

RESOLUTION NO. R-2007-1436

RESOLUTION APPROVING ZONING APPLICATION DOA2007-720
(CONTROL NUMBER 2005-0450)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF NICK STEWART
BY GARY M. BRANDENBERG AND ASSOCIATES, AGENT
(STEWART MINING INDUSTRIES)

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 DOA2007-720 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 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 DOA2007-720, the application of Nick Stewart, by Gary M. Brandenburg and Associates, agent, for a Development Order Amendment to modify 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 August 23, 2007, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

The motion was seconded by Commissioner Aaronson 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 Robert Kanjian	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 23, 2007.

Filed with the Clerk of the Board of County Commissioners on 23rd day of August.

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

A parcel of land in Sections 25 and 36, Township 42 South, Range 38 East; Sections 17, 18, 19, 20, 30, 31, and 32, Township 42 South, Range 39 East; Section 1, Township 43 South, Range 38 East; and Sections 5 and 6, Township 43 South, Range 39 East, Palm Beach County, Florida being described as follows:

Point of Beginning being a found 1-1/2" pipe with a pipe cap on a little island in a canal marking the northeast corner of Section 5, Township 43 South, Range 39 East, Palm Beach County, Florida;

Thence N89°50'04"E along the south line of Section 32, Township 42 South, Range 39 East, a distance of 2198.33 feet to a found 1-1/2" pipe with a pipe cap on a little island in canal marking the southeast corner of said Section 32;

Thence N00°11'04"E along the east line of said Section 32 a distance of 5271.46 feet to a found 1-1/2" pipe with a pipe cap marking the southeast corner of Section 29, Township 42 South, Range 39 East;

Thence S89°51'35"W along the south line of said Section 29 a distance of 5318.10 feet to the southwest corner of said Section 29;

Thence N00°07'01"W along the west line of said Section 29 a distance of 5277.50 feet to the northwest corner of said Section 29;

Thence N89°51'09"E along the north line of said Section 29 a distance of 5315.53 feet to a found 1-1/2" pipe with a pipe cap marking the southeast corner of Section 20, Township 42 South, Range 39 East;

Thence N00°09'01"W along the east line of said Section 20 a distance of 5278.51 feet to the southeast corner of Section 17, Township 42 South, Range 39 East;

Thence N00°38'42"W along the east line of said Section 17 a distance of 2629.27 feet;
Thence S89°52'56"W a distance of 10,605.45 feet to intersect the west line of Section 18, Township 42 South, Range 39 East;

Thence S00°22'04"E along the west line of said Section 18 and the east line of Section 13, Township 42 South, Range 38 East a distance of 2493.14 feet to a found railroad rail with the ball removed marking the southeast corner of said Section 13;

Thence S00°52'59"E along the west line of said Section 18 and the east line of Section 24, Township 42 South, Range 38 East a distance of 142.60 feet to a found railroad rail with the ball removed marking the northwest corner of Section 19, Township 42 South, Range 39 East;

Thence S00°16'49"E along the west line of said Section 19 and the east line of said Section 24 a distance of 5135.90 feet to a found 1-1/2" pipe marking the southeast corner of said Section 24;

Thence S01°24'07"E a distance of 5271.50 feet;

Thence S89°37'20"W a distance of 2377.84 feet to the southwest corner of the east 2264.1 feet of Section 25, Township 42 South, Range 38 East;

Thence S89°51'18"W along the south line of said Section 25 and the north line of Section 36, Township 42 South, Range 38 East a distance of 2528.10 feet to a found railroad rail with the ball removed marking the northeast corner of the west 200 feet of said Section 36;

Thence S00°15'11"E along a line parallel with and 200 feet east of the west line of said Section 36 and the southerly extension of said line into Section 1, Township 43 South, Range 38 East a distance of 6671.79 feet to intersect the northeasterly right of way of the West Palm Beach Canal (L-12);

Thence S50°20'13"E along said right of way in said Section 1, a distance of 1771.69 feet;

Thence S39°40'04"W along said right of way in said Section 1, a distance of 65.00 feet to a found 1/2" iron rod with no identification;

Thence S50°19'56"E along said right of way in said Section 1, a distance of 834.72 feet to a found 1/2" iron rod with no identification;

Thence N39°40'04"E along said right of way in said Section 1, a distance of 65.00 feet;

Thence S50°19'56"E along said right of way in said Section 1 and into Section 6, Township 43 South, Range 39 East a distance of 2467.00 feet;

Thence N32°33'33"E a distance of 191.47 feet;

Thence S50°19'56"E a distance of 100.77 feet;

Thence S32°33'33"W a distance of 191.47 feet to the said West Palm Beach Canal (L-12)

right of way;

Thence S50°19'56"E along said Canal right of way a distance of 1175.38 feet;

Thence N89°12'36"E along the south line of said Section 6 a distance of 810.62 feet;

Thence N01°05'06"W a distance of 2619.06 feet;

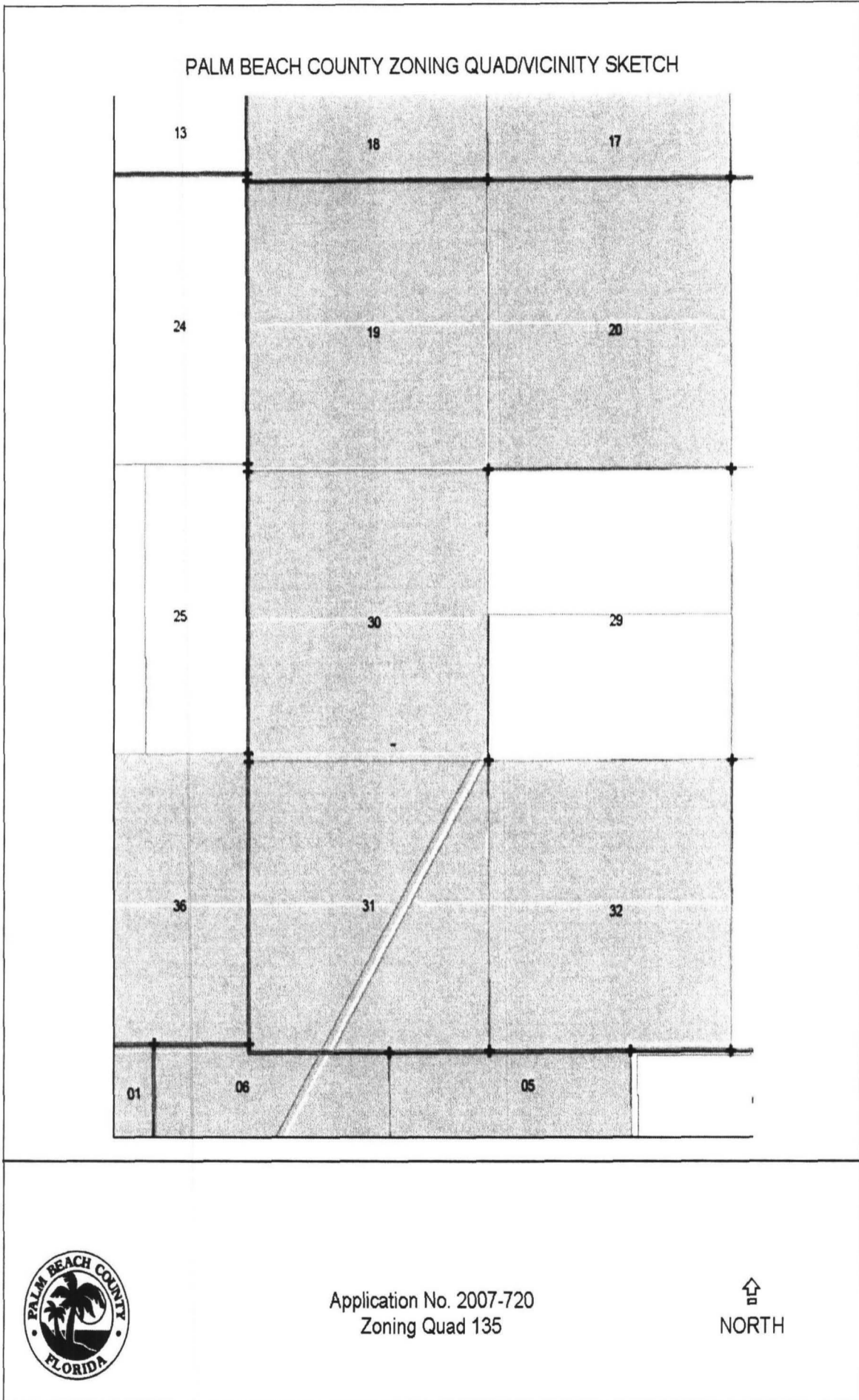
Thence N89°31'00"E a distance of 7853.81 feet to intersect the east line of Section 5, Township 43 South, Range 39 East;

Thence N01°06'19"W along the east line of said Section 5 a distance of 2651.79 feet to the said **Point of Beginning**.

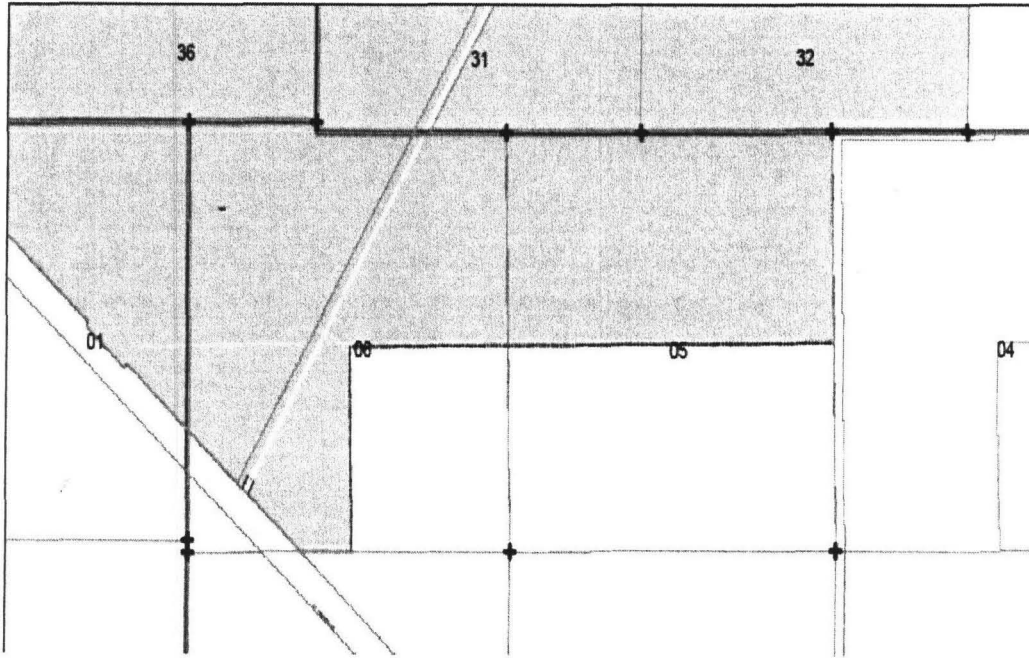
Contains 5,419.93 acres more or less and subject to easements, reservations, and rights of way of record some of which are as follows:

Those platted and dedicated rights of ways as shown in the plat of Glade Farm Subdivision as recorded in Plat Book 7, page 21, of the Public Records of Palm Beach County, Florida.

EXHIBIT B
VICINITY SKETCH



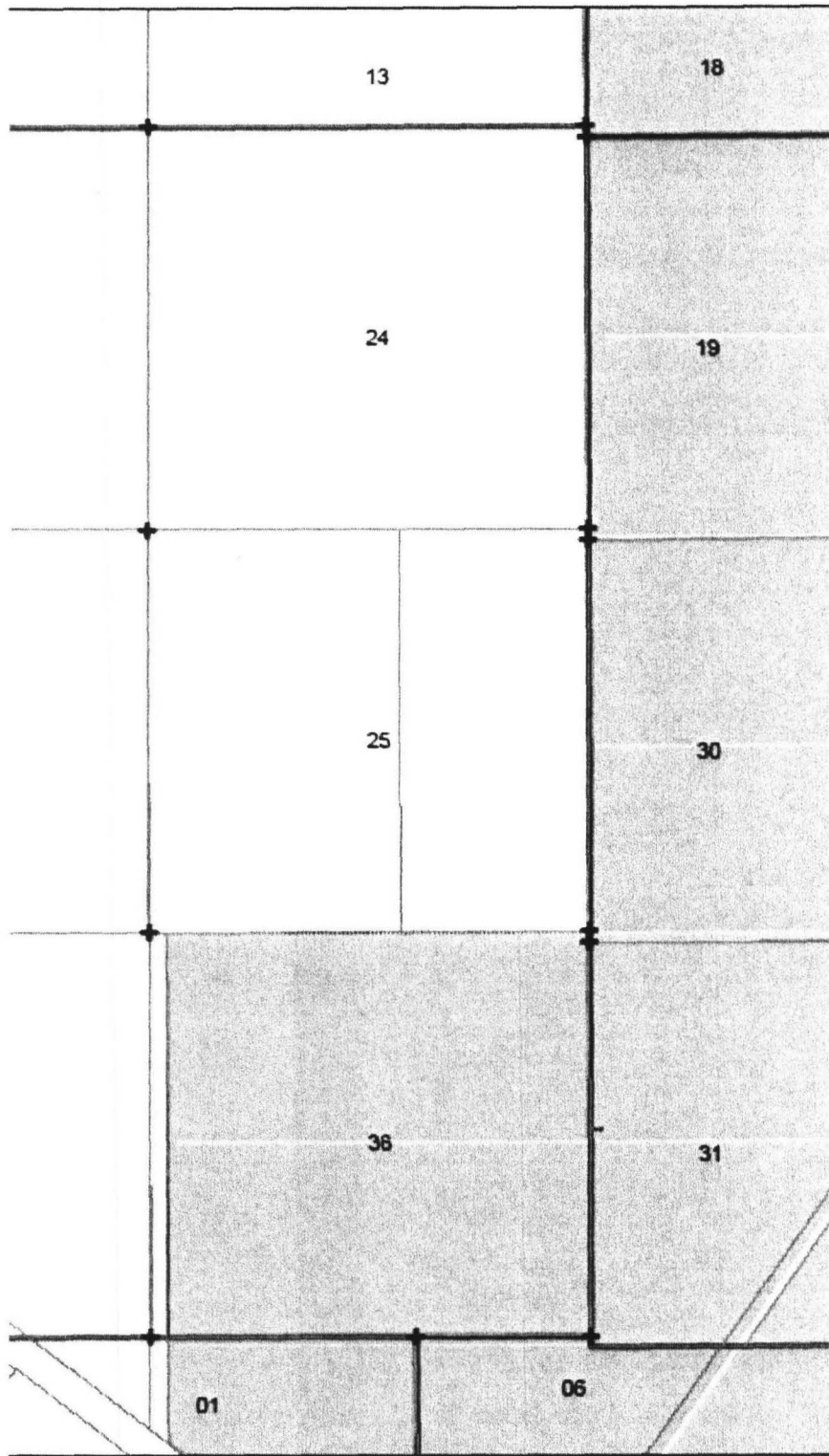
PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2007-720
Zoning Quad 136



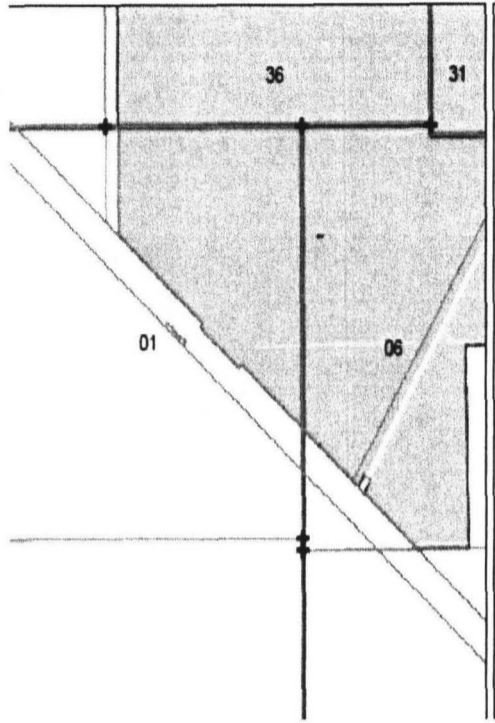
PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2007-720
Zoning Quad 150



PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2007-720
Zoning Quad 151



EXHIBIT C

CONDITIONS OF APPROVAL

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 March 11, 2006. 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. (Previous All Petitions Condition 1 of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: ZONING-Zoning)

ACCESS

1. The site shall be limited to one access point on to Route 98, which may be relocated upon implementation of the ancillary parcel Number 1 or ancillary Parcel Number 2. (Previous Access Condition 1 of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF - Zoning)

BLASTING

1. The property owner shall abide by and implement the best management practice, techniques and methods for blasting to reduce noise and vibration. In cases of conflict with the ULDC or conditions of approval, the more strict requirement shall apply. (Previous Blasting Condition 1 of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF - Zoning)
2. The property owner shall comply with the following blasting regulations:

BLASTING REGULATIONS

Method of Extraction

METHOD	IMPACT
Processing of material	At identified Rock Plant Sites pursuant to DEP Lime Rock Processing Permit
Storage of material	On site pursuant to plans
Hauling operation	24 Hours 7 Days a week by Rail only
Time of blast	Between 10 am 5 pm daily, excluding Saturday, Sunday and legal holidays
Blasting schedule	Subject to State Fire Marshall standards and County Regulations
Established noise and vibration	Subject to State Fire Marshall Standards and County Regulations
Compatibility study by consultant	N/A- Property surrounded by applicant-owned property and sugar cane fields. All required setbacks and separation provided as required by ULDC. (Previous Blasting Condition 2. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF - Zoning)

3. The property owner shall ensure that the seismograph instruments are recalibrated in accordance with standard industry practices at least once per year. (Previous Blasting Condition 3. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF- Zoning)
4. No blast shall be detonated within the required separation areas set forth in the ULDC. (Previous Blasting Condition 4. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF - Zoning)
5. The property owner must comply with all State Fire Marshall guidelines for blasting. A violation of these guidelines shall be considered a violation of this conditional use. (Previous Blasting Condition 5. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: Code Enforcement- Fire Rescue)
6. The petitioner shall maintain all blasting activity logs for a minimum of three (3) years. The blasting log shall be made available to the public or any government official on request. (Previous Blasting Condition 6. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF - Zoning)

DRI

1. No subphase shall exceed one-hundred (100) acres of disturbed land per year. (Previous DRI Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF- Zoning)

ENGINEERING

1. Engineering Condition 1. of Resolution R-2006-0931, Control No. 2005-4501 which currently states:

E1. The Property owner shall construct: on US 98 at the project's entrance.

- a. A left turn lane west approach
- b. Right turn lane east approach
- c. This turn lane construction shall be concurrent with the paving and drainage 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 the Florida Department of Transportation shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
- e. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

Is hereby amended to read:

1. The Property owner shall construct: on US 98 at the project's entrance.

- a. A left turn lane west approach
- b. Right turn lane east approach
- c. This turn lane construction shall be concurrent with the paving and drainage improvements for the site for any of the following uses:
 - Manufacturing and Processing (other than approved excavation of materials)
 - Concrete or Asphalt products
 - Wood Chipping and/or top soil manufacturing

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 the Florida Department of Transportation shall be obtained prior to the issuance of the first Building Permit which would allow uses other than ordinary approved excavation of materials.

(BLDG PERMIT: Monitoring-Eng)

e. Construction shall be completed prior to the issuance of the first Certificate of Occupancy which would allow uses other than ordinary approved excavation of materials. (CO: MONITORING-Eng)

2. Engineering Condition 2. of Zoning Resolution R-2006-0931, Control No. 2005-450 which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after January 1, 2008. 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:

2. 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 August 23, 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)

ENVIRONMENTAL

1. A complete Notice of Intent to Construct shall be submitted to ERM prior to final site plan approval. (DRO:ERM-ERM)(Previously ERM Condition 1 of Resolution 2006-0931)
2. Should the proposed depth exceed the ULDC standards, a variance request shall be submitted to ERM prior to final site plan approval. (DRO:ERM-ERM)(previously ERM Condition 2 of resolution 2006-0931)
3. A voluntary natural resource extraction fee is to be provided yearly for this mining operation from the operators of this mine or its successors. The basis for the extraction fee is calculated at \$.05 per ton of material produced and railed from the mine. The tonnage will be calculated at the end of each calendar year with the information provided to ERM by January 31 of the succeeding year with the payment of \$.05 per ton provided by February 15. To receive these funds, ERM will set up a separate account for natural resource extraction fees. The funds will be used for environmental enhancement activities and include, but is not limited to: Purchase land; restore land to a more natural state; and, enhance the flora and fauna of already preserved natural areas. The Voluntary Natural Resources Extraction Fee shall escalate at the rate of three (3%) percent per year. The natural resource extraction fee is expected to generate approximately \$150,000 the first year and \$550,000 the 45th year and approximately \$14,000,000 over the life of the mining operation. In the event the legislature of the State of Florida or the County imposes, by legislation, ordinance, or other means, an extraction fee, tax, or charge, then this Voluntary Natural Resources Extraction Fee shall be reduced by the same amount.(ONGOING:ERM-ERM)(Previously ERM Condition 3 of Resolution 2006-0931)

HEALTH

1. The property owner shall utilize Best Management Practices to minimize breeding of mosquitoes in the surface water management system. Management of the system shall include control methods that minimize the need for aerial spraying and reduce potential impacts of mosquito control activities on the surrounding natural areas. (Previous Health Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF/ERM/Health)

2. Prior to the issuance of the first building permit, the property owner must submit an application and engineering plans to construct an onsite drinking water system, in accordance with Chapter 64E-8, FAC and Palm Beach County ECR-II, for review and approval by the Palm Beach County Health Department. (Previous Health Condition 2. of Resolution R-2006-0931, Control No. 2005-450) (BLDG PERMIT: MONITORING - Health)
3. Prior to final site plan approval by the Development Review Officer, the property owner must submit an application and engineering plans to construct an onsite sewage treatment and disposal system, in accordance with Chapter 64E-6, FAC and Palm Beach County ECR-I, for review and approval by the Palm Beach County Health Department. (Previous Health Condition 3. of Resolution R-2006-0931, Control No. 2005-450) (DRO: HEALTH - Health)

ZONING – LANDSCAPING

1. Landscaping along the south 400 feet of the west property line, the 6,176.45 feet of the west property line (abutting US HWY 98 frontage), and the west 868.99 feet of the south property line, shall be upgraded to include:
 - a. A minimum thirty (30) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. A continuous minimum four (4) feet high berm graded at a 3:1 slope and shall be subject to FP&L guidelines;
 - c. The plateau of the berm shall include a double row of canopy trees planted fifteen (15) feet on center with fifty (50) percent of the trees a minimum fourteen (14) feet high;
 - d. All berm slopes shall be planted with native grasses and ground cover; and
 - e. The landscape buffer shall be installed within one year of commencement of excavation activity. (Previous Landscaping Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (BLDG PERMIT: LANDSCAPE - Zoning)
2. Landscaping along the property line for ancillary use parcel number 1 and ancillary parcel number 2. (for portions not affected by the 30 foot landscape buffer of condition 1.) Landscape buffer width along the above referenced parcels, except where other more restrictive conditions apply, shall be upgraded to include:
 - a. A minimum ten (10) foot wide compatibility landscape buffer strip. No width reduction or easement encroachment shall be permitted
 - b. One (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters.
 - c. Perimeter landscaping shall be installed prior to the building permit approval for the ancillary parcels. (Previous Landscaping Condition 3. of Resolution R-2006-0931, Control No. 2005-450) (BLDG PERMIT: LANDSCAPE - Zoning)

MONITORING

1. The Excavation Activity Monitoring Report required by Section 7.6.H.5.a. of the ULDC shall be submitted to the Zoning Division and Environmental Resources Management Department on or before June 1 annually. This excavation activity report shall include certification and documentation that all seismograph instruments have been re-calibrated within the calendar year. (Previous Monitoring Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (DATE: ZONING/ERM - Zoning)
2. The annual Excavation Activity Monitoring Report pursuant to Condition Monitoring Condition 1 shall contain a current aerial photograph of the site clearly outlining the areas of current and completed excavation. The acreage of each area shall be provided. Additional information may be required by the Development Review Officer. (Previous Monitoring Condition 2. of Resolution R-2006-0931, Control No. 2005-450) (DATE: ZONING/ERM - Zoning)

3. The Maintenance and Monitoring Report of Reclaimed Areas required by Article 4.D.8.E of the ULDC shall be submitted on or before June 1 annually. (Previous Monitoring Condition 3. of Resolution R-2006-0931, Control No. 2005-450) (DATE: ZONING/ERM - Zoning)
4. In accordance with good record keeping practices, the property owner shall maintain a daily blasting log with the following minimum information:
 - a. Name of operator or responsible person;
 - b. Date and time of blast;
 - c. Blast location (face and bench);
 - d. Monitoring location;
 - e. Distance to monitoring site;
 - f. Distance to nearest residential structure;
 - g. Lbs. of explosive, total;
 - h. Lbs of explosive/millisecond delay;
 - i. Peak ground vibrations for all 3 components of motion;
 - j. Peak airblast and frequency roll-off of the airblast channel;
 - k. Trigger settings for vibration and airblast;
 - l. Frequencies of peak ground vibrations; and
 - m. Other information required by the ULDC or as deemed necessary by the DRO. (Previous Monitoring Condition 4. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: DRO - Zoning)
5. The property owner shall keep time histories (wave traces) for all events, which exceed 0.10 in/sec. The petitioner shall provide written notification, with the seismograph reading, to the Zoning Director within 24 hours of any blasting event, which exceed a ground vibration of 0.20 in/sec. (Previous Monitoring Condition 5. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF - Zoning)
6. The property owner shall submit a five (5) year monitoring report in a form determined by the Zoning Director on May 25, 2011. The report shall record the last five (5) year site activities. The Zoning Director shall schedule an Administrative Inquiry to the Board of County Commissioners (BCC) to discuss ongoing status of the project to ensure consistency with the BCC's approval. (Previous Monitoring Condition 6. of Resolution R-2006-0931, Control No. 2005-450) (DATE: MONITORING - Zoning)

PARKS

1. The Petitioner shall coordinate with the County Parks and Recreation Department in providing an end use plan that allows for public boating access to on site lakes and other public recreational uses within the projects boundaries (Previous Planning Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING – PARKS – Parks)

PHASING

1. A maximum of one phase shall be in active excavation at any time. (Previous Phasing Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF - Zoning)

PLANNING

1. Should any archeological artifacts be uncovered during development or soil disturbing activity, excavation must halt, the County Archaeologist contacted and allowed to comment on the significance of the find as provided for in Article 9 of the ULDC. (Previous Condition Plan 1 of Resolution R2006-931, Control No. 2005-450) (ONGOING: CODE ENF/PLANNING-Planning)

2. The property owner shall obtain the services of a professional archeologist to monitor the mechanical removal of muck soils for the extreme northern end of the subject site within phases III and IV, more specifically identified as the south halves of Section 17 and 18, Township 42 South, Range 39 East, and as indicated in the Certificate to Dig, dated March 13, 2006. The County Archeologist is to be notified in writing within two working days prior to removal of muck soils in the above areas. (Previous Condition Plan 2 of Resolution R2006-931, Control No. 2005-450) (ONGOING: PLANNING - Planning)
3. Prior to commencement of excavation activity, the property owner shall submit to the Planning Director, Documentation from the South Florida Water Management District (SFWMD) and/or the Florida Department of Environmental Protection (FDEP) that states that mined areas reclaimed to create water storage reservoirs are or will be used to support agricultural activities and will contribute to increased water storage capacity in the Everglades Agricultural Area (EAA), or provide other benefit in support of water management projects associated with ecosystem restoration, regional water supply or flood protection, on sites identified by SFWMD or the U. S. Army Corps of Engineers where such uses provide viable alternative technologies for water management. (Previous Condition Plan 3 of Resolution R2006-931, Control No. 2005-450) (ONGOING: ERM/PLANNING - Planning)
4. Starting on June 1, 2007, the property owner shall submit an annual report to the Planning Director and Development Review Officer (DRO) that shall demonstrate compliance with the requirements of Future Land Use Element (FLUE) Policy 2.3-e.3 regarding permitted mining and excavation activities within the Agricultural Production (AP) Future Land Use (FLU) designation. To ensure compliance with the restrictions in this policy, the first annual report shall contain, as applicable, but not be limited to the following:

Documentation from the South Florida Water Management District (SFWMD) and/or the Florida Department of Environmental Protection (FDEP) that states that mined areas reclaimed to create water storage reservoirs are or will be used to support agricultural activities and will contribute to increased water storage capacity in the Everglades Agricultural Area (EAA), or provide other benefit in support of water management projects associated with ecosystem restoration, regional water supply or flood protection, on sites identified by SFWMD or the U. S. Army Corps of Engineers where such uses provide viable alternative technologies for water management.

Thereafter, documentation from the SFWMD and or the FDEP shall only be required in the final year of phases I, II, III, and IV prior to commencement of subsequent phases II, III, and IV as indicated in the phasing schedule on the certified Mine Site and Phasing Plan dated March 27, 2006. (Previous Condition Plan 4 of Resolution R2006-931, Control No. 2005-450) (DATE: MONITORING - Planning)

SETBACKS

1. All excavation activity shall be setback a minimum of five hundred (500) feet from the west property line abutting US Hwy 98 frontage. (Previous Setback Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (DRO: Building - Zoning)

SIGNS

1. Freestanding point of purchase signs fronting on US Hwy 98 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 - 100 square feet;
 - c. Maximum number of signs - two (2); and

d. Style - monument style only. (Previous Signs Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (CO: BLDG - Zoning)

SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD)

1. The property owner shall provide a copy of the water permit verifying the proposed consumption of water shall not exceed three million (3,000,000,000) gallons per day. (Previous SFWMD Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: ERM – SFWMD)

USE LIMITATIONS

1. All uses shall not exceed 50 dBA as measured in the Performance standards of Article 5.E.3. of the ULDC. Noise shall be measured from the residential property line closest to the area under excavation. (Previous Use Limitation Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF - Zoning)
2. Stock piles of rock or other material shall not exceed a maximum height of hundred (100) feet from the undisturbed average finished grade. (Previous Use Limitation Condition 2. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: CODE ENF - Zoning)

COMPLIANCE

1. In granting this approval, the Zoning Commission 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 Zoning Commission for review under the compliance condition of this approval. (Previous Compliance Condition 1. of Resolution R-2006-0931, Control No. 2005-450) (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 Circuit

Court, Appellate Division, 15th Judicial Circuit of Florida. (Previous Compliance Condition 2. of Resolution R-2006-0931, Control No. 2005-450) (ONGOING: MONITORING - Zoning)