

RESOLUTION NO. R-2008- 0276

RESOLUTION APPROVING ZONING APPLICATION DOA2007-1398
(CONTROL NUMBER 2003-085)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF ASPEN SQUARE, LLC
BY URBAN DESIGN STUDIO, AGENT
(ASPEN SQUARE 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, 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 DOA2007-1398 was presented to the Board of County Commissioners at a public hearing conducted on February 28, 2008; 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 DOA2007-1398, the application of Aspen Square, LLC, by Urban Design Studio, agent, for a Development Order Amendment to reconfigure the site plan and 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 February 28, 2008, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Jeff Koons 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
Jeff Koons, Vice Chair	-	Aye
Karen T. Marcus	-	Aye
Robert J. Kanjian	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Nay

The Chairperson thereupon declared that the resolution was duly passed and adopted on February 28, 2008.

Filed with the Clerk of the Board of County Commissioners on March 14, 2008.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

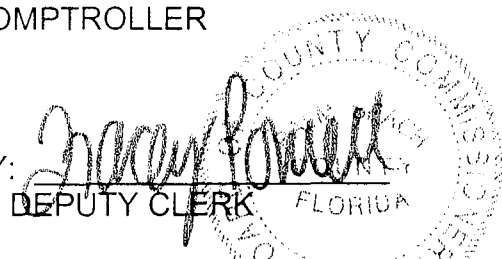
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK




EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

THE SOUTH 260 FEET OF THE FOLLOWING DESCRIBED PROPERTY: THE NE 1/4 OF THE NW 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, EXCEPT ANY PART THEREOF LYING WITHIN THE RIGHT OF WAY OF SIMS ROAD.

PARCEL 2:

THE EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; EXCEPT ANY PART LYING WITHIN THE RIGHT OF WAY OF SIMS ROAD.

PARCEL 3:

THE EAST 3 ACRES OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST; LESS THE SOUTH 12.5 FEET THEREOF. SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

PARCEL 4:

THE NORTH 200 FEET OF THE WEST TWO ACRES OF THE WEST 1/2 OF THE SE 1/4 OF THE NE 1/4 OF THE NW 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST AND EXCEPTING THEREFROM AND EXISTING RIGHT OF WAY FOR ANDY AND ALL PUBLIC UTILITIES. TOGETHER WITH AN EASEMENT FOR INGRESS EGRESS OVER THE WEST 20 FEET OF THE EAST THREE ACRES OF THE WEST 1/2 OF THE SE 1/4 OF THE NE 1/4 OF THE NW 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH A PARCEL OF LAND BOUNDED AS FOLLOWS:

ON THE NORTH BY THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST; ON THE EAST BY THE WEST LINE OF THE EAST 3 ACRES OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 42 EAST; ON THE SOUTH BY THE SOUTH LINE OF THE NORTH 200 FEET OF THE WEST 1/2 OF THE SE 1/4 OF THE NE 1/4 OF THE NW 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST; ON THE WEST BY THE EAST LINE OF THE WEST TWO ACRES OF THE WEST 1/2 OF THE SE 1/4 OF THE NE 1/4 OF THE NW 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

PARCEL 5:

THE SOUTH 330 FEET OF THE NORTH 530 FEET OF THE FOLLOWING DESCRIBED PARCEL OF LAND:

THE WEST 2 ACRES OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH A PARCEL OF LAND BOUNDED AS FOLLOWS:

ON THE NORTH BY THE SOUTH LINE OF THE NORTH 200 FEET OF THE WEST 1/2 OF THE SE 1/4 OF THE NE 1/4 OF THE NW 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST; ON THE EAST BY THE WEST LINE OF THE EAST 3 ACRES OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST; ON THE SOUTH BY THE SOUTH LINE OF THE NORTH 530 FEET OF THE WEST 1/2 OF THE SE 1/4 OF THE NE 1/4 OF THE NW 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST; ON THE WEST BY THE EAST LINE OF THE WEST 2 ACRES OF THE WEST 1/2 OF THE SE 1/4 OF THE NE 1/4 OF THE NW 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

PARCEL 6:

THE E 1/2 OF THE W 1/5 OF THE SE 1/4 OF THE NE 1/4 OF THE NW 1/4, LESS THE NORTH 530 FEET AND THE SOUTH 12.5 FEET THEREOF FOR ROAD RIGHT OF WAY, LYING IN SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, SAID LAND LYING IN PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH A PARCEL OF LAND BOUNDED AS FOLLOWS:

ON THE NORTH BY THE SOUTH LINE OF THE NORTH 530 FEET OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; ON THE EAST BY THE WEST LINE OF THE EAST 3 ACRES OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST; ON THE SOUTH BY A LINE BEING 12.5 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SE 1/4 OF THE NE 1/4 OF THE NW 1/4 OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

CONTAINING 11.854 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

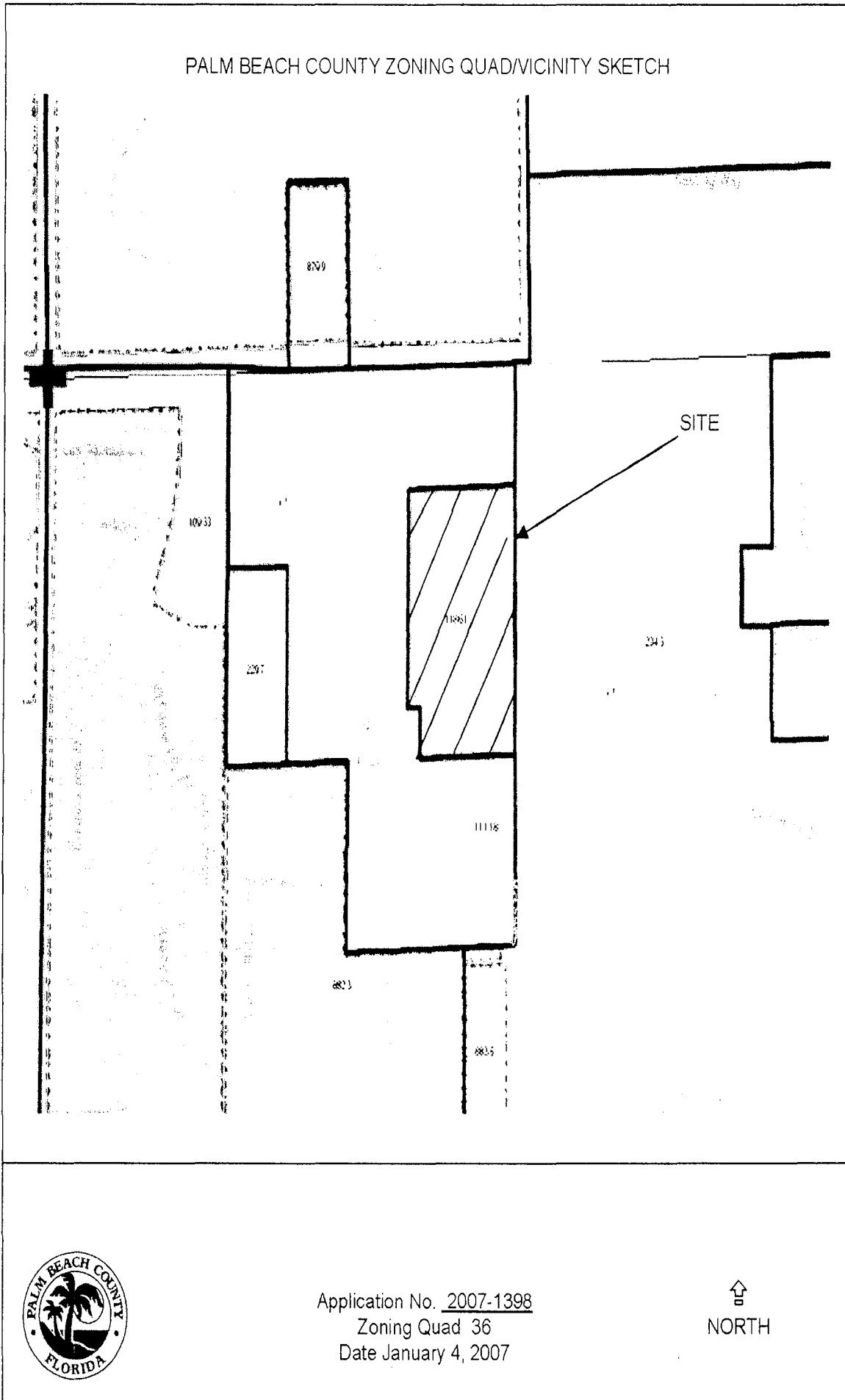


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2004-2031, 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 Unified Land Development Code (ULDC) and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Condition A.1 of Resolution R-2004-2031, Control 2003-085 which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved master plan is dated June 18, 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)

Is hereby amended to read:

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 November 29, 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. (ONGOING: ZONING)

3. Based on ULDC Article 2.E, this development order meets the requirements to receive a new three (3) year review date from the date of approval of this resolution (ONGOING: MONITORING)

ARCHITECTURAL REVIEW

1. Condition B.1 of Resolution R-2004-2031, Control 2003-085 which currently states:

At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations shall be submitted simultaneously with the master plan for final architectural review and approval for the residential structures. Elevations shall be designed to be consistent with Sec. 6.6.E of the ULDC. Development shall be consistent with the approved architectural elevations. (DRO: ARCH REVIEW – Zoning)

Is hereby amended to read:

At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval for the multifamily buildings. The proposed residential buildings shall be designed and constructed to be generally consistent with the facade elevations prepared by Marc Wiener, A.I.A. dated September 19, 2007. Deviations are permitted with the review and approval by the Architectural Review Section. (DRO: ARCH REVIEW, Zoning)

2. Condition B.2 of Resolution R-2004-2031, Control 2003-085 which currently states: Diversity of architectural elevations and exterior color schemes for the townhouse units shall be achieved through compliance with the following:

- a. a minimum of three (3) elevations shall be required for each individual building, to be evenly dispersed amongst the units within each building. Variation in these elevations shall be achieved through the use of differing architectural details such as, but not limited to: roof treatment, stucco banding, reveals, decorative vents and louvers, columns or pilasters, and/or quoins;
- b. a minimum of three (3) exterior color schemes shall be required for each individual building, to be evenly dispersed amongst the units within each building; and,
- c. the entire length of the front façade of each unit shall project or be recessed a minimum distance of six (6) feet from the front façade of the adjacent unit to provide the appearance of staggered building setbacks and to achieve a varied streetscape. (BLDG PERMIT: ARCH REVIEW/BLDG – Zoning)

Is hereby deleted. [Reason: Applicant is no longer a proposing townhome development.]

ENGINEERING

1. Condition E.1 of Zoning Resolution R-2004-2031, Control 2003-085 which currently states:

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 June 16, 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)

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:

No Building Permits for the site may be issued after January 2, 2012. 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 property owner shall convey to Palm Beach County Land Development Division by warranty deed or plat for Frost Lane 50 feet north of the existing south right of way of Frost Lane. This right of way shall be conveyed prior to the issuance of the first Building Permit. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The Developer 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 also agrees to provide Palm Beach County an environmental report, subject to the approval of 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 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 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) (Previous Condition E.2 of Resolution R-2004-2031, Control 2003-085)

3. Condition E.3 of Zoning Resolution R-2004-2031 which currently states:

Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement to Palm Beach County at the Projects Entrance Road(s). This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owner's road right of way. Construction by the applicant within this easement shall conform to Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING Eng)

Is hereby deleted. [Reason the project no longer will be developed with an internal road right of way.]

4. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Sims Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING Eng) (Previous Condition E.4 of Resolution R-2004-2031, Control 2003-085)
5. The Property owner shall construct a left turn lane south approach on Sims Road at Project's entrance road. This 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.
- a) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING Eng)
 - b) Construction for this improvement shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING Eng)) (Previous Condition E.5 of Resolution R-2004-2031, Control 2003-085)
6. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG) (Previous Condition E.6 of Resolution R-2004-2031, Control 2003-085)
7. Concurrent with the first plat the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Sims Road along the property frontage; and up to a maximum of an additional 800-feet of these adjacent roadway(s). The limits of this additional 800-feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20-foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements

of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24-inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County, which at its discretion may use this fill material. (DATE: MONITORING Eng) (Previous Condition E.7 of Resolution R-2004-2031, Control 2003-085)

ENVIRONMENTAL

1. Previous C-1 of Resolution R-2004-2031, Control 2003-085 which currently states:

All existing native vegetation, including understory, depicted on the master plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the master plan shall be maintained free from invasive, exotic and non-native species.

Is hereby deleted. [Reason: the trees will be mitigated.]

ZONING – LANDSCAPING – STANDARD

1. Fifty (50) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet;
- b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
- c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and
- d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning) (Previous Condition D.1 of Resolution R-2004-2031, Control 2003-085)

2. Previous Condition D.2 of Resolution R-2004-2031, Control 2003-085 which currently states:

All palms required to be planted on the property by this approval, except on individual residential lots, 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)

Is hereby amended to read:

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)
3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. this condition does not apply to the five (5) foot wide compatibility buffer or where a single row of hedge is required on one or both sides of the wall. (CO: LANDSCAPE – Zoning) (Previous Condition D.3 of Resolution R-2004-2031, Control 2003-085)
 4. All trees, palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE – Zoning) (Previous Condition D.4 of Resolution R-2004-2031, Control 2003-085)
 5. A group of three (3) or more palm or pine trees may not supersede the requirement for perimeter canopy trees in that location, unless specified herein. (CO: LANDSCAPE – Zoning) (Previous Condition D.5 of Resolution R-2004-2031, Control 2003-085)
 6. Previous Condition D.6 of Resolution R-2004-2031, Control 2003-085, which currently states: All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the Plant the Right Tree in the Right Place guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (CO: LANDSCAPE – Zoning) is hereby deleted. [Reason: Code requirement]
 7. Field adjustment of plant materials and berm locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing native vegetation. (CO: LANDSCAPE – Zoning) (Previous Condition D.7 of Resolution R-2004-2031, Control 2003-085)
 8. Berm height shall be measured from the nearest top of the curb or the crown of the adjacent road or the nearest adjacent finished floor elevation, whichever is higher. Minor height adjustments may be permitted subject to the approval by the Landscape Section prior to the issuance of a building permit. (BLDG PERMIT: LANDSCAPE – Zoning) (Previous Condition D.8 of Resolution R-2004-2031, Control 2003-085)

LANDSCAPING ALONG THE EAST AND SOUTH PROPERTY LINES (ABUTTING SIMS ROAD AND FROST LANE)

1. Landscaping and buffering along the east and south property lines shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. a minimum two (2) foot high undulating berm measured from top of curb;
 - c. one (1) native canopy tree for each thirty (30) feet of the property line;
 - d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;

- f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- g. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (BLDG PERMIT: LANDSCAPE – Zoning) (Previous Condition F.1 of Resolution R-2004-2031, Control 2003-085)

LANDSCAPING ALONG THE NORTH PROPERTY LINES (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the north property lines shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. a continuous two (2) foot high berm measured from top of curb;
 - c. a six (6) foot high opaque concrete wall to be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
 - d. one (1) canopy tree planted for each twenty (20) linear feet of the property line, alternating on both sides of the wall; and,
 - e. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters, alternating on both sides of the wall. (BLDG PERMIT: LANDSCAPE – Zoning) (Previous Condition G.1 of Resolution R-2004-2031, Control 2003-085)

PALM TRAN

1. Apply Basic Bus Stop Boarding and Alighting Area condition to all residential projects over 50 units and all commercial projects over five acres and 50,000 square feet: 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 Master Plan and/or 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 not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (PLAT: ENG-PalmTran)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the property owner shall record in the public records of Palm Beach County a restrictive covenant, in a form acceptable to the Palm Beach County Attorney, which includes the following:
 - a. Guarantees the attainability of all required workforce units, which includes all units required per Article 5.G in the ULDC and all requested TDR units, for a period of twenty-five years (recurring). These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the Workforce Housing requirements in Article 5.G in the ULDC. The unit sales prices will be determined by Palm Beach County's Housing and Community Development Department; and

- b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRO: COUNTY ATTY- Planning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall include notations on Master Plans and related Site Plans that the requested TDR units have been designated as workforce housing units. Notations shall also indicate that every deed of sale for each of the designated workforce units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of 25 years (recurring), and that any person or family wishing to reside in a unit that has been designated as a workforce unit shall qualify for eligibility. (DRO: PLANNING – Planning)
3. On an annual basis, beginning April 1, 2008, or as otherwise stipulated in the Workforce Housing declaration of restrictive covenants, the property owner, master homeowners association, or property owner association shall submit an annual report to the Planning Division and HCD documenting compliance with the Workforce Housing declaration of restrictive covenants, and the deed of sale restriction. (DATE/ONGOING: MONITORING – Planning/HCD)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

“NOTICE TO PARENTS OF SCHOOL AGE CHILDREN”

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD) (Previous Condition J.1 of Resolution R-2004-2031, Control 2003-085)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: SCHOOL BOARD) (Previous Condition J.2 of Resolution R-2004-2031, Control 2003-085)

ZONING

1. Prior to final approval by the Development Review Office (DRO), the applicant shall revise the site plan by adding a walking/fitness trail around the lake. (DRO: ZONING - Zoning)
2. Prior to final approval by the Development Review Office (DRO), the applicant shall revise the floor plans of the buildings to provide for at least one trash receptacle room for the tenants to utilize in each of the six buildings. (DRO: ARCH REVIEW-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. (ONGOING: MONITORING - Zoning) (Previous Condition K.1 of Resolution R-2004-2031, Control 2003-085)
2. Previous Condition K.2 of Resolution R-2004-2031, Control 2003-085, 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 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 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 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. (ONGOING: MONITORING - Zoning)