

RESOLUTION NO. R-2004-2275

RESOLUTION APPROVING ZONING PETITION CA2003-096
(CONTROL NUMBER 2003096)
CLASS A CONDITIONAL USE
PETITION OF WESTGATE ASSOCIATES, LLC
BY MILLER LAND PLANNING CONSULTANTS INC, AGENT
(WESTGATE COMMERCE PARK)

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 petitions relating to zoning; 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) 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 Petition CA2003-096 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, 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 (Compliance with Time Limitations) 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 Palm Beach County Comprehensive Plan, contingent upon the approval of Small Scale Development Amendment No. SCA 2004-00048;
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. 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.
5. 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.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.
9. 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.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2 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 CA2003-096, the petition of Westgate Associates, LLC, by Miller Land Planning Consultants Inc, agent, for a Class A Conditional Use to allow an office/warehouse in the General Commercial 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 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

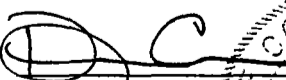
The Chair thereupon declared that this resolution shall not become effective until Small Scale Development Amendment No. SCA 2004-00048 (WESTGATE COMMERCE CENTER a.k.a. Westgate Commerce Plaza) is effective.

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

BY: 
COUNTY ATTORNEY

DOROTHY H. WILKEN, CLERK
BY: 
DEPUTY CLERK

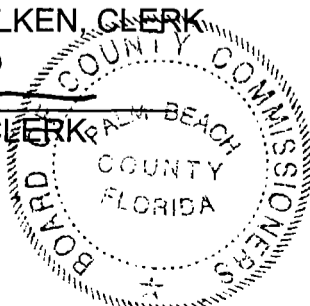


EXHIBIT A
LEGAL DESCRIPTION

THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; LESS THE NORTH 40.00 FEET THEREOF FOR WESTGATE AVENUE AS RECORDED IN ROAD PLAT BOOK 2, PAGE 205 PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE WEST 40.00 FEET, AND LESS THE SOUTH 425 FEET THEREOF.

CONTAINING 1.43 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

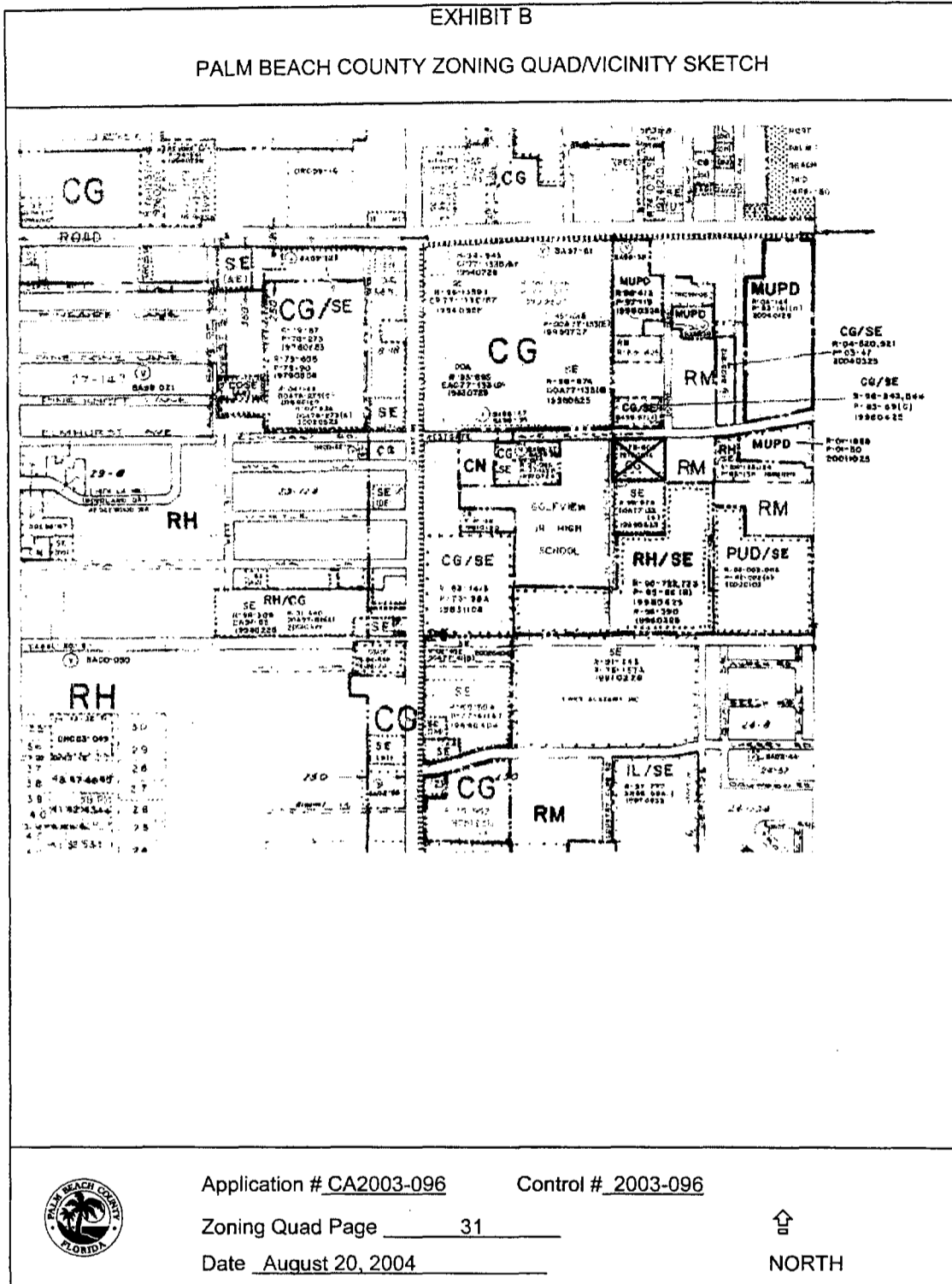


EXHIBIT C

CONDITIONS OF APPROVAL

A. 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 site plan is dated May 25, 2004. 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. (ONGOING: ZONING – Zoning)

B. ARCHITECTURAL REVIEW

1. At time of submittal for final site plan approval by the Development Review Officer (DRO), the architectural elevations for all the buildings shall be submitted simultaneously with the site plan for final architectural review. Elevations shall be designed to be consistent with Sec. 5.C of the ULDC. Development shall be consistent with the approved architectural elevations. (DRO: ARCH REVIEW – Zoning)

C. 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)

D. LANDSCAPE – INTERIOR

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to indicate a landscape focal point located in the large center landscape median. Details of this landscape focal point shall be submitted to the Landscape Section for review and approval. (DRO: LANDSCAPE – Zoning)
2. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be revised to indicate decorative pavers (paving blocks or stamped concrete) located in the internal driveway at the north and south end of the central landscape median. The minimum dimension for each area shall be 400 square feet. (DRO: DRO/ZONING – Zoning)

E. ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after September 23, 2007. 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. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: MONITORING – Eng)

F. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO / ONGOING: BLDG / CODE ENF – Zoning)
2. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (CO: BLDG – Zoning)
3. All outdoor, freestanding lighting fixtures shall be setback thirty-five (35) feet from the east property line. (CO: BLDG – Zoning)
4. All outdoor lighting shall be extinguished no later than 10:00 p.m. excluding security lighting only. (ONGOING: CODE ENF – Zoning)
5. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF – Zoning)

G. PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be revised to include a notation for a vehicular and pedestrian cross access point to the eastern property line which shall read “proposed vehicular and pedestrian cross access to be paved to the property line.” (DRO: PLANNING – Planning)
2. Prior to the issuance of the certificate of occupancy (CO), the property owner shall pave the property to the edge of the eastern property line at the location shown on the site plan that will read “proposed vehicular and pedestrian cross access.” (CO: MONITORING – Planning)
3. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the subject property to the parcel to east in a form acceptable to the County Attorney. (DRO: COUNTY ATTY – Planning)

H. SIGNS

1. Freestanding point of purchase signs fronting on Westgate Avenue shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point – ten (10) feet;
 - b. Maximum sign face area per side – one hundred (100) square feet;
 - c. Maximum number of signs – one (1);
 - d. Style – monument style only; and,
 - e. Location – as indicated on the site plan dated May 25, 2004; and
 - f. Signs shall be limited to identification of tenants only. (CO: BLDG – Zoning)
2. Wall signs shall be limited to the north facade of the building and individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to identification of tenants only. (CO: BLDG – Zoning)

I. USE LIMITATIONS

1. Outdoor storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF – Zoning)
2. Repair or maintenance of vehicles shall not be permitted on the property. (ONGOING: CODE ENF – Zoning)
3. Outdoor retail business activities shall not be allowed on the property, excluding deliveries only. (ONGOING: CODE ENF – Zoning)
4. No overnight parking or outdoor storage of trucks or trailers shall be permitted on the property. (ONGOING: CODE ENF – Zoning)

J. 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 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)