

RESOLUTION NO. R-2009- 0369

RESOLUTION APPROVING ZONING APPLICATION DOA/R/TDR-2008-00441
(CONTROL NUMBER 2004-00524)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF WOODWIND 2007 LLC
BY LAND DESIGN SOUTH, INC., AGENT
(WOODWIND 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 DOA/R/TDR-2008-00441 was presented to the Board of County Commissioners at a public hearing conducted on February 25, 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 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/R/TDR-2008-00441, the application of Woodwind 2007 LLC, by Land Design South, Inc., agent, for a Development Order Amendment to to reconfigure the Master Plan, to increase the number of dwelling units, and to restart the commencement clock for development 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 25, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

The motion was seconded by Commissioner Greene 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	-	Absent
Commissioner Shelley Vana	-	Aye
District 4	-	
Commissioner Jess R. Santamaria	-	Naye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on February 25, 2009.


Filed with the Clerk of the Board of County Commissioners on March 11, 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

BY: 
COUNTY ATTORNEY

SHARON BOCK &
COMPTROLLER
BY: 
DEPUTY CLERK

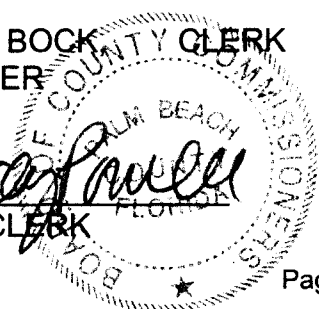


EXHIBIT A

LEGAL DESCRIPTION

TRACTS 9 THROUGH 12, BLOCK 34, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 1,582,934 SQAURE FEET OR 36.34 ACRES, MORE OR LESS.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS AND RIGHTS-OF-WAY RECORD.

00-42-43-27-05-034-0090

00-42-43-27-05-034-0111

00-42-43-27-05-034-0121

00-42-43-27-05-034-0100

00-42-43-27-05-034-0113

00-42-43-27-05-034-0122

EXHIBIT B
VICINITY SKETCH

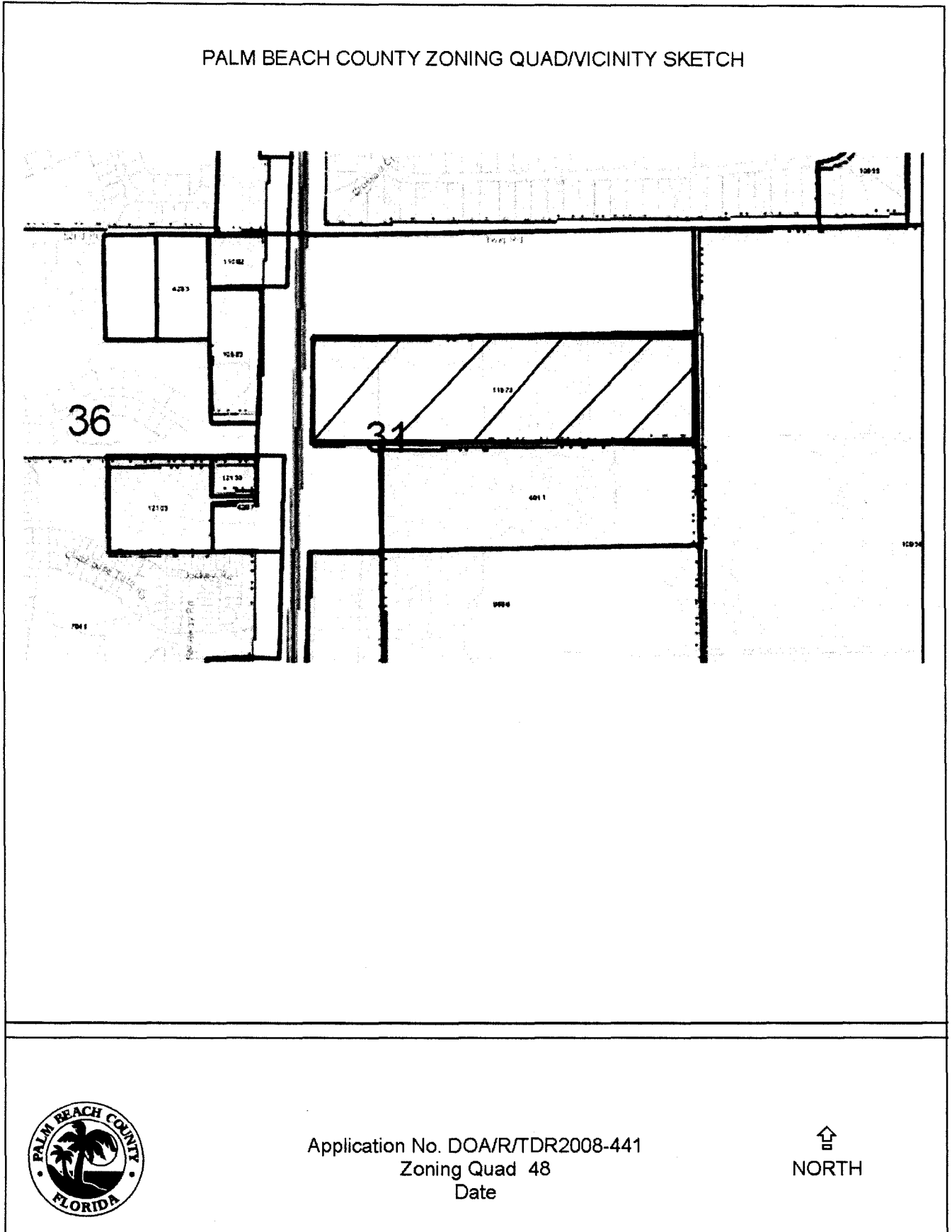


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2005-1785, 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-2005-1785, Control 2004-524 which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved master plan and regulating plan are dated May 13, 2005. 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. (DRO: ZONING - Zoning)

Is hereby amended to read:

Development of the site is limited to the site design approved by the Board of County Commissioners. The preliminary master, site, and regulating plans are dated July 9, 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)

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-Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for all structures shall be submitted simultaneously with the final site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

ENGINEERING

1. Engineering Condition E1 of Zoning Resolution R-2005-1785, Control No. 2004-524 which currently states:

TRAFFIC PERFORMANCE STANDARDS PHASING REQUIREMENTS

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

a) 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

TRAFFIC PERFORMANCE STANDARDS PHASING REQUIREMENTS

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

a) No Building Permits for the site may be issued after January 1, 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.ADDITIONAL ROAD RIGHT OF WAY - Woodwind Lane and 95th Avenue South

- The property owner shall convey to Palm Beach County Land Development Division by warranty deed for:

- a) Woodwind Lane, 80 foot right of way from State Road 7 to the Project's Entrance Road on an alignment approved by the County Engineer;
- b) Woodwind Lane, 25 feet from centerline from the Project Entrance, east to 95th Avenue South;
- c) 95th Avenue South, 25 feet from centerline from Woodwind Road to the projects north property line.

All 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 E2 of Zoning Resolution R-2005-1785, Control No. 2004-524.

3.Engineering Condition E3 of Zoning Resolution R-2005-1785, Control No. 2004-524 which currently states:

ROAD CONSTRUCTION IMPROVEMENTS

The Property owner shall construct:

- a) Woodwind Lane, local street standards minimum two 10 foot travel lanes from SR 7 east approx. 800 feet as shown on the proposed Master Plan
- b) left turn lane east approach on Windwood Lane at State Road 7;
- c) reconstruct the existing median opening on State Road 7 at the realigned Woodwind Lane;
- d) left turn lane north approach on State Road 7 at Woodwind Lane
- e) right turn lane south approach on State Road 7 at Woodwind Lane.

All 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 and the Florida Department of Transportation for the construction in 3a-3e above shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)

B. Construction for the improvements in E3a-E3e shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

Is hereby amended to read:

ROAD CONSTRUCTION IMPROVEMENTS

The Property owner shall construct:

- Woodwind Lane, collector street standards minimum three 12 foot travel lanes from SR 7 east approx. 800 feet as shown on the proposed Master Plan. This will provide for a left turn lane east approach on Woodwind Lane at SR7 and a left turn lane west approach on Woodwind Lane at the project north/south entrance road.
- construction of Woodwind Lane shall include 2 four foot bike lanes and 2 five foot pedestrian pathways from SR 7 to the project north/south entrance road
- reconstruct the existing median opening on State Road 7 at the realigned Woodwind Lane;
- left turn lane north approach on State Road 7 at Woodwind Lane
- right turn lane south approach on State Road 7 at Woodwind Lane.

All 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 and the Florida Department of Transportation shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)

B. Construction for these improvements shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

4.LANDSCAPE WITHIN THE MEDIAN OF STATE ROAD 7

The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of State Road 7. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below.

a) The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

b) All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

c) At petitioner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner. (ONGOING-ENGINEERING)

d) Also, prior to the issuance of a Building Permit, and at the option of the petitioner, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along State Road 7. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGONG-ENGINEERING)

Previous Condition E4 of Zoning Resolution R-2005-1785, Control No. 2004-524

5. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG Eng)

Previous Condition E5 of Zoning Resolution R-2005-1785, Control No. 2004-524.

6. Prior to final approval of the Site Plan by the Development Review Officer, the Property owner shall provide lake cross-sections, including existing and proposed elevations, for all existing onsite lakes. (DRO: ENGINEERING-Eng)

7. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Woodwind Lane and SR 7. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition.

a. Building Permits for more than 150 dwelling units shall not be issued until the developer provides a letter of credit, or other form of surety determined acceptable by the County Engineer, to the Traffic Division, in the amount determined by the Director of the Traffic Division. (BLDG PERMIT: MONITORING-Eng).

b. In order to request release of the performance security for the traffic signal at Woodwind Lane and SR 7, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at Woodwind Lane and SR 7. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENGINEERING-Eng)

ENVIRONMENTAL

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

ZONING - LANDSCAPING-ZONING LANDSCAPING ALONG SOUTH PROPERTY LINE (FUTURE COUNTY PARK)

1. In addition to the proposed landscaping and buffering program and code requirements, landscaping and/or buffer width along the south property line shall be upgraded to include:

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. (Previous Condition 1, under Zoning-Landscaping Along the south Property Line of Resolution R-2005-1785, Control 2004-524)(BLDG PERMIT: ZONING- Landscape)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING VACANT AR LAND)

2. Condition 1, Zoning-Landscaping Along the North Property Line of Resolution R-2005-1785, Control 2004-524 which currently states:

In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the north property line shall be upgraded to include:

a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted; and,

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. (Previous Condition 1, under Zoning-Landscaping Along the North Property Line of Resolution R-2005-1785, Control 2004-524)(BLDG PERMIT: ZONING- Landscape)

is hereby amended to read:

In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the north 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; and,
- 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. (BLDG PERMIT: ZONING-Landscape)

ZONING - LANDSCAPING-STANDARD

3.A minimum of 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. (Previous Condition 1, under Zoning-Landscaping-Standard of Resolution R-2005-1785, Control 2004-524)(BLDG PERMIT: ZONING- Landscape)

4.Previous Landscape Condition 2, under Resolution R-2005-1785, Control 2004-524 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. (BLDG PERMIT: ZONING- Landscape)

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. (BLDG PERMIT: ZONING- Landscape)

5.A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (Previous Condition 3, under Zoning-Landscaping-Standard of Resolution R-2005-1785, Control 2004-524)(BLDG PERMIT: ZONING- Landscape)

6.Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (Previous Condition 4, under Zoning-Landscaping-Standard of Resolution R-2005-1785, Control 2004-524)(BLDG PERMIT: ZONING- Landscape)

ZONING - LANDSCAPING

7.Prior to the issuance of a first building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan shall be

prepared in compliance with the ULDC and Conditions of Approval. (Previous Condition 5, under Zoning-Landscaping-Standard of Resolution R-2005-1785, Control 2004-524)(BLDG PERMIT:MONITORINGLandscape)

8.Previous Landscape Condition 6, under of Resolution R-2005-1785, Control 2004-524 which currently states:

Preservation of existing native trees areas may be incorporated into landscape buffer planting and berm requirements, subject to the following:

a. prior to final approval by the Development Review Officer (DRO), documentation that demonstrates native preserve area vegetation will meet or exceed the screening provided by required perimeter landscaping shall be submitted to the Landscape Section for review and approval; and,

b. additional native vegetation may be relocated or added to preserve areas to meet the intent of this condition. (DRO: ZONING-Landscape)

Is hereby amended to read:

Preservation of existing native trees areas may be incorporated into landscape buffer planting and berm requirements, subject to the following:

a. prior to final approval by the Development Review Officer (DRO), documentation that demonstrates native preserved vegetation will meet or exceed the screening provided by required perimeter landscaping shall be submitted to the Landscape Section for review and approval; and,

b. additional native vegetation may be relocated or added to buffer areas to meet the intent of this condition. (DRO: ZONING-Landscape)

LANDSCAPE - STANDARD-ZONING LANDSCAPING ALONG THE EAST AND WEST PROPERTY LINES(ABUTTING COUNTY GOLF COURSE AND SR-7/441)

9.In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the east and west property lines shall be upgraded to include:

a. Width reduction or easement encroachment for the west property line shall be permitted subject to an Alternative Landscape Plan (ALP); and,

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. (Previous Condition 1, under Zoning-Landscaping Along the East and West Property lines of Resolution R-2005-1785, Control 2004-524)(BLDG PERMIT: ZONING- Landscape)

PARKS-DEVELOPMENT IS ADJACENT TO A FUTURE DISTRICT PARK

1.The petitioner shall notify future tenants by providing that rental agreements and brochures, contain a disclosure statement identifying that the development is adjacent to a future district county park with active recreational amenities that may be subject to noise and lights from future recreational facilities including but not limited to ball fields, picnic facilities, lakes, etc. Also, the rental office shall make tenants aware that all or portion of Lantana I" District Park will remain in an unimproved state with no regularly scheduled maintenance until such time as the park is developed and open to the public. (ONGOING-PARKS-Code Enf)

PLANNING

1. Planning Condition 1 of Resolution R-2005-1785, Control 2004-525 which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the final site plan shall include all cross access points, consistent with the certified site plan dated May

12, 2005. (DRO:PLANNING-Planning)

Is hereby amended to read:

Prior to final site plan approval by the Development Review Officer (DRO), the final site plan shall contain 3 cross access points (DRO:PLANNING-Planning)

2.Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the subject property to the adjacent property to the north in a form acceptable to the County Attorney. (Previous Condition Planning 2. of Resolution R-2005-1785, Control No. 2004-524) (DRO: COUNTY ATTY - Planning)

3.Prior to the issuance of a certificate of occupancy for any buildings on site, the property owner shall pave the cross access point to the edge of the northern property line at the location shown on the site plan labeled vehicular + pedestrian cross access to be paved to property line". (Previous Condition Planning 3. of Resolution R-2005-1785, Control No. 2004-524) (CO: MONITORING-Planning)

4.Prior to final site plan approval by the Development Review Officer (DRO), the master plan and site plan shall show the location of the proposed future sidewalk along State Road 7.(Previous Condition Planning 4. of Resolution R-2005-1785, Control No. 2004-524) (DRO: PLANNING-Planning)

5.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 but is not limited to the following:

a. Guarantees the attainability of all required workforce units, which includes all units required per Article 5.G in the ULDC and 109 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; 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)

6.Prior to final approval by the Development Review Officer (DRO), the property owner shall include a notation in Master Plans and related Site Plans that shall indicate that a minimum of 156 units have been designated as workforce housing units. Notations shall make reference to the recorded Restrictive Covenants for Workforce Housing and indicate that all the required workforce units are subject to the Restrictive Covenants and shall be sold, resold, or rented only to low, moderate 1, moderate 2, or middle-income qualified households. (DRO: PLANNING-Planning)

7.On an annual basis, beginning April 1, 2009, or as otherwise stipulated in the Declaration of Restrictive Covenants for Workforce Housing, 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 Declaration of Restrictive Covenants for Workforce Housing. (DATE/ONGOING: MONITORING Planning/HCD)

PLANNED UNIT DEVELOPMENT

1.Planned Unit Development Condition 1 of Resolution R-2005-1785, Control 2004-525 which currently states:

Prior to recordation of the first plat, all property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:

a. Formation of a single master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.

- b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents.
- c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: ENG/ COUNTY ATTY - Zoning)

Is hereby deleted. [Reason: Development is a rental community]

2. Prior to final approval by the Development Review Officer (DRO), the site/regulating plans shall be revised to indicate upgraded recreation amenities within each of the neighborhood parks. These additional amenities shall:

- a. be accessible from a minimum five (5) foot wide pathway composed of stamped concrete, paver blocks, or other improved surface;
- b. include a minimum of two (2) pedestrian benches;
- c. include a minimum of one (1) trash receptacle adjacent to each pedestrian bench;
- d. include a shade structure (eg. trellis, gazebo, pergola), tot lot, fitness station, rest station, or similar recreation amenity or other shade structure; and,
- e. details for all items indicated above shall be subject to review and approval by the Architectural Review Section. (Previous Condition 2, under Zoning-Planned Unit Development of Resolution R-2005-1785, Control 2004-524)(DRO: ZONING-Arch Review)

3. Planned Unit Development Condition 3 of Resolution R-2005-1785, Control 2004-525 which currently states:

Prior to final approval by the Development Review Officer (DRO), the master/site plans shall be revised to indicate a minimum of one (1) water fountain as a focal feature within each lake tract. The location of each fountain shall be subject to review and approval by the Zoning Division. (DRO: ZONING - Zoning)

Is hereby deleted. [Reason: not applicable]

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). (Previous Condition SCHOOL BOARD.1 of Resolution R-2005-1785 (PDD2004-778)) (ONGOING: SCHOOL BOARD)

2. Previous Condition SCHOOL BOARD.2 of Resolution R-2005-1785 (PDD2004-778) which currently states:

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 and the County Engineer. 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: MONITORING SCHOOL BOARD/ENG School Board.)

Is hereby amended to read:

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: MONITORING School Board.)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications.

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
- a. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- b. 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
- c. Referral to code enforcement; and/or
- d. 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. (ONGOING: MONITORING - Zoning)