

RESOLUTION NO. R-2004-2272

RESOLUTION APPROVING ZONING PETITION DOA/EAC2004-483  
(CONTROL NO. 1998-043)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF TUYET PAYNE  
BY BASEHART CONSULTING, INC, AGENT  
(MERKET FAMILY MAUSOLEUM)

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 Petition DOA/EAC2004-483 was presented to the Board of County Commissioners at a public hearing conducted on October 28, 2004; 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 Petition DOA/EAC2004-483, the petition of Tuyet Payne, by Basehart Consulting, Inc, agent, for a Development Order Amendment/Expedited Application Consideration to modify conditions of approval for a Class A Conditional Use to allow a private mausoleum 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 October 28, 2004, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	-	Aye
Tony Masilotti, Vice Chairman	-	Aye
Jeff Koons	-	Aye
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on October 28, 2004.


Filed with the Clerk of the Board of County Commissioners on 15 day of November, 2004.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK

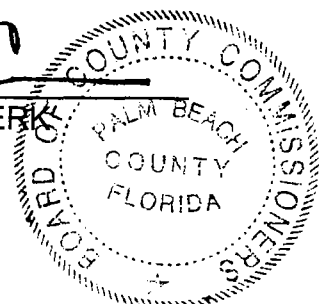
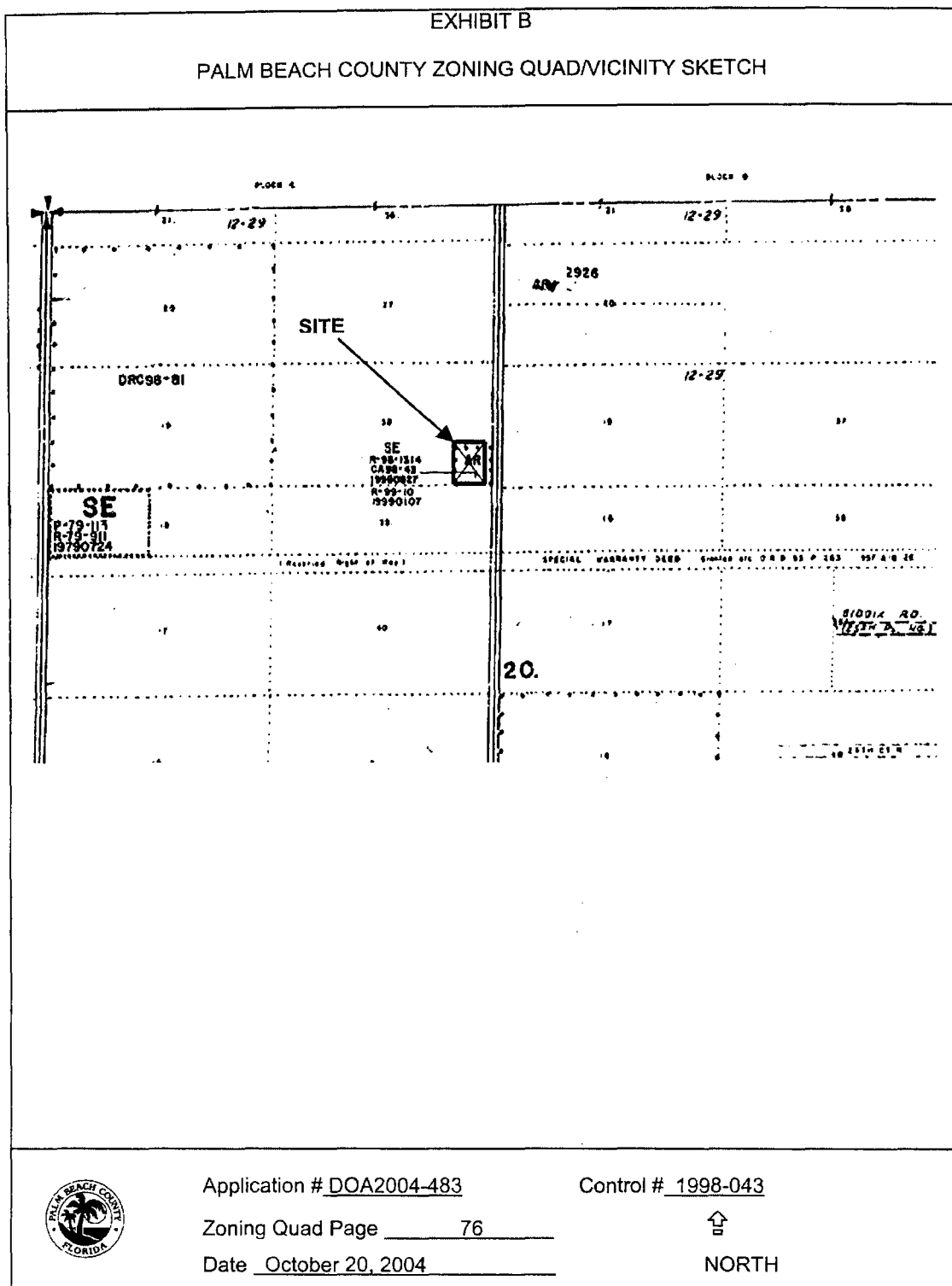


EXHIBIT A  
LEGAL DESCRIPTION

LOT 37, BLOCK "C", LOXAHATCHEE GROVES, 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 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY, AND COVENANTS OF RECORD.

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 that are applicable to the subject property, as contained in Resolution R-1998-1314 (Petition CA1998-043), 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. **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 August 17, 1998. 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.** (DRC: ZONING - Zoning) (Previous Condition A.1 of Resolution R-1998-1314, Petition CA1998-043)
3. **Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to indicate a twenty (20) foot wide easement along the entire east property line of the twenty (20) acre site, and this easement shall be dedicated to the Loxahatchee Groves Water Control District.** (DRC: LGWCD - Zoning) (Previous Condition A.2 of Resolution R-1998-1314, Petition CA1998-043) [NOTE: Competed.]

#### B. BUILDING AND SITE DESIGN

1. **The approved area (1.0 acre) shall be limited to the use as a private mausoleum for family members only.** (ONGOING: ZONING - Zoning) (Previous Condition B.1 of Resolution R-1998-1314, Petition CA1998-043)
2. **Total gross floor area of the mausoleum shall be limited to a maximum of 1,200 square feet.** (DRC: ZONING - Zoning) (Previous Condition B.2 of Resolution R-1998-1314, Petition CA1998-043)
3. **The maximum height for the mausoleum, measured from finished grade to highest point, shall not exceed twenty five (25) feet** (BLDG PERMIT: BLDG - Zoning) (Previous Condition B.3 of Resolution R-1998-1314, Petition CA1998-043)
4. **The mausoleum shall be constructed in conformance with the construction standards required by Chapter 497 of the Florida Statutes.** (BLDG PERMIT: BLDG - Zoning) (Previous Condition B.4 of Resolution R-1998-1314, Petition CA1998-043)

#### C. LANDSCAPING - STANDARD

1. Condition C.1 of Resolution R-1998-1314, Petition CA1998-043, which currently states:

**All canopy trees required to be planted on site by this approval shall meet the following minimum standards at installation:**

- a. **Tree height: twelve (12) feet.**
- b. **Trunk diameter: 3.5 inches measured 4.5 feet above grade.**
- c. **Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length.**
- d. **Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)**

Is hereby amended to read:

All new and/or replacement canopy trees required to be planted in the landscape buffers shall 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. (ONGOING: LANDSCAPE - Zoning)**
2. **Prior to July 28, 2005, the property owner shall replace all dead and/or missing plant materials on the entire 1-acre site. (DATE: LANDSCAPE - Zoning)**

**D. LANDSCAPING ALONG THE NORTH, SOUTH AND WEST PROPERTY LINES (ONE-ACRE SITE ONLY)**

1. **Landscaping and buffering along the above property lines shall include:**
- a. **A minimum ten (10) foot wide landscape buffer strip;**
  - b. **One (1) native canopy tree spaced no more than twenty (20) feet on center;**
  - c. **One (1) palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center. A group of three (3) palms shall not be substituted for a perimeter canopy tree; and,**
  - d. **Twenty four (24) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of seventy two (72) inches. (CO: LANDSCAPE - Zoning) (Previous Condition D.1 of Resolution R-1998-1314, Petition CA1998-043)**

**E. ENGINEERING**

There are no Conditions E.

**F. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING D ROAD) (ONE-ACRE SITE ONLY)**

1. **Landscaping and buffering along the east property line shall include:**
- a. **A minimum fifteen (15) foot wide landscape strip;**
  - b. **One (1) native canopy tree spaced no more than thirty (30) feet on center;**

- c. **One (1) palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center. A group of three (3) palms shall not be substituted for a perimeter canopy tree and;**
- d. **Twenty four (24) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of seventy two (72) inches. (CO: LANDSCAPE - Zoning) (Previous Condition F.1 of Resolution R-1998-1314, Petition CA1998-043)**

G. SIGNS

- 1. **No freestanding signs (excluding wall signs on the mausoleum) shall be permitted for the private mausoleum. (CO/ONGOING: BLDG/CODE ENF - Zoning) (Previous Condition G.1 of Resolution R-1998-1314, Petition CA1998-043)**

H. REMOVAL & MAINTENANCE AGREEMENTS

- 1. Condition H.1 of Resolution R-1998-1314, Petition CA1998-043, which currently states:

**Prior to final certification of the site plan by the Development Review Committee (DRC), the petitioner shall enter into a Removal Agreement with a Removal bond with the Palm Beach County. The mausoleum shall be removed from the one (1) acre site should the petitioner and its successors, heirs or assignees sell or no longer reside on the adjacent site (PCN 00-41-43-17-01-338-0040). The Agreement and the Bond shall be subject to the approval of the County Attorney. (DRC: ZONING - Co Atty)**

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the property owner shall enter into a Removal Agreement with Palm Beach County. The mausoleum shall be removed from the one (1) acre site should the property owner and successors, heirs or assignees sell or no longer reside on the adjacent site (PCN 00-41-43-17-01-338-0040). The Agreement shall be subject to the approval of the County Attorney. (DRO: DRO/CO ATTY - Zoning)

- 2. Condition H.2 of Resolution R-1998-1314, Petition CA1998-043, which currently states:

**Prior to final certification of the site plan by the Development Review Committee (DRC), the petitioner shall enter into a Maintenance Agreement with a Maintenance Bond with the Palm Beach County. The Maintenance Agreement and the Maintenance Bond shall cover the mausoleum and the landscaping. All required landscape buffers within the one (1) acre site shall be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and watering of plant material during periods of drought in order to maintain healthy plant material. The Agreement shall be subject to the approval of the County Attorney. (DRC: CODE ENF/ZONING - Co Atty)**

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the property owner shall enter into a Maintenance Agreement with Palm Beach County. The Maintenance Agreement shall cover the mausoleum and the

landscaping. All required landscape buffers within the one (1) acre site shall be the perpetual maintenance obligation of the property owner and successors, heirs or assignees. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and watering of plant material during periods of drought in order to maintain healthy plant material. The Agreement shall be subject to the approval of the County Attorney. (DRO/ONGOING: DRO/CODE ENF/CO ATTY - Zoning)

I. UNITY OF TITLE

1. **Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record in the public record a unity of title for the subject property (PCN 00-41-43-17-01-337-0010) and the adjacent property (PCN 00-41-43-17-01-338-0040). The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Atty) (Previous Condition I.1 of Resolution R-1998-1314, Petition CA1998-043) [NOTE: Completed.]**

J. USE LIMITATIONS

1. **The mausoleum shall be limited to one acre and a maximum capacity of twenty (20) family members only. (BLDG PERMIT/ONGOING: BLDG/CODE ENF - Zoning) (Previous Condition J.1 of Resolution R-1998-1314, Petition CA1998-043)**
2. **One vehicular access to the mausoleum site shall be provided from the adjacent 5-acre parcel identified as PCN 00-41-43-17-01-338-0040. (BLDG PERMIT/ONGOING: CODE ENF - Zoning) (Previous Condition J.2 of Resolution R-1998-1314, Petition CA1998-043)**

K. 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 K.1 of Resolution R-1998-1314, Petition CA1998-043)**
2. Condition K.2 of Resolution R-1998-1314, Petition CA1998-043, which currently states:

**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 majority vote of the Code Enforcement Board 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 5.8 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. (MONITORING)**

Is hereby amended to read:

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)