

RESOLUTION NO. R-2007- 1233

RESOLUTION APPROVING ZONING APPLICATION DOA2007-202
(CONTROL NUMBER 1994-006)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF PALM BEACH COUNTY, SOUTH FLORIDA WATER
MANAGEMENT DISTRICT, LESSOR
BY PALM BEACH COUNTY, AGENT
(20 MILE BEND PUBLIC USE DEVELOPMENT)

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 DOA2007-202 was presented to the Board of County Commissioners at a public hearing conducted on July 26, 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 DOA2007-202, the application of Palm Beach County, South Florida Water Management District, Lessor, by Palm Beach County, agent, for a Development Order Amendment to add land area 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 July 26, 2007 subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Koons moved for the approval of the Resolution.

The motion was seconded by Commissioner Marcus 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
District 3	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 26, 2007.

Filed with the Clerk of the Board of County Commissioners on 22nd day of August 2007.

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

20 MILE BEND PUBLIC USE DEVELOPMENT OVERALL LEGAL

A PARCEL OF LAND IN SECTION 31, TOWNSHIP 43 SOUTH, RANGE 40 EAST, SECTION 6, TOWNSHIP 44 SOUTH, RANGE 40 EAST, AND IN HIATUS LOT 6 LYING BETWEEN SECTIONS 31 AND 6, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF SAID SECTION 6;
THENCE ALONG THE WEST LINE OF SAID SECTION 6, S01°17'32"W
FOR 370.12 FEET TO THE SOUTH LINE OF SOUTH FLORIDA WATER MANAGEMENT DISTRICT PARCEL 2, RECORDED IN OFFICIAL RECORD BOOK 9321, PAGE 1285, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA;

THENCE ALONG SAID SOUTH BOUNDARY FOR THE FOLLOWING COURSES:

THENCE N89°52'59"E FOR 159.98 FEET;
THENCE N85°07'10"E FOR 2348.15 FEET;
THENCE N89°52'59"E FOR 733.90 FEET TO THE WESTERLY BOUNDARY OF A SOUTH FLORIDA WATER MANAGEMENT DISTRICT PARCEL RECORDED IN OFFICIAL RECORD BOOK 9398, PAGE 502 OF SAID PUBLIC RECORDS;

THENCE ALONG SAID WESTERLY BOUNDARY, N17°54'26"E FOR 184.03 FEET TO THE BOUNDARY OF A SOUTH FLORIDA WATER MANAGEMENT DISTRICT PARCEL RECORDED IN OFFICIAL RECORD BOOK 10320, PAGE 855 OF SAID PUBLIC RECORDS;

THENCE ALONG SAID BOUNDARY FOR THE FOLLOWING COURSES:

THENCE N00°09'18"W FOR 143.54 FEET;
THENCE N89°52'59"E FOR 695.77 FEET;
THENCE S00°10'01"E FOR 168.54 FEET TO THE BOUNDARY OF A PALM BEACH COUNTY PARCEL RECORDED IN OFFICIAL RECORD BOOK 8215, PAGE 1794 OF SAID PUBLIC RECORDS;

THENCE ALONG THE BOUNDARY OF SAID PALM BEACH COUNTY PARCEL FOR THE FOLLOWING COURSES:

THENCE N89°52'59"E FOR 95.65 FEET;
THENCE N29°51'00"E FOR 1454.97 FEET;
THENCE N29°01'34"E FOR 99.75 FEET;
THENCE N29°18'24"E FOR 99.54 FEET;
THENCE N24°43'23"E FOR 99.84 FEET;
THENCE N21°30'41"E FOR 99.65 FEET;
THENCE N18°22'11"E FOR 99.82 FEET;
THENCE N13°54'26"E FOR 99.85 FEET;
THENCE N08°21'23"E FOR 244.82 FEET TO THE SOUTH RIGHT-OF-WAY OF LEVEE L-7, RECORDED IN DEED BOOK 984, PAGE 46 OF SAID PUBLIC RECORDS;

THENCE DEPARTING THE BOUNDARY OF SAID PALM BEACH COUNTY PARCEL, N01°31'24"E FOR 155.00 FEET;
THENCE N88°28'36"W FOR 2390.22 FEET;
THENCE S00°00'00"E FOR 155.05 FEET TO THE NORTHERLY BOUNDARY OF SAID PALM BEACH COUNTY PARCEL;

THENCE ALONG SAID BOUNDARY FOR THE FOLLOWING COURSES:

THENCE N88°28'36"W FOR 550.06 FEET;
THENCE N48°53'34"W FOR 29.21 FEET;
THENCE S38°16'01"W FOR 159.39 FEET;
THENCE N51°43'59"W FOR 200.00 TO THE EASTERLY RIGHT-OF-WAY OF
COUNTY ROAD 880 (OLD STATE ROAD 80);

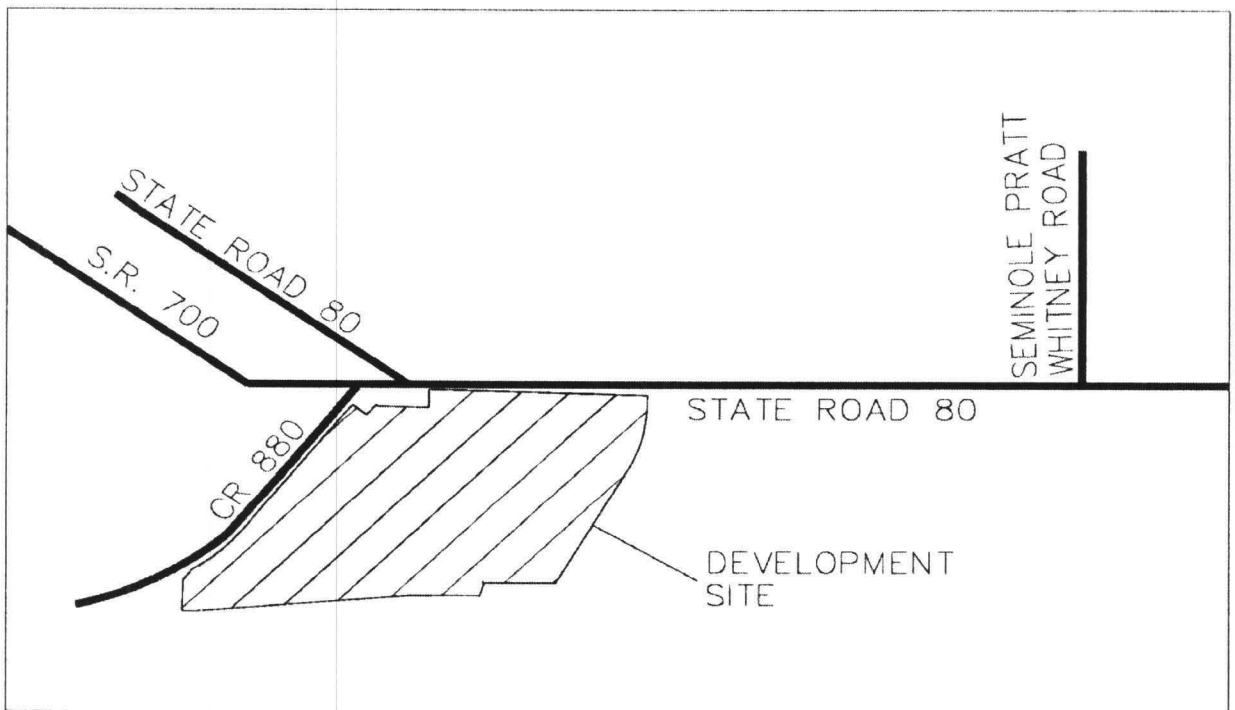
THENCE ALONG SAID RIGHT-OF-WAY FOR THE FOLLOWING COURSES:

THENCE S38°16'01"W FOR 1507.55 FEET;
THENCE S37°44'05"W FOR 387.95 FEET TO THE POINT OF CURVATURE OF A
CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 2009.86 FEET;
THENCE SOUTHWESTERLY, ALONG SAID CURVE TO THE RIGHT, THROUGH A
CENTRAL ANGLE OF 22°01'24" FOR 772.55 FEET TO THE WEST LINE OF SAID
HIATUS LOT 6;
THENCE ALONG SAID WEST LINE, S37°06'24"W FOR 170.27 FEET TO THE POINT OF
BEGINNING.

CONTAINING 200.60 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

**PALM BEACH COUNTY
VICINITY SKETCH / ZONING**



Petition No.: 94-06
Zoning Quad Page: 107
Date: 02/21/07



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the tower site, as contained in Resolution R-96-1010 (Control 94-006), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - A) Building permits for more than the 330 position shooting range, 81.18 ac park, 714 student community college and 61,000 sf Light Industrial (or the equivalent of 162 2-way PM peak hour trips) shall not be issued until construction commences for the following improvement at the intersection of Southern Blvd. and Seminole Pratt-Whitney Road:
 - A) West approach second left turn lane. (BLDG PERMIT: MONITORING Eng)
 - B) No building permits for the site shall be issued after December 31, 2019. 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.E of the Unified Land Development Code. (DATE: MONITORING Eng)
 - C) The mix of allowable uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (ONGOING: ENG - Eng)
2. Building permits shall not be issued after December 31, 2016 until either acceptable surety required for the intersection improvements outlined in Condition 1A above has been posted with the Office of the Land Development Division or the improvements have been programmed for construction in the PBC Five Year Road Program. Surety shall be in the amount of 110% of a Certified Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. This surety may be required to be adjusted within 30 days notification from the County Engineer. This revision shall be based upon an updated cost estimate prepared by the Roadway Production Division at the time the final construction plans are completed. (DATE: MONITORING - Eng)
3. Prior to technical compliance for the first plat, the property owner shall provide a roadway construction easement to Palm Beach County Engineering Department. 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 Engineering Department shall record all appropriate deeds and documents (TC:ENG-Eng)
4. Prior to technical compliance for the first plat, the property owner shall provide a temporary roadway construction easement along CR 880 to Palm Beach County Engineering Department. 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 Engineering Department shall record all appropriate deeds and documents. (BLDG PERMIT:MONITORING-Eng)

5. The Property owner shall construct :

A) left turn lane north approach on CR 880 at the project's internal road right of way (southerly entrance).

B) the internal 80' road Right-of-way fro CR 880 to the entrance to Phase 1 PBCC Classrooms and administration offices

C) All construction for this condition shall be concurrent with the subdivision 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.

D) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit for the SFWMD parcel. (BLDG PERMIT: Monitoring-Eng)

E) Construction shall be completed prior to the issuance of the certificate of Occupancy for the SFWMD parcel. (CO: MONITORING-Eng)

6. Prior to issuance of a Building Permit the Property owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

HEALTH

1. The site shall be served by sanitary sewer and a community water system. Once available, neither an onsite sewage treatment and disposal system (OSTDS) nor potable water wells shall be approved for use on the property. All existing OSTDS shall be abandoned in accordance with Chapter 64E-6, FAC and Palm Beach County ECR-I. All existing onsite potable water wells shall be abandoned in accordance with Chapter 64E-8, FAC and Palm Beach County ECR-II (ONGOING: HEALTH-Health)

ZONING - LANDSCAPING-TOWER SITE

1. The petitioner shall provide a minimum ten (10) foot wide Alternative 3 landscape buffer adjacent to the site. (DRO: LANDSCAPE - Zoning) (Previous Condition C.1 of Resolution 96-1010, Control No. 94-6) [Complete]

2. The landscape buffer for the communication tower shall be located on the lease parcel with required landscape materials located on the exterior of the required chain link fence. (DRO: LANDSCAPE - Zoning) (Previous Condition C.2 of Resolution 96-1010, Control No. 94-6) [Complete]

ZONING-TOWER SITE

1. Prior to site plan certification, the petitioner shall submit documentation to the Zoning Division which demonstrates that the proposed facility does not violate FAA Regulations and/or advisory circulars of the Palm Beach County Airport Zoning Regulations. This documentation shall be subject to approval by the Palm Beach County Department of Airports. (DRO: ZONING - Airports) (Previous Condition A.1 of Resolution 96-1010, Control No. 94-6) [Complete]

2. Palm Beach County or the State of Florida shall have the right to co-locate communication equipment on the tower subject to an acceptable lease agreement provided that the placement of the equipment does not interfere with the petitioner's equipment or operations. (ONGOING: PREM- PREM) (Previous Condition B.1 of Resolution 96-1010, Control No. 94-6)
3. Prior to site plan certification by the DRC, the petitioner shall comply with the shared use provisions of the ULDC, Section 6.4.D.22.k. (shared use), as may be amended. Additional square footage on the site of the tower approval, to accommodate additional unmanned users only, may be permitted administratively subject to approval by the DRC. (DRO: ZONING - Zoning) (Previous Condition B.2 of Resolution 96-1010, Control No. 94-6) [Complete]
4. Prior to site plan certification, the petitioner shall provide documentation that the tower does not encroach into any public or private airport runway protection zone as established by the Federal Aviation Administration. This documentation shall be approved by the Palm Beach County Department of Airports. (DRO: ZONING - Airports) (Previous Condition B.3 of Resolution 96-1010, Control No. 94-6) [Complete]
5. The communication tower shall be limited to a maximum height of 480 feet, measured from finished grade to highest point. (DRO: ZONING - Bldg) (Previous Condition B.4 of Resolution 96-1010, Control No. 94-6) [Complete]

COMPLIANCE

1. Previous Condition D.1 of Resolution 96-1010, Control No. 94-6) 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; 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.

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:

In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner 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.

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 Fifteenth Judicial Circuit. (ONGOING: MONITORING - Zoning)