

RESOLUTION NO. R-2004-2279

RESOLUTION APPROVING ZONING PETITION R2004-001
(CONTROL NO. 2004001)
REQUESTED USE
PETITION OF BRIELLA LLC
BY MILLER LAND PLANNING CONSULTANTS, INC., AGENT
(BRIELLA PUD)

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 Requested 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 R2004-001 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 Requested Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Requested Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Requested Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Requested 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 Requested 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 Requested Use meets applicable local land development regulations.

7. This Requested Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Requested Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.
9. This Requested 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 Requested 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 R2004-001, the petition of Briella LLC, by Miller Land Planning Consultants, Inc., agent, for a Requested Use to allow the Transfer of Development Rights for 77 units and designate this petition as the receiving area in the Residential Planned Unit Development 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 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

BY:


COUNTY ATTORNEY

DOROTHY H. WILKEN, CLERK

BY:


DEPUTY CLERK

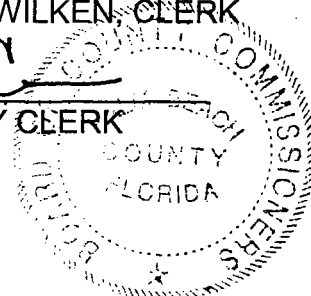


EXHIBIT A

LEGAL DESCRIPTION

Tracts 37, 38, 39 40, 59 and 60, Block 55, 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, as recorded in Plat Book 2, Pages 45 - 54 of the Public Records of Palm Beach County, Florida, LESS and EXCEPT the West 25 feet of said Tract 40, Block 55, for public road right-of-way purposes.

TOGETHER WITH:

A portion of the 30 Foot Road, Dyke and Ditch Reservations, lying in Block 55, PALM BEACH FARMS COMPANY PLAT NO. 3, according to the Plat thereof, as recorded in Plat Book 2, Pages 45 through 54, of the Public Records of Palm Beach County, Florida, and a portion of Tract "C", MIZNER FALLS, according to the Plat thereof, as recorded in Plat Book 91, Pages 7 through 14, of the Public Records of Palm Beach County, Florida, being more particularly described as follows:

Beginning at the Southwest corner of the said Tract "C" of the plat of MIZNER FALLS; thence North 00°02'26" East, along the west line of the said plat of MIZNER FALLS, a distance of 15.00 feet; thence North 89°59'22" East, along the north line of said Tract "C" of the plat of MIZNER FALLS, a distance of 988.91 feet; thence South 00°01'33" West, along the northerly prolongation of the west line of Tract 36 of said Block 55, a distance of 45.00 feet; thence South 89°59'22" West, along the north line of Tracts 37 through 40, less the west 25 feet of Tract 40 of said Block 55, a distance of 1,293.53 feet; thence North 00°01'32" West, along a line 25 feet east of as measured at right angles to and parallel with the west line of Tract 40 of said Block 55, a distance of 15.00 feet; thence North 89°59'22" East, a distance of 304.63 feet; thence North 00°02'26" East, a distance of 15.00 feet to the POINT OF BEGINNING.

Containing 1,337,424.42 Square Feet or 30.7030 Acres

EXHIBIT B
VICINITY SKETCH

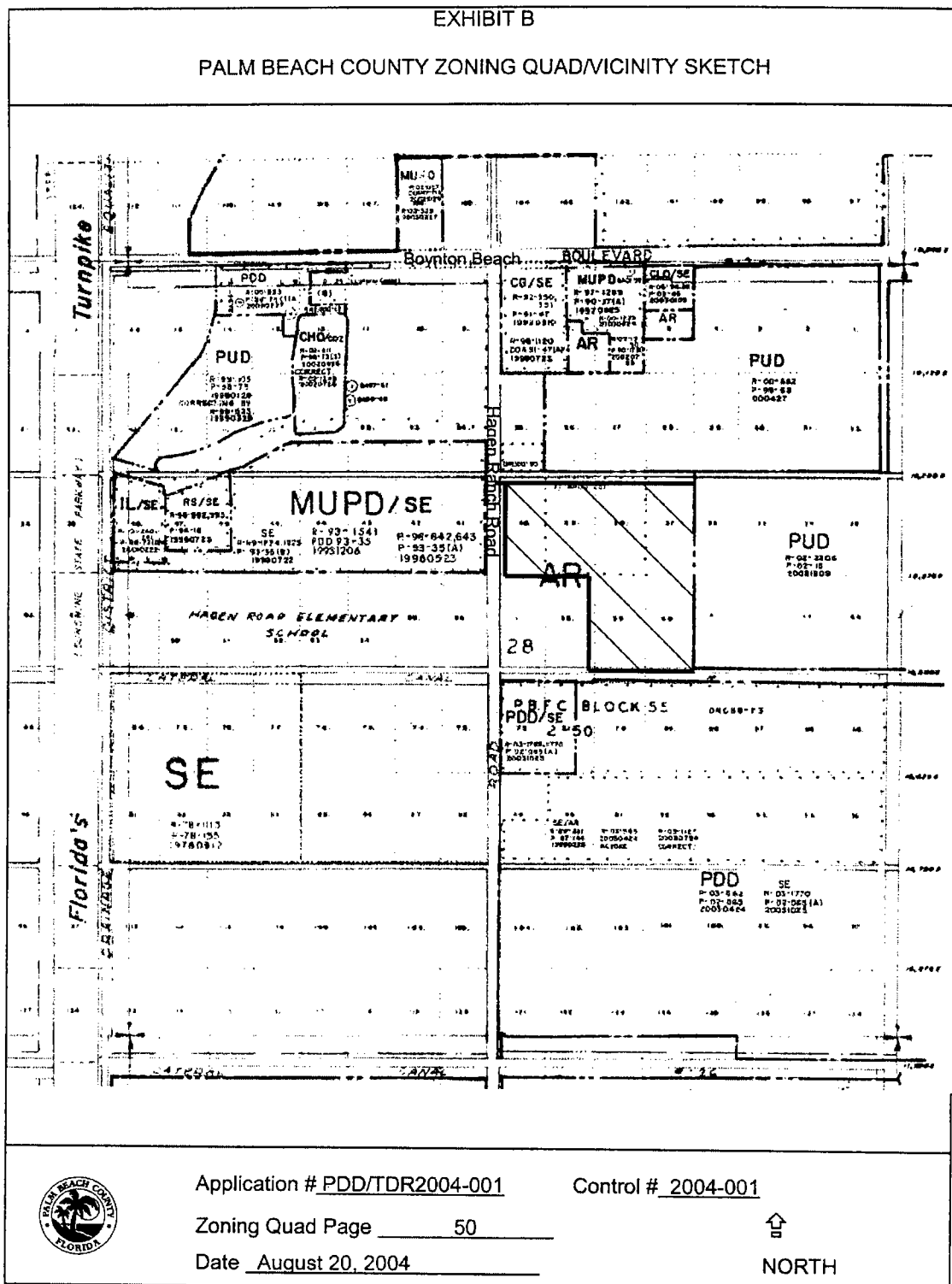


EXHIBIT C

CONDITIONS OF APPROVAL

A. TRANSFER OF DEVELOPMENT RIGHTS

1. The master plan dated October 19, 2004, and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)
2. Prior to approval of the master plan by the DRO, a "Contract for Sale and Purchase of TDR's" shall be executed by the petitioner, in a manner and form approved by the Office of the County Attorney, and formally executed by the Chairman of the Board of County Commissioners. The Contract shall accommodate a maximum of 77 TDR units at a selling price of \$15,837.00 per unit. (DRO: COUNTY ATTORNEY - Zoning)
3. Prior to approval of the master plan by the DRO, two (2) recorded copies of the "Contract for Sale and Purchase of TDR's" shall be provided to the Palm Beach County Zoning Division. (DRO: ZONING - Zoning)
4. Prior to approval of the master plan by the DRO, monies representing 77 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRO: ZONING - Zoning)
5. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County. (BLDG PERMIT: MONITORING - Zoning)
6. Prior to the issuance of the first building permit, a deed conveying the applicable TDR units from the County TDR bank to the subject property, shall be executed and recorded in a manner and form approved by the Office of the County Attorney. (BLDG PERMIT: MONITORING - Zoning)
7. Any additional increase in density must be requested through the TDR program. (ONGOING: ZONING - Zoning)

B. 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 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. (ONGOING: MONITORING - Zoning)