

RESOLUTION NO. R-2008- 0919

RESOLUTION APPROVING ZONING APPLICATION DOA-2008-092
(CONTROL NUMBER 1980-00085)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF BOYNTON BEACH ASSOCIATES XIX, LLLP
BY KILDAY & ASSOCIATES, INC., AGENT
(WFLX TOWER SITE)

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 DOA-2008-092 was presented to the Board of County Commissioners at a public hearing conducted on May 22, 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 DOA-2008-092, the application of Boynton Beach Associates XIX, LLLP, by Kilday & Associates, Inc., agent, for a Development Order Amendment to delete land area 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 May 22, 2008, 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 Jeff Koons 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	¥	Absent
Burt Aaronson	¥	Aye
Jess R. Santamaria	¥	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 22, 2008.

Filed with the Clerk of the Board of County Commissioners on 10 day of June, 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

LEGAL DESCRIPTION:

THAT PORTION OF SECTION 3, TOWNSHIP 45 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 41 EAST, SAID PALM BEACH COUNTY ALSO BEING THE SOUTHWEST CORNER OF THE PLAT OF HOMELAND, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 33, PAGES 111 THROUGH 117, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; THENCE NORTH 00°56'23" WEST, ALONG THE WEST LINE OF SAID SECTION 2, ALSO BEING THE WEST LINE OF SAID PLAT OF HOMELAND, A DISTANCE OF 100.00 FEET; THENCE SOUTH 89°42'50" WEST, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL AND A POINT ON THE SOUTH LINE OF THAT CERTAIN LEASE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5969, PAGE 1422, OFFICIAL RECORDS BOOK 13873, PAGE 1243 AND OFFICIAL RECORDS BOOK 20496, PAGE 559, SAID PUBLIC RECORDS; THENCE SOUTH 89°42'50" WEST, ALONG THE SOUTH LINE OF SAID LEASE PARCEL, A DISTANCE OF 2,200.00 FEET; THENCE NORTH 00°56'23" WEST, ALONG THE WEST LINE OF SAID LEASE PARCEL, A DISTANCE OF 2,200.00 FEET; THENCE NORTH 89°42'50" EAST, ALONG THE NORTH LINE OF SAID LEASE PARCEL, A DISTANCE OF 2,200.00 FEET; THENCE SOUTH 00°56'23" EAST, ALONG THE EAST LINE OF SAID LEASE PARCEL, A DISTANCE OF 2,200.00 FEET TO THE POINT OF BEGINNING.

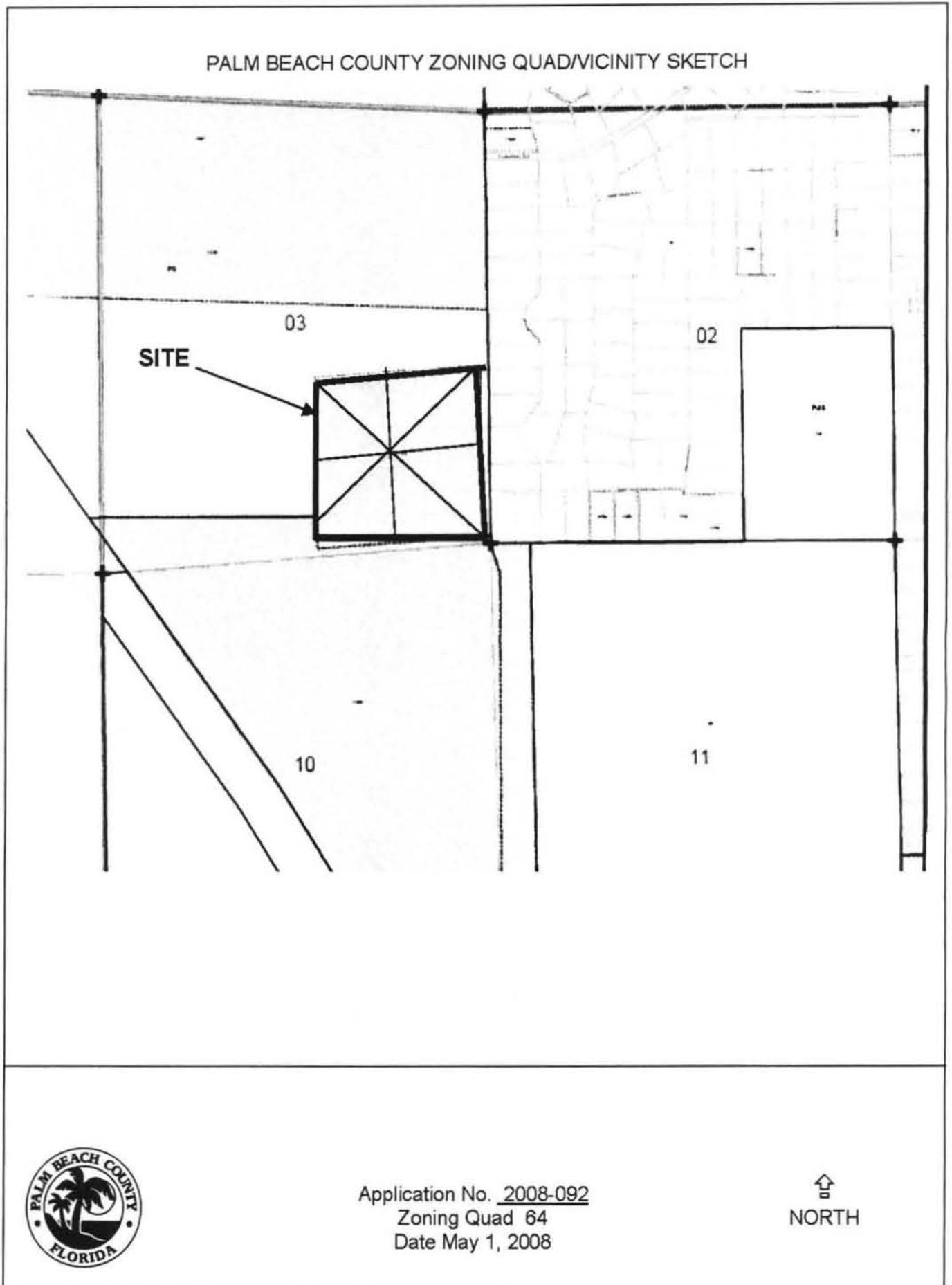
LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 41 EAST, SAID PALM BEACH COUNTY ALSO BEING THE SOUTHWEST CORNER OF THE PLAT OF HOMELAND, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 33, PAGES 111 THROUGH 117, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; THENCE NORTH 00°56'23" WEST, ALONG THE WEST LINE OF SAID SECTION 2, ALSO BEING THE WEST LINE OF SAID PLAT OF HOMELAND, A DISTANCE OF 100.00 FEET; THENCE SOUTH 89°42'50" WEST, ALONG THE SOUTH LINE (AND EASTERLY EXTENSION OF SAID SOUTH LINE) OF THAT CERTAIN LEASE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5969, PAGE 1422, OFFICIAL RECORDS BOOK 13873, PAGE 1243 AND OFFICIAL RECORDS BOOK 20496, PAGE 559, SAID PUBLIC RECORDS; A DISTANCE OF 1,466.42 FEET; THENCE NORTH 00°17'10" WEST, A DISTANCE OF 13.90 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE NORTH 75°38'38" WEST, A DISTANCE OF 60.00 FEET; THENCE NORTH 14°21'22" EAST, A DISTANCE OF 384.92 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 735.50 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 16°41'37" EAST; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 115°12'11", A DISTANCE OF 1,478.85 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE NORTH 45°45'56" WEST, A DISTANCE OF 377.30 FEET; THENCE NORTH 44°14'04" EAST, A DISTANCE OF 45.00 FEET; THENCE SOUTH 45°45'56" EAST, A DISTANCE OF 376.84 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 735.50 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 44°35'50" EAST; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 118°03'14", A DISTANCE OF 1,515.45 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE NORTH 74°37'32" EAST, A DISTANCE OF 378.58 FEET; THENCE SOUTH 15°22'28" EAST, A DISTANCE OF 45.00 FEET; THENCE SOUTH 74°37'32" WEST, A DISTANCE OF 379.04 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY,

HAVING A RADIUS OF 735.50 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 76°57'47" WEST; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 115°03'19", A DISTANCE OF 1,476.95 FEET; THENCE SOUTH 14°21'22" WEST, A DISTANCE OF 384.92 FEET TO THE POINT OF BEGINNING.

CONTAINING 70.779 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



Application No. 2008-092
Zoning Quad 64
Date May 1, 2008

↑
NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-80-838 (Control 80-85), 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. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Site plan is dated February 25, 2008. 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 - Zoning)

ENGINEERING

1. Previous Engineering Condition 1, Resolution R-80-838, which currently states:

The County Engineer's Office has reviewed the Engineering data concerning the fall distance of the proposed tower and finds it acceptable. (ONGOING: ENG-Eng)

Is hereby deleted. [Reason: New breakpoint calculations for the existing guyed tower, which have been certified by a professional engineer licensed in the State of Florida, were submitted in accordance with ULDC Article 4.C.3.G.3, Guyed Tower Setbacks.]
2. The subdivision variance, application number 2008-092, shall only remain in effect for the use of the site as a Tower. Should the use of the site be amended, this variance shall be considered as expired. (ONGOING: ENG-Eng)

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 Zoning Commission 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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, 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 a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)