

RESOLUTION NO. R-2007- 1044

RESOLUTION APPROVING ZONING APPLICATION DOA2006-1910
(CONTROL NUMBER 1996-041)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF ROYALL WALL SYSTEMS, INC.
BY JON E. SCHMIDT & ASSOCIATES, AGENT
(PROLOGIS PIKE ROAD)

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 DOA2006-1910 was presented to the Board of County Commissioners at a public hearing conducted on June 28, 2007; 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 DOA2006-1910, the application of Royall Wall Systems, Inc., by Jon E. Schmidt & Associates, agent, for a Development Order Amendment to add land area, add square footage, reconfigure the site plan and modify/delete conditions of approval 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 June 28, 2007, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson 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:

Addie L. Greene, Chairperson	- Aye
John F. Koons, Vice Chair	- Aye
Karen T. Marcus	- Aye
Warren H. Newell	- Aye
Mary McCarty	- Aye
Burt Aaronson	- Aye
Jess R. Santamaria	- Aye


The Chairperson thereupon declared that the resolution was duly passed and adopted on June 28, 2007.

Filed with the Clerk of the Board of County Commissioners on 10th of July.

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

BY: 
COUNTY ATTORNEY

SHARON BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK



EXHIBIT A

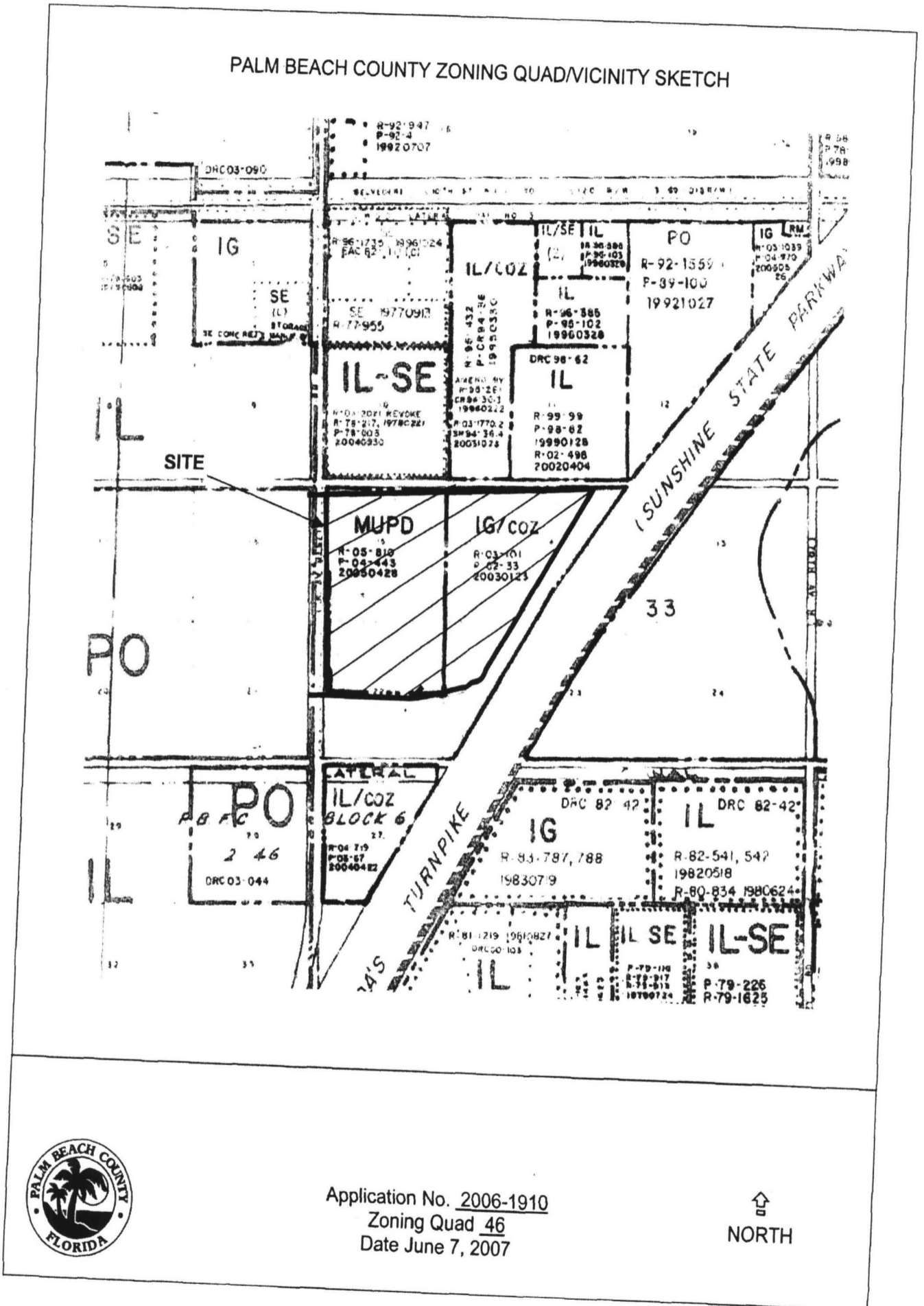
LEGAL DESCRIPTION

TRACTS 14, 15, 22 AND 23, BLOCK 6 (LYING NORTH AND WEST OF FLORIDA STATE TURNPIKE RIGHT OF WAY) PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, AT PLAT BOOK 2, PAGES 45 THROUGH 54;

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS:
THE NORTH 25 FEET OF SAID TRACT 14, AND ADDITIONAL FLORIDA STATE TURNPIKE RIGHT-OF-WAY DESCRIBED IN ORDER OF TAKING, AS RECORDED IN OFFICIAL RECORDS BOOK 10348, PAGE 1568, AND OFFICIAL RECORDS BOOK 10359, PAGE 1458, SAID PUBLIC RECORDS.

CONTAINING: 28.28 ACRES, MORE OR LESS.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B
VICINITY SKETCH



Application No. 2006-1910
Zoning Quad 46
Date June 7, 2007



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Condition All Petitions 1 of Resolution R-2005-0810, Control 1996-041, which currently states:

Development of the property is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated February 10, 2005. 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. (DRO: ZONING - Zoning)

Is hereby amended to read:

Development of the property is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated April 16, 2007. 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. (DRO: ZONING-Zoning)

ARCHITECTURAL REVIEW

1. Condition Building and Site Design Condition 1 of Resolution R-2005-0810, Control No. 1996-041 which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the regulating plan shall be amended to include the following:

- a. architectural elevations of the proposed gazebo;
- b. the gazebo shall be given an architectural treatment that is consistent with the color and style of the principle structure; and,
- c. details of the gazebo shall be submitted for review and approval by the Architectural Review Section. (DRO: ARCH REVIEW-Zoning)

Is hereby deleted. [REASON: Condition satisfied]

ENGINEERING

1. Engineering Condition 1 of Resolution R 2005-810, Control No. 1996-041, which currently states:

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 January 1, 2009. 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)

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 may be issued after June 28, 2010. 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. Engineering Condition 2 of Resolution R 2005-810, Control No. 1996-041, which currently states:

The Property Owner shall convey to Palm Beach County Land Development Division by warranty deed for Pike Road, 40 feet from centerline on prior to issuance of a Building Permit. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The 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 Grantor (Property Owner) shall also agree to provide Palm Beach County an environmental report, subject to the approval of the County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination, which requires remediation or clean up on the property now owned by the Grantor, the Grantor shall agree to hold the Grantee (Palm Beach County) harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and Corner Clips." (BLDG. PERMIT: MONITORING-Eng)

Is hereby amended to read:

CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY

The Property Owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for:

- 7th Place North, 40 feet from centerline from the parcel added as part of this application.
- Pike Road, 40 feet from centerline.

All right of way deed(s) and associated documents shall be provided and approved prior to issuance of a Building Permit.

Right of way conveyance shall be along the entire frontage and shall be free of all encroachments and encumbrances. 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 Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate provisions for Expanded Intersection Details and "Corner Clips." The Property Owner shall not record these required deeds or related documents.

After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (DATE/BLDG. PERMIT: MONITORING-Eng)

3. 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 Pike Road at the project's 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. The 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. (BLDG PERMIT: MONITORING-Eng) (Previous Engineering Condition 3 of Resolution R 2005-810, Control No. 1996-041)
4. Prior to issuance of the first building permit, the Property Owner shall provide a temporary roadway construction easement along Pike Road to Palm Beach County This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this Property Owners entrance road right of way. Construction within this easement shall conform to Palm Beach County Standards 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 2005-810, Control No. 1996-041)
5. The Property Owner shall construct the following:
 - a. left turn lane east approach on 7th Place North at Pike Road;
 - b. left turn lane North approach on Pike Road at the Project entrance;
 - c. right turn lane south approach on Pike Road at the Project Entrance.
 - d. All construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.
 - e. Permits required by Palm Beach County for the construction in 5.a-5.d shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
 - f. Construction for the improvements in 5.a-5.d shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng) (Previous Engineering Condition 5 of Resolution R 2005-810, Control No. 1996-041)
6. Prior to issuance of a Building Permit, the Property Owner shall plat the subject property into one legal lot of record 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)

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. No grade changes, or the toe of proposed grade changes, shall occur within the dripline of existing native vegetation depicted to remain. (ONGOING:ERM - ERM))(Previous ERM Condition 1 of Resolution R-2005-0810, Control 1996-041)

ZONING - LANDSCAPING-STANDARD

1. Prior to the issuance of a building permit, the Property Owner shall submit a Landscape Plan and/or an Alternative 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)
2. 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. (CO: LANDSCAPE - Zoning) (Previous Condition Landscaping - Standard 1 of Resolution R-2005-0810, Control 1996-041)
3. Prior to final site plan approval by the Development Review Officer (DRO), the Property Owner shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRO: LANDSCAPE Zoning) (Previous Landscaping Standard Condition 2 of Resolution R-2005-0810, Control 1996-041)
4. Condition 1 of Resolution R-2005-0810, Control 1996-041, which currently states:

ZONING - LANDSCAPING-ALONG THE NORTH, SOUTH AND WEST PROPERTY LINES (FRONTAGES OF 7TH PLACE NORTH, PIKE ROAD AND ABUTTING THE FLORIDA TURNPIKE TOLL PLAZA)

In addition to ULDC requirements, landscaping and buffering along all property lines shall be upgraded to include one (1) palm tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

Is hereby amended to read:

ZONING – LANDSCAPING FOR THE PERIMETER BUFFERS

In addition to ULDC requirements, landscaping for the perimeter buffers shall be upgraded to include one (1) palm tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

PALM TRAN

1. 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 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)
2. 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. (PLAT: ENG –Palm Tran)

PLANNING

1. Condition Planning 1 of Resolution 2005-810, Control 1996-041, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall include sidewalks, decorative pavement pedestrian crosswalks, and gazebos, consistent with the certified site plan dated February 10, 2005. (DRO: PLANNING - Planning).

Is hereby amended to read:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall include sidewalks, decorative pavement pedestrian crosswalks, and gazebos or trellises or other features subject to review and approval by the Architectural Review Section, consistent with the certified site plan dated April 13, 2007. (DRO: ARCH REVIEW - Planning)

SIGNS

1. Freestanding signs fronting on Pike Road shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point – eight (8) feet;
 - b. maximum sign face area per side - eighty (80) square feet;
 - c. maximum number of signs – two (2);
 - d. style - monument style only; and
 - e. location - at southwest corner of property (intersection of Pike Road and Turnpike entrance) and northwest corner of property (at intersection of Pike Road and 7th Place North. (BLDG PERMIT: BLDG - Zoning)
2. Freestanding sign fronting on 7th Place North 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 - eighty (80) square feet;
 - c. maximum number of signs – one (1);
 - d. style - monument style only;
 - e. location - at easternmost entrance drive to 7th Place North. (BLDG PERMIT: BLDG - Zoning)
3. Entrance signs allowed:
 - a. one (1) pair at entrance along Pike Road;
 - b. one (1) pair at one entrance along 7th Place North; and
 - c. no other entrance signs shall be allowed at entrance drives along 7th Place North. (BLDG PERMIT: BLDG - Zoning)
4. Prior to final approval by the Development Review Officer (DRO), the Property Owner shall revise the sign details on the regulating plan to reflect the revised signage requirements. (DRO: ZONING - Zoning)

UTILITIES

1. If any relocation/modifications to the County's existing facilities are required that are aq 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)

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 Compliance 1 of Resolution R-2005-0810, Control 1996-041)
2. Condition Compliance 2 of Resolution R-2005-0810, Control 1996-041, 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 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)

Is hereby amended to read:

Failure to comply with any of the voluntary commitments 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 voluntary commitments; 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 voluntary commitment 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 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 Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)