

RESOLUTION NO. R-2009- 0170

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2008-01523  
(Control No. 1981-00115)  
REQUESTED USE  
APPLICATION OF Garden Shops at Boca Joint Venture  
BY Kilday & Associates, Inc., AGENT  
(Garden Shops at Boca II)

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, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Requested Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Application ZV/DOA/R-2008-01523 was presented to the Board of County Commissioners at a public hearing conducted on January 29, 2009; 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 recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the Palm Beach County Unified Land Development Code (ULDC) 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 Requested Use 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 Requested Use complies with relevant and appropriate portions of Article 4.B, Supplementary Use Standards of the Palm Beach County Unified Land Development Code. This Requested Use also meets applicable local land development regulations.
3. This Requested Use, 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 Requested Use has a concurrency determination and complies with Article 2.F (Concurrency) of the ULDC.
5. This Requested Use, 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 Requested Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Requested Use, 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 Requested Use, with conditions as adopted, is consistent with the applicable Neighborhood Plans.
- 10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Requested Use.

WHEREAS, Article 2.A.1.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 R-ZV/DOA/R-2008-01523, the application of Garden Shops at Boca Joint Venture, by Kilday & Associates, Inc., agent, for a Requested Use to allow a Requested Use to allow a Type I Restaurant with a drive-thru in the CG/SE Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on January 29, 2009, 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:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
District 4	-	
Commissioner Jess R. Santamaria	-	
Commissioner Addie L. Greene	-	Aye
		Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 29, 2009.

Filed with the Clerk of the Board of County Commissioners on February 17, 2009.

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 R. BOCK, CLERK & COMPTROLLER

BY: [Signature]  
COUNTY ATTORNEY


BY: [Signature]  
DEPUTY CLERK  


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF TRACT 21, BOCA DEL MAR NO. 6 AS RECORDED IN PLAT BOOK 30, PAGES 142 AND 143 OF THE PUBLIC RECORDS OF PALM

BEACH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

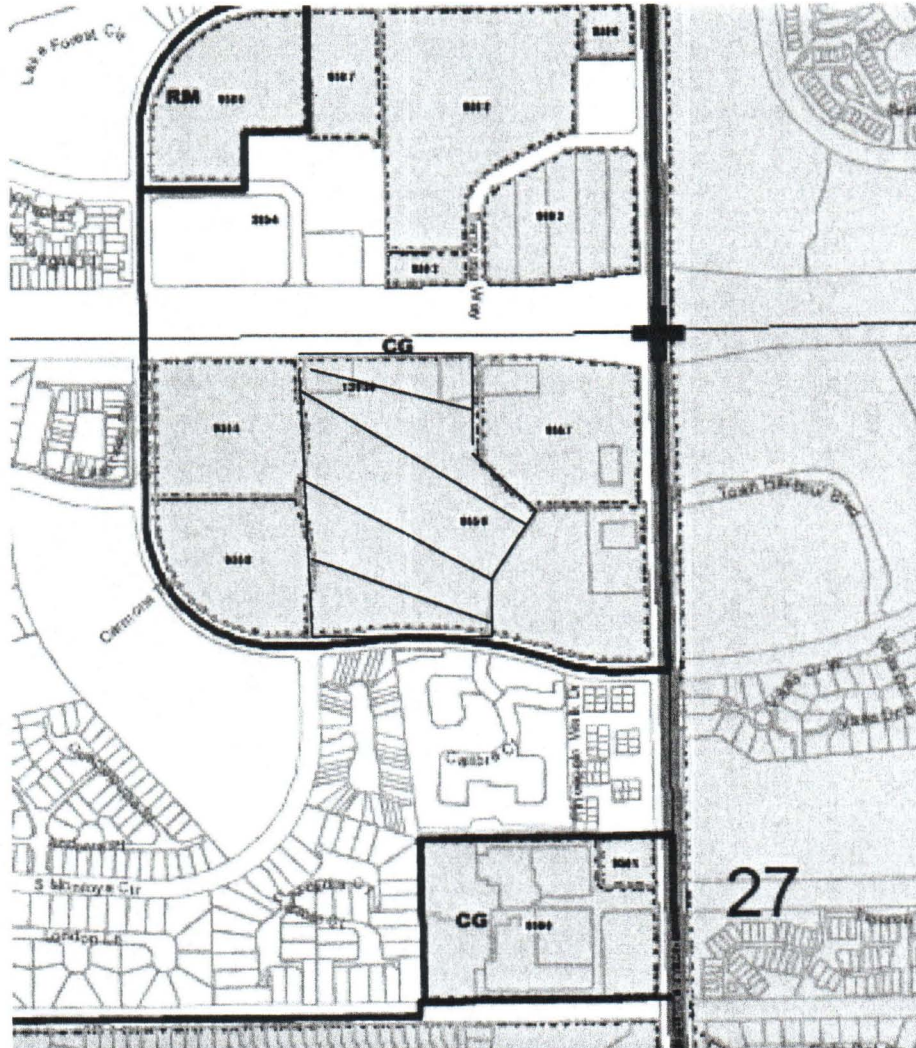
COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT 21; THENCE WITH A BEARING OF N. 89°50'07"E. ALONG THE NORTH LINE OF TRACT 21, A DISTANCE OF 575.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE WITH A BEARING OF N. 89°50'07"E., ALONG SAID NORTH LINE OF TRACT 21, A DISTANCE OF 709.63 FEET TO A POINT; THENCE WITH A BEARING OF S. 01°03'02"E., A DISTANCE OF 420.00 FEET TO A POINT; THENCE WITH A BEARING OF S. 46°03'02"E., A DISTANCE OF 95.97 FEET TO A POINT OF CURVATURE; THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 85.00 FEET, A CENTRAL ANGLE OF 45°00'00", AN ARC LENGTH OF 66.76 FEET, MORE OR LESS, TO A POINT; THENCE WITH A BEARING OF S. 01°03'02"E., A DISTANCE OF 61.08 FEET TO A POINT; THENCE WITH A BEARING OF N.88°56'58"E., A DISTANCE OF 140.30 FEET TO A POINT; THENCE WITH A BEARING OF S. 35°27'47"W., A DISTANCE OF 329.71 FEET TO A POINT; THENCE WITH A BEARING OF S. 09°13'58"W., A DISTANCE OF 230.00 FEET TO A POINT LYING ON A CURVE CONCAVE TO THE SOUTH, BEING COINCIDENT WITH THE SOUTHERLY BOUNDARY OF TRACT 21; THENCE ALONG SAID CURVE HAVING AN INITIAL TANGENT BEARING OF N. 80°46'02"W., A RADIUS OF 1677.02 FEET, AN ARC LENGTH OF 450.73 FEET TO A POINT OF TANGENCY; THENCE WITH A BEARING OF S. 83°50'00"W., A DISTANCE OF 89.79 FEET TO A POINT OF CURVATURE; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 1597.02 FEET, AN ARC LENGTH OF 155.31 FEET TO A POINT, THE LAST THREE COURSES BEING COINCIDENT WITH THE SOUTHERLY BOUNDARY OF TRACT 21; THENCE WITH A BEARING OF N. 00°10'00"W., A DISTANCE OF 125.00 FEET TO A POINT OF CURVATURE; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 175.00 FEET, AN ARC LENGTH OF 49.84 FEET TO A POINT OF REVERSE CURVATURE; THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 375.00 FEET, AN ARC LENGTH OF 204.96 FEET TO A POINT OF TANGENCY; THENCE WITH A BEARING OF N.15°09'53" W., A DISTANCE OF 125.05 FEET TO A POINT OF CURVATURE; THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 225.00 FEET, AN ARC LENGTH OF 117.81 FEET TO A POINT OF REVERSE CURVATURE; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 620.00 FEET, AN ARC LENGTH OF 324.63 FEET TO A POINT OF REVERSE CURVATURE; THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 175.00 FEET, AN ARC LENGTH OF 45.81 FEET TO A POINT OF TANGENCY; THENCE WITH A BEARING OF N. 00°09'53"W., A DISTANCE OF 125.00 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

CONTAINING 810,891 SQUARE FEET, 18.616 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2008-1523  
Zoning Quad 54



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

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)