

RESOLUTION NO. R-2010-0446

RESOLUTION APPROVING ZONING APPLICATION ZV/W/DOA-2008-01900
(Control No.2004-00616)
WAIVER OF OBJECTIVES AND STANDARDS (PERFORMANCE STANDARDS) (W)
APPLICATION OF KRG Atlantic Delray Beach LLC
BY Urban Design Kilday Studios, AGENT
(Delray Marketplace)

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 petitions relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended), have been satisfied; and

WHEREAS, Zoning Application ZV/W/DOA-2008-01900 was presented to the Board of County Commissioners at a public hearing conducted on March 31, 2010 and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 3.E.1.C.1 and 3.E.1.C.2.

WHEREAS, Article 2.K.3.b (Action by Board of County Commissioners) 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 ZV/W/DOA-2008-01900, the application of KRG Atlantic Delray Beach LLC, by Urban Design Kilday Studios, agent, for a Waiver from Traditional Development District parking structures in the Agricultural Reserve Tier to allow surface parking in excess of 1 space per 250 square feet of non-residential floor area in the Traditional Marketplace Development Zoning District on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on March 31, 2010 subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

The motion was seconded by Commissioner Marcus and, upon being put to a vote, the vote was as follows:

Commissioner Burt Aaronson, Chair	- Aye
Commissioner Karen T. Marcus, Vice Chair	- Aye
Commissioner Jeff Koons	- Aye
Commissioner Shelley Vana	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Jess R. Santamaria	- Aye
Commissioner Priscilla A. Taylor	- Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on March 31, 2010.

Filed with the Clerk of the Board of County Commissioners on April 2, 2010.


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

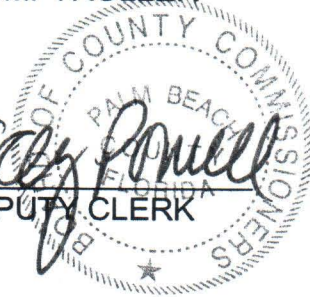


EXHIBIT A
LEGAL DESCRIPTION

DEVELOPMENT AREA

TRACT 97, LESS THE EAST 195.0 FEET THEREOF, TRACTS 98, 99 AND THAT PORTION OF TRACT 100 LYING WITHIN 365.00 FEET OF THE EAST LINE OF SAID TRACT 99, TRACTS 124, 125, 126 LESS THE SOUTH 40.00 FEET THEREOF; TRACT 127 LESS THE SOUTH 81.00 FEET THEREOF; AND TRACT 128 LESS THE SOUTH 40.00 FEET, THE EAST 195.00 FEET AND THE SOUTH 240.00 FEET OF THE WEST 210.00 FEET THEREOF, ALL BEING IN BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

AND LESS THAT PORTION OF TRACTS 124, 125, 126 AND 127 DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 124; THENCE NORTH 01°06'19" WEST, ALONG THE WEST LINE OF SAID TRACT 124, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 01°06'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 70.00 FEET TO A POINT ON A LINE 110.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124 AND 125; THENCE ALONG SAID PARALLEL LINE NORTH 89°32'49" EAST, A DISTANCE OF 615.66 FEET; THENCE NORTH 01°04'09" WEST, A DISTANCE OF 12.50 FEET TO A POINT ON A LINE 1320.00 FEET SOUTH AND PARALLEL TO THE NORTH LINE OF TRACTS 98, 99 AND 100, BLOCK 18, OF SAID PLAT OF PALM BEACH FARMS COMPANY PLAT NO.1; THENCE NORTH 89°00'55" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 691.41 FEET TO A POINT ON THE EAST LINE OF SAID TRACT 127; THENCE SOUTH 01°02'51" EAST, ALONG SAID EAST LINE, A DISTANCE OF 47.92 FEET TO A POINT ON A LINE 81.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 127; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 326.41 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 127; THENCE SOUTH 01°04'09" EAST, ALONG SAID WEST LINE, A DISTANCE OF 41.00 FEET TO A POINT ON A LINE 40.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124, 125 AND 126; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 980.64 FEET TO THE POINT OF BEGINNING.

AND LESS THAT PORTION OF TRACT 124 DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT 124, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO.1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89°08'50" EAST, ALONG THE NORTH LINE OF SAID 124, A DISTANCE OF 133.94 FEET; THENCE SOUTH 01°03'10" EAST, A DISTANCE OF 669.45 FEET TO A POINT ON A LINE 110.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF TRACT 124; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 133.30 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 124; THENCE NORTH 01°06'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 668.52 FEET TO THE POINT OF BEGINNING.

CONTAINING 32.45 ACRES, MORE OR LESS.

TOGETHER WITH THAT PORTION OF TRACT 128 DESCRIBED AS FOLLOWS;

A PARCEL OF LAND LYING IN SECTIONS 17 AND 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, BEING A PORTION OF TRACT 128, BLOCK 18 OF THE PALM BEACH FARMS COMPANY PLAT NO.1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM

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

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE SOUTH 89°32'49" WEST, ALONG THE SOUTH LINE OF SAID SECTION 18, A DISTANCE OF 100.35 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 128, BLOCK 18; THENCE ALONG THE WEST LINE OF SAID TRACT 128, BLOCK 18 NORTH 01°02'51" WEST, A DISTANCE OF 40.00 FEET; THENCE CONTINUE ALONG SAID WEST LINE NORTH 01°02'51" WEST, A DISTANCE OF 88.92 FEET TO A POINT ON A LINE 1320.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF TRACT 97, BLOCK 18 OF SAID PALM BEACH FARMS COMPANY PLAT NO.1, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID WEST LINE NORTH 01°02'51" WEST, A DISTANCE OF 111.09 FEET TO THE NORTH LINE OF THE SOUTH 240.00 FEET OF THE AFOREMENTIONED TRACT 128, BLOCK 18; THENCE ALONG SAID NORTH LINE NORTH 89°32'49" EAST, A DISTANCE OF 103.83 FEET; THENCE CONTINUE ALONG SAID NORTH LINE SOUTH 89°58'59" EAST, A DISTANCE OF 42.44 FEET TO THE WEST LINE OF THE EAST 195.00 FEET OF SAID TRACT 128; THENCE ALONG SAID WEST LINE SOUTH 01°03'00" EAST, A DISTANCE OF 109.38 FEET TO A LINE 1320.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF THE AFOREMENTIONED TRACT 97, BLOCK 18; THENCE ALONG SAID PARALLEL LINE SOUTH 89°00'55" WEST, A DISTANCE OF 146.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.37 ACRES, MORE OR LESS.

TOTAL DEVELOPMENT AREA CONTAINING 32.82 ACRES, MORE OR LESS.

PROPOSED LYONS ROAD RIGHT OF WAY (ALONG DEVELOPMENT AREA)
THE EAST 95.00 FEET OF TRACT 97, BLOCK 18; AND THE EAST 95.00 FEET OF TRACT 128, BLOCK 18 LESS THE SOUTH 164.00 FEET THEREOF;

CONTAINING 2.81 ACRES, MORE OR LESS.

PROPOSED WEST ATLANTIC AVENUE RIGHT OF WAY

THAT PORTION OF TRACTS 124, 125, 126 AND 127 DESCRIBED AS FOLLOWS:

COMMENCING TO THE SOUTHWEST CORNER OF SAID TRACT 124; THENCE NORTH 01°06'19" WEST, ALONG THE WEST LINE OF SAID TRACT 124, A DISTANCE OF 40.00 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 01°06'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 70.00 FEET TO A POINT ON A LINE 110.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124 AND 125; THENCE ALONG SAID PARALLEL LINE NORTH 89°32'49" EAST, A DISTANCE OF 615.66 FEET; THENCE NORTH 01°04'07" WEST, A DISTANCE OF 12.50 FEET TO A POINT ON A LINE 1320.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF TRACTS 98, 99 AND 100, BLOCK 18, OF SAID PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 1; THENCE NORTH 89°00'55" EAST, ALONG SAID PARALLEL LINE A DISTANCE OF 691.41 FEET TO A POINT ON THE EAST LINE OF SAID TRACT 127; THENCE SOUTH 01°02'51" EAST, ALONG SAID EAST LINE, A DISTANCE OF 47.92 FEET TO A POINT ON A LINE 81.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 127; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 326.41 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 127; THENCE SOUTH 01°04'09" EAST, ALONG SAID WEST LINE, A DISTANCE OF 41.00 FEET TO A POINT ON A LINE 40.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124, 125 AND 126; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 980.64 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.04 ACRES, MORE OR LESS.

TOGETHER WITH:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE SOUTH 89°32'49" WEST, ALONG THE SOUTH LINE OF SAID SECTION 18, A DISTANCE OF 100.35 FEET TO THE SOUTHWEST CORNER OF TRACT 128, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01°02'51" WEST, A DISTANCE OF 26.92 FEET TO A POINT ON A LINE 1320.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF TRACT 97, BLOCK 18 OF SAID PALM BEACH FARMS COMPANY PLAT NO. 1; THENCE ALONG SAID PARALLEL LINE NORTH 89°00'55" EAST, A DISTANCE OF 210.00 FEET TO THE EAST LINE OF THE WEST 240.00 FEET OF SAID TRACT 128; THENCE ALONG SAID EAST LINE SOUTH 01°02'51" EAST, A DISTANCE OF 4.01 FEET; THENCE SOUTH 44°29'01" WEST, A DISTANCE OF 36.07 FEET TO A POINT ON A LINE 102.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE ALONG SAID PARALLEL LINE NORTH 89°58'59" WEST, A DISTANCE OF 82.45 FEET; THENCE ALONG A LINE 102.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST SOUTH 89°32'49" WEST, A DISTANCE OF 101.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.13 ACRES, MORE OR LESS.

TOGETHER WITH:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST SOUTH 89°58'59" EAST, A DISTANCE OF 240.96 FEET TO THE SOUTHEAST CORNER OF THE AFOREMENTIONED TRACT 128, BLOCK 18; THENCE ALONG THE EAST LINE OF SAID TRACT 128, BLOCK 18 NORTH 01°03'00" WEST, A DISTANCE OF 40.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE EAST LINE OF SAID TRACT 128 NORTH 01°03'00" WEST, A DISTANCE OF 124.02 FEET TO A LINE 164.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 17; THENCE ALONG SAID PARALLEL LINE NORTH 89°58'59" WEST, A DISTANCE OF 95.02 FEET TO A LINE 95.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID TRACT 128, BLOCK 18; THENCE SOUTH 44°29'01" WEST, A DISTANCE OF 45.09 FEET; THENCE SOUTH 89°00'55" WEST, A DISTANCE OF 4.08 FEET TO THE EAST LINE OF THE WEST 210.00 FEET OF SAID TRACT 128; THENCE ALONG SAID EAST LINE SOUTH 01°02'51" EAST, A DISTANCE OF 91.76 FEET TO A POINT ON A LINE 40.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 17, THENCE ALONG SAID PARALLEL LINE SOUTH 89°58'59" EAST, A DISTANCE OF 131.29 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.36 ACRES, MORE OR LESS.

TOTAL RIGHT OF WAY AREA CONTAINING 2.53 ACRES, MORE OR LESS.

PROPOSED 100 FOOT RURAL PARKWAY (ALONG DEVELOPMENT AREA)

THE WEST 100.00 FEET OF THE EAST 195.00 OF TRACT 97 AND THE WEST 100.00 FEET OF THE EAST 195.00 FEET OF TRACT 128 LESS THAT PORTION LYING WITHIN THE SOUTH 240.00 FEET OF THE WEST 210.00 FEET OF SAID TRACT 128, AND LESS THAT PORTION OF SAID TRACT 128 LYING SOUTH OF A LINE 1320.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID TRACT 97, ALL BEING IN BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 3.02 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

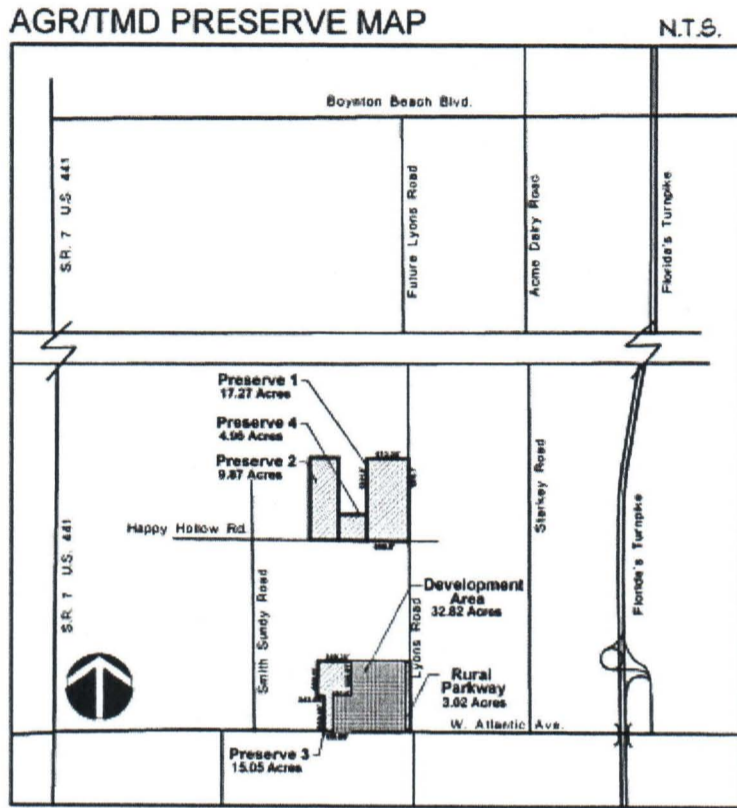


EXHIBIT C

ALL PETITIONS

1. The approved Preliminary Site Plan SP-2 is dated August 24, 2009. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

PARKING

1. This Waiver for structured parking in the AGR Tier is applicable to 56 of the 176 temporary parking spaces indicated in Phase 1 of the Preliminary Site Plan page 2 dated August 24, 2009 only and is null and void if phasing is not allowed in a Traditional Marketplace Development (TMD) in the AGR Tier prior to final approval by the Development Review Officer (DRO). (DRO: ZONING - Zoning)

2. This Waiver for structured parking in the AGR Tier is applicable to 56 of the parking spaces indicated in the "Detail of Temporary Parking Area Phase 1" on Preliminary Site Plan page 2 dated August 24, 2009 and shall expire on February 25, 2015 or until the commencement of Phase 2, whichever occurs first. (DATE: FEBRUARY 25, 2015: ZONING - Zoning)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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 (CO); 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 Unified Land Development Code (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. (ONGOING: MONITORING - Zoning)