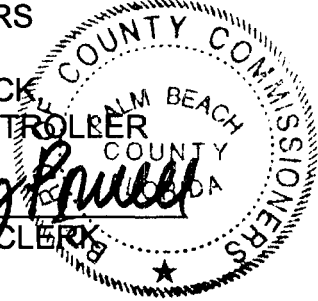


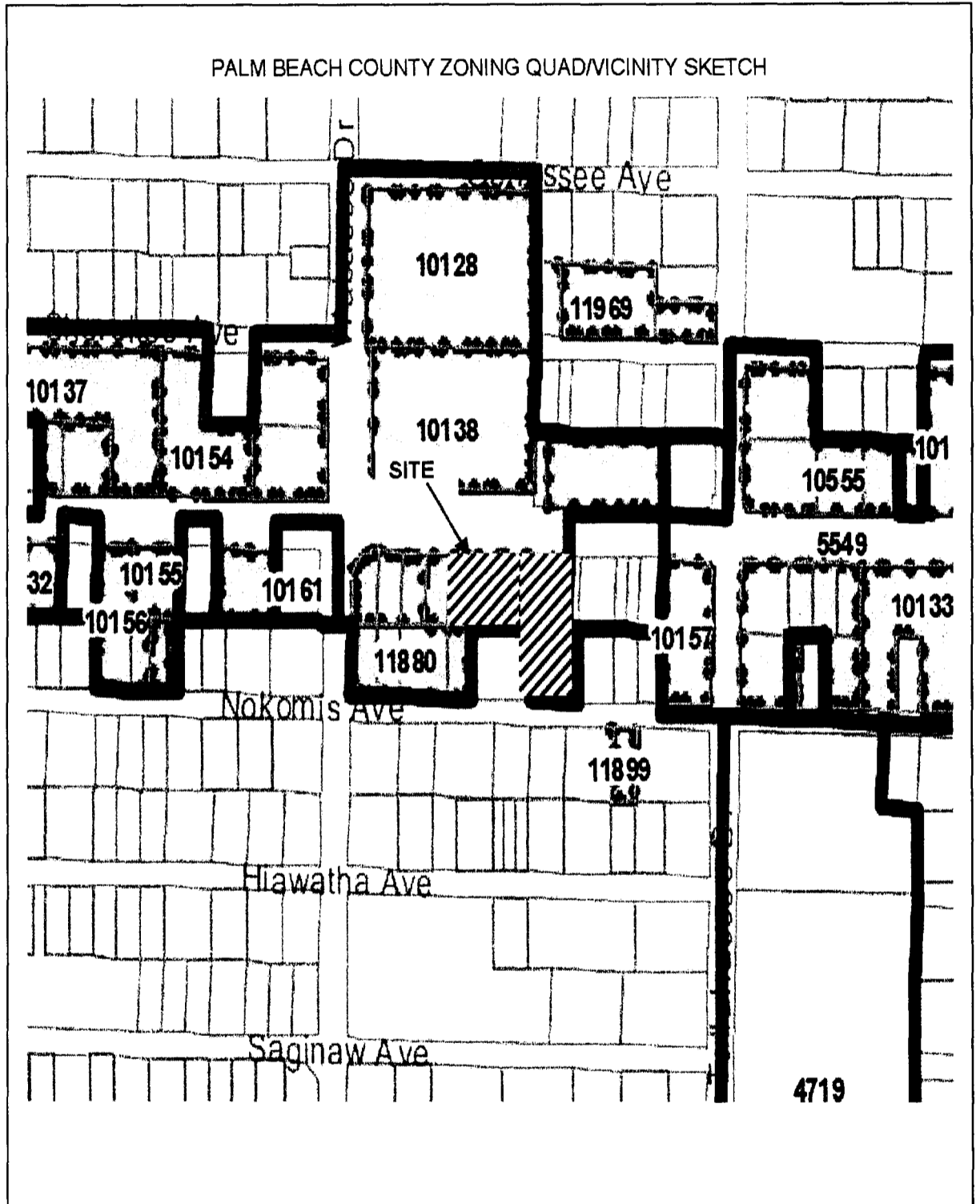
EXHIBIT A
LEGAL DESCRIPTION

Lots 9-19, inclusive and Lots 46-49, inclusive, in Block 32, of "WEST GATE ESTATES (NORTHERN SECTION), according to the Plat thereof, as recorded in Plat Book 8, Page 38, of the Public Records of Palm Beach County, Florida.

Said lands situate in Palm Beach County, Florida.

Containing 43,125 square feet/0.9900 acres, more or less.

EXHIBIT B
VICINITY SKETCH



Application No. 2007-1618
Zoning Quad 16
Date August 7, 2008



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved preliminary site plan is dated May 19, 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. (DRO: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for retail/office/multi-family 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)

2. The exterior elevations of all buildings shall combine the gutters and downspouts into the architectural design of the building. Painting the gutters shall not constitute compliance. (DRO: ARCH REVIEW - Zoning)

ENGINEERING

1. 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 August 28, 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)

2. No Building Permits for the site shall be issued until the applicant obtains a confirmation from the Traffic Division that the applicable maximum allowable limits for the development identified in Table TE-6 of the Comprehensive Plan will not be exceeded. (BLDG PERMIT: MONITORING- Eng)

LANDSCAPE – INTERIOR

1. Prior to final approval by the Development Review Officer (DRO), the plan shall be amended to indicate a focal point along the Westgate Avenue property line. Sand-set pavers or other pervious concrete materials shall be provided to create a plaza along a minimum 80% of building length. At a minimum, six (6) planters with a minimum dimension of six (6) foot on each side shall be provided. Each required planter shall have at least one palm with a minimum twenty (20) ft overall height. A fountain of equal dimension may be substituted for one of the required planters with palm. The design and location of this element(s) shall be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed 20 feet in height measured from finished grade to highest point. Outdoor, freestanding lighting fixtures that are located along Westgate Avenue or Nokomis Avenue shall not exceed 30 feet in height. (BLDG PERMIT: BLDG - Zoning)

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 PARENTS OF SCHOOL AGE CHILDREN"

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) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING School Board.)

USE LIMITATIONS

1. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)

2. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility or on the property. (ONGOING: CODE ENF - Zoning)

VARIANCE

1. Prior to the submittal for final approval by the Development Review Officer (DRO), the approved variance(s) and any associated conditions of approval shall be reflected on the site plan. (DRO:ZONING-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)