

RESOLUTION NO. R-2008- 2257

RESOLUTION APPROVING ZONING APPLICATION DOA-2008-01195
(CONTROL NUMBER 2006-00368)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF HRS Palm Beach LCC
BY Miller Land Planning, AGENT
(Regions Bank at Carlyle)

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-2008-01195 was presented to the Board of County Commissioners at a public hearing conducted on December 4, 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 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.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
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, 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.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. 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-2008-01195, the application of HRS Palm Beach LCC, by Miller Land Planning, agent, for a Development Order Amendment to reconfigure the 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 December 4, 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 Greene and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Absent
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Mary McCarty	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on December 4, 2008.

Filed with the Clerk of the Board of County Commissioners on 4th day of December, 2008.

This resolution was filed with the Clerk of the Board of County Commissioners on December 8, 2008.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

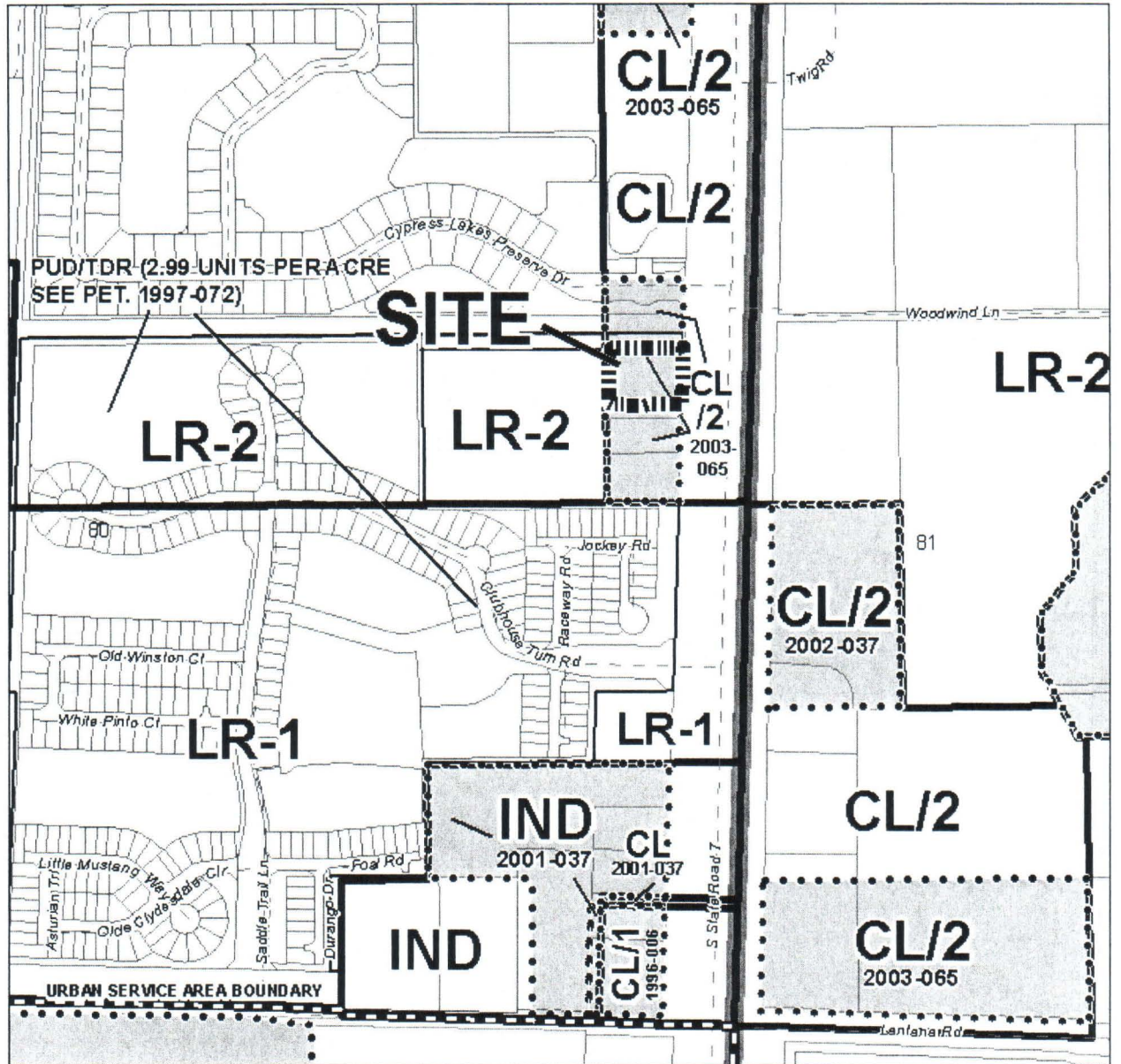
A portion of Tract 17, Block 35, Palm Beach Farms Company Plat No. 3, according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 2, Pages 45-54, inclusive, being more particularly described as follows:

COMMENCE at the intersection of the Westerly right-of-way line of State Road No. 7, said right-of-way line shown in Road Plat Book 1, Pages 35 to 41, Public Records of Palm Beach County, Florida, with the South line of said Tract 17; thence Northerly, along said Westerly right-of-way line, a distance of 564.39 feet, more or less, to a point of intersection with a line 97.00 feet Southerly of and parallel with, as measured at right angles to, the North line of said Tract 17; thence South 87° 31' 37" West, along said parallel line, said parallel line also being the Easterly prolongation of the Southerly line of Tract B1, Thoroughbred Lake Estates Plat 1, according to the plat thereof, recorded in Plat Book 91, Page 75, said Public Records, a distance of 158.37 feet, more or less, to the West right-of-way line of State Road No. 7, Parcel No. 130, as recorded in Official Records Book 10616, Page 482, said Public Records, and the **POINT OF BEGINNING** of the following described parcel of land; thence South 00°00'52" East, along said West right-of-way line (said West right-of-way line is assumed to bear South 00°00'52" East and all other bearings are relative thereto), a distance of 173.92 feet; thence departing said right-of-way line, South 87°33'51" West a distance of 263.48 feet; thence North 00°00'52" West, parallel with said West right-of-way line of State Road No. 7, Parcel No. 130, a distance of 173.75 feet to a point on a line, 97 feet Southerly of and parallel with, as measured at right angles to, the North line of said Tract 17, (said parallel line being common with the Southerly line of said Tract B1); thence North 87°31'38" East, along said parallel line, a distance of 263.49 feet to said West right-of-way line of State Road No. 7, Parcel No. 130, and the **POINT OF BEGINNING**.

Containing in all, 1.0505 Acres, more or less

EXHIBIT B
VICINITY SKETCH

**PALM BEACH COUNTY PLANNING DIVISION
SITE LOCATION AND LAND USE**



Application Number: DOA-2008-1195
 Control Number: 06-368
 Land Use Atlas Page: 80
 Date: 09/25/08 (RegionsBank@Carlyle)



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2007-425 (Control 2006-368), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Condition All Petitions 1 of Resolution 2007-425, Control 2006-368 which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated January 11, 2007. 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)

Is hereby amended to read:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Site plan is dated September 15, 2008. Replacement of a use by another use listed as permitted by right or permitted subject to approval by the Development Review Officer (DRO) pursuant to Table 4.4.A.3-A.1 may be allowed subject to the approval by the DRO. All other 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 (DRO: ZONING - Zoning)

ENGINEERING

1. Previous Condition E.1 of Resolution R-2007-425, Control 2006-368, which currently states:

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

No Building Permits for the site may be issued after March 22, 2010. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with the 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 for the site shall be issued after December 31, 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.E of the Unified Land Development Code. (DATE: MONITORING - Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy (CO: MONITORING-Eng)

2. Previous Condition E.2 of Resolution R-2007-425, Control 2006-368, which currently states:

Prior to issuance of a Building Permit the Property Owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. A recorded plat waiver is also acceptable, provided this property is eligible for a plat waiver in accordance with the provisions of the ULDC as determined by the County Engineer. (BLDG PERMIT: MONITORING-Eng)

Is hereby amended to read:

Prior to issuance of a Building Permit the Property Owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

3.The Property owner shall construct:

- a right turn lane north approach on SR-7 at the 80 feet non-plan collector road that will be used for project entrance. The length of the right turn lane on SR-7 should be 280 feet + 50 feet taper, or as approved by the FDOT.

- an 80 foot non-plan collector road starting from SR-7 and extending west with appropriate terminus on a design as approved by the County Engineer.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the above 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 and/or FDOT for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)

HEALTH

1.The property owners and operators of facilities generating industrial, hazardous, or toxic waste shall not deposit or cause to be deposited any such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used.

(ONGOING: CODE ENF. -Health) (Previous condition Health 1. of Resolution R-2007-425, Control 2006-368)

SIGNS

1.Condition Signs 1 of Resolution 2007-425, Control 2006-368 which currently states:

Freestanding sign fronting on State Road 7 shall be limited as follows:

a. maximum sign height, measured from finished grade to highest point - 10 feet;

b. maximum sign face area per side - 100 square feet;

c. maximum number of signs - 1

d. style - monument style only;

e. location State Road 7

f. sign shall be limited to identification. (BLDG PERMIT: BLDG - Zoning)

Is hereby amended to read:

Freestanding sign fronting on Carlyle Village Drive shall be limited as follows:

a. maximum sign height, measured from finished grade to highest point - 10 feet;

b. maximum sign face area per side - 100 square feet;

c. maximum number of signs - 1

d. style - monument style only; and

e. location Carlyle Village Drive. (BLDG PERMIT: BLDG - Zoning)

UTILITIES

1.. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete

design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD/PBCWUD) (Previous Water Utilities Condition 1 of Resolution 2007-425, Control 2006-368)

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 Compliance Condition 1 of Resolution 2007-425, Control 2006-368)

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) (Previous Compliance Condition 1 of Resolution 2007-425, Control 2006-368)