

RESOLUTION NO. R-2012- 0775

RESOLUTION APPROVING ZONING APPLICATION EAC-2012-01008
(CONTROL NO. 2006-00011)
an Expedited Application Consideration
APPLICATION OF TBT Partners LLLP
BY Urban Design Kilday Studios, AGENT
(Bethesda West Hospital MUPD)

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 notice and public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended), have been satisfied; and

WHEREAS, Zoning Application EAC-2012-01008 was presented to the Board of County Commissioners at a public hearing conducted on May 24, 2012; 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, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) 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 the request; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a an Expedited Application Consideration.

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 EAC-2012-01008, the petition of TBT Partners LLLP, by Urban Design Kilday Studios, agent, for an Expedited Application Consideration to modify a Condition of Approval (Architectural Review) 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 May 24, 2012, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

The motion was seconded by Commissioner Taylor and, upon being put to a vote, the vote was as follows:

Commissioner Shelley Vana, Chair	-	Aye
Commissioner Steven L. Abrams, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	
Commissioner Paulette Burdick	-	Aye
Commissioner Burt Aaronson	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 24, 2012.

Filed with the Clerk of the Board of County Commissioners on June 8, 2012.

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 FLORIDA

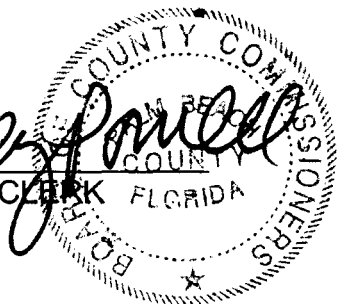


EXHIBIT A

LEGAL DESCRIPTION

TRACT "A", BETHESDA WEST HOSPITAL MUPD, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 113, PAGE 73, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

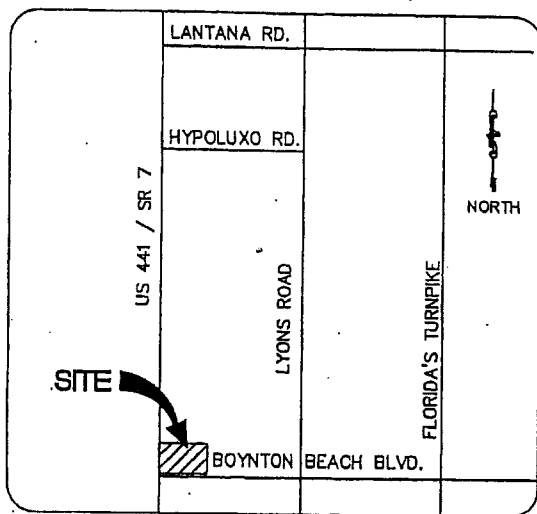
SUBJECT TO RESERVATIONS, EASEMENTS AND RESTRICTIONS OF RECORD.

EXHIBIT B

VICINITY SKETCH

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



LOCATION MAP
N.T.S. SECT: 21 / TWP: 43S / R1G: 42E



Petition No: 06-11
Zoning Quad Page: 50
Date: 4-18-12



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Previous All Petition Condition 1. of Resolution R-2011-0425 which currently states:

The approved preliminary site plan is dated January 13, 2011. Modifications to the Development Order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

Is hereby amended to read:

The approved Preliminary Site Plan is dated April 18, 2012. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. Based on Article 2.E of the Unified land Development Code, this Development Order meets the requirements to receive a new three (3) year review date from date of approval of this resolution. (DATE: MONITORING - Zoning) (Previous All Petition Condition 2 of Resolution R-2011-0425)

ARCHITECTURAL REVIEW

1. At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for the primary Hospital 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: ZONING - Arch. Review) (Previous Architectural Review Condition 1. of Resolution R-2011-0425)

2. Previous Architectural Review Condition 2. of Resolution R-2011-0425 which currently states:

The maximum height for the two Medical Office Buildings A and B located on the west portion of the site shall not exceed thirty-eight (38) feet. All heights shall be measured from finished grade to highest point. (DRO: ARCH REVIEW - Zoning)

Is hereby amended to read:

The maximum height for the two Medical Office Buildings (MOB) A and B located on the west portion of the site shall not exceed thirty-eight (38) feet. Mechanical Equipment and other uses cited in Article 3.D.4. of the ULDC may exceed the maximum height in accordance with this section. All heights shall be measured from finished grade to highest point. (DRO: ARCH REVIEW - Zoning)

HEALTH

1. The property owner shall not develop any areas of the site that is identified as contaminated or potentially contaminated as determined through environmental site assessments performed by a qualified professional, unless the property owner is in receipt or written comments from the Florida Department of Environmental Protection (FDEP) or Palm Beach County's Environmental Resource Management (ERM) approving the assessment and any site rehabilitation for which FDEP or ERM has jurisdiction. (ONGOING: CODE ENF-Health-ERM)(Previous Health Condition 1 of Resolution R-2011-0425) [NOTE: Complete]

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 December 31, 2016. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng) (Previous Architectural Review Condition 1. of Resolution R-2011-0425) (Previous Engineering Condition 1.a. of Resolution R-2011-0425)

b. Building Permits for more than:

- 190,090 square feet of gross leasable Hospital floor area
- 55,486 square feet of gross leasable Medical Office floor area shall not be issued until contract has been awarded for the construction of Hypoluxo Road as a 4 lane facility from Lyons Road to Hagen Ranch Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng) [Note: COMPLETED] (Previous Engineering Condition 1.d of Resolution R-2011-0425)

2. Prior to the issuance of a building permit the property owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Boynton Beach Boulevard at the project's middle and east entrance road. This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include Corner Clips" where appropriate as determined by the County Engineer. 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 Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDG PERMIT: MONITORING-Eng) (Previous Engineering Condition 4. of Resolution R-2011-0425)

[Note: COMPLETED]

Prior to issuance of the first building permit, the property owner shall provide a cross access easement to the property owner to the north and the property owner to the south. Locations of these cross access easements shall be approved by the County Engineer. Legal Sufficiency for this cross access easement shall be approved by the County Attorney. (BLDG PERMIT: MONITORING-Eng) (Previous Engineering Condition 5. of Resolution R-2011-0425)

[Note: Cross Access has been provided to the North]

3. The Property owner shall construct:

- right turn lane south approach on SR 7 at the project's entrance onto SR 7.
- restricted median opening and associated left turn north approach on SR 7 at the project's entrance onto SR 7.
- right turn lane east approach on Boynton Beach Boulevard at each of the project's entrances onto Boynton Beach Boulevard.
- relocate the proposed median opening on Boynton Beach Boulevard to the project's middle entrance onto Boynton Beach Boulevard to provide for a left turn lane east and west approaches.

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 from the Florida Department of Transportation 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) (Previous Engineering Condition 6. of Resolution R-2011-0425)

4. Landscape Within the Median of SR 7 and Boynton Beach Boulevard

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of S R 7 and Boynton Beach Boulevard. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below.

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

d. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING - Eng)

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along SR 7 and Boynton Beach Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: ENGINEERING - Eng)
(Previous Engineering Condition 7. of Resolution R-2011-0425)

5. SIGNALIZATION REQUIREMENTS - Boynton Beach Boulevard and the project's middle entrance:

The Property Owner shall fund the cost of signal installation if warranted as determined by the Florida Department of Transportation at Boynton Beach Boulevard and the project middle entrance. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation.

a. No Building Permits shall be issued until the developer provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDG PERMIT: MONITORING-Eng)

[Note: Surety posted]

b. In order to request release of the surety for the traffic signal at Boynton Beach Boulevard and the project middle entrance, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at this location. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENGINEERING-Eng)

(Previous Engineering Condition 8. of Resolution R-2011-0425)

HEALTH

The property owner shall not develop any areas of the site that is identified as contaminated or potentially contaminated as determined through environmental site assessments performed by a qualified professional, unless the property owner is in receipt or written comments from the Florida Department of Environmental Protection (FDEP) or Palm Beach County's Environmental Resource Management (ERM) approving the assessment and any site rehabilitation for which FDEP or ERM has jurisdiction. (ONGOING: CODE ENF-Health-ERM) (Previous Health Condition 1. of Resolution R-2011-0425) [NOTE: Complete]

LANDSCAPE - GENERAL

1. Prior to the issuance of a building permit, the property owner shall submit a 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) (Previous Landscape Condition 1. of Resolution R-2011-0425)

2. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 2. of Resolution R-2011-0425)

3. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 3. of Resolution R-2011-0425)

4. All landscape focal points shall be subject to review and approval by the Landscape Section and reflected on the Regulating Plan prior to final approval by the Development Review Officer (DRO). (DRO: LANDSCAPE - Zoning) (Previous Landscape Condition 4. of Resolution R-2011-0425)

5. All palms required to be planted on the property by this approval 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. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 5. of Resolution R-2011-0425)

6. A minimum of sixty (60%) percent of canopy trees 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: three and one-half (3.5) inches measured at four and one-half (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 three and one-half (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) (Previous Landscape Condition 6. of Resolution R-2011-0425)

LANDSCAPE - PERIMETER

7.LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTHEAST AND SOUTHWEST PROPERTY LINES (FRONTAGE OF BOYNTON BEACH BOULEVARD)

Landscaping and buffering along the southeast and southwest property lines shall be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip, No width reduction shall be permitted;
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet;
- c. one (1) native canopy tree (Live Oak) for each twenty-five (25) linear feet of the property line;
- d. one (1) palm (Royal Palm) tree for each fifty (50) feet on center; Ixora 'Nora Grant' shall be planted in a bed at the base of each Royal Palm;
- e. one (1) small shrub for each two (2) linear feet of the property line;
- f. Shrub shall be a minimum of eighteen (18) inches at installation;
- g. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum of twenty-four (24) inches at installation; and,
- h. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum of thirty (30) inches at installation. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 7. of Resolution R-2011-0425)

8.LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE WEST PROPERTY LINE

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

- 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) (Previous Landscape Condition 8. of Resolution R-2011-0425)

9.LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES

In addition to the code requirements and the proposed landscaping, landscaping and/or buffer width along the north and east property lines shall be upgraded to include:

- 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) (Previous Landscape Condition 9. of Resolution R-2011-0425)

PALM TRAN

1.Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (PLAT:ENG-Palm Tran) (Previous Palm Tran Condition 1. of Resolution R-2011-0425)

2. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran) (Previous Palm Tran Condition 2. of Resolution R-2011-0425)

3. Prior to final approval by the Development Review Officer (DRO), the property owner shall amend the Master Site Plan to indicate mass transit circulation, bus access, and/or bus stops on or adjacent to the subject property. (DRO: PALM TRAN-Zoning) (Previous Palm Tran Condition 3. of Resolution R-2011-0425)

SIGNS

1. Freestanding signs fronting on Boynton Beach Boulevard and U S Highway No. 441 (State Road 7) shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - twelve (12) feet;
- b. maximum sign face area per side one hundred and fifty (150) square feet;
- c. maximum number of signs - two (2) per frontage;
- d. style - monument style only;
- e. location - Boynton Beach Boulevard and U S Highway No. 441 (State Road 7). (BLDG PERMIT: BLDG - Zoning) (Previous Sign Condition 1. of Resolution R-2011-0425)

UTILITIES

1.. If any relocation/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 Utilities Condition 1. of Resolution R-2008-273)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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 (CO); 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 Unified Land Development Code (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 Official Zoning Map Amendment, Conditional Use, Requested Use, 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. (ONGOING: MONITORING - Zoning)