

RESOLUTION APPROVING ZONING APPLICATION EAC-2010-00987
(CONTROL NO. 1993-00040)
An Expedited Application Consideration
APPLICATION OF Mountaineer Properties LLC
BY Covelli Design Associates, Inc., AGENT
(Resident Service Center)

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 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 EAC-2010-00987 was presented to the Board of County Commissioners at a public hearing conducted on July 22, 2010; 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, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) 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 the request; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for an Expedited Application Consideration.

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 EAC-2010-00987, the petition of Mountaineer Properties LLC, by Covelli Design Associates, Inc., agent, for an Expedited Application Consideration to modify Conditions of Approval (Landscape) in the RH 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 July 22, 2010, 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 Vana 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 July 22, 2010.

Filed with the Clerk of the Board of County Commissioners on August 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 R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY


BY: 
DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

Parcel 1:

Tract 5, Century Village Plat No. One, according to the Plat thereof as recorded in Plat Book 28, Page 194, Public Records of Palm Beach County, Florida.

Parcel 2:

A parcel of land in Tract #8, Century Village Plat No. Two, according to the Plat thereof as recorded in Plat Book 28, Page 219, Public Records of Palm Beach County, Florida; said parcel of land specifically described as follows:

BEGIN at the Northwest corner of said Tract #8 and bear assumed due South, along the West line of said Tract #8, a distance of 105.96 feet; thence North 70° 01' 50" East, a distance of 125.07 feet; thence North 59° 32' 04" East, a distance of 126.70 feet to a point on a curve having a radius of 25.00 feet; thence Westerly along the arc of said curve, a distance of 4.45 feet; thence due West, along the North line of said Tract #8, a distance of 220.0 feet to the POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

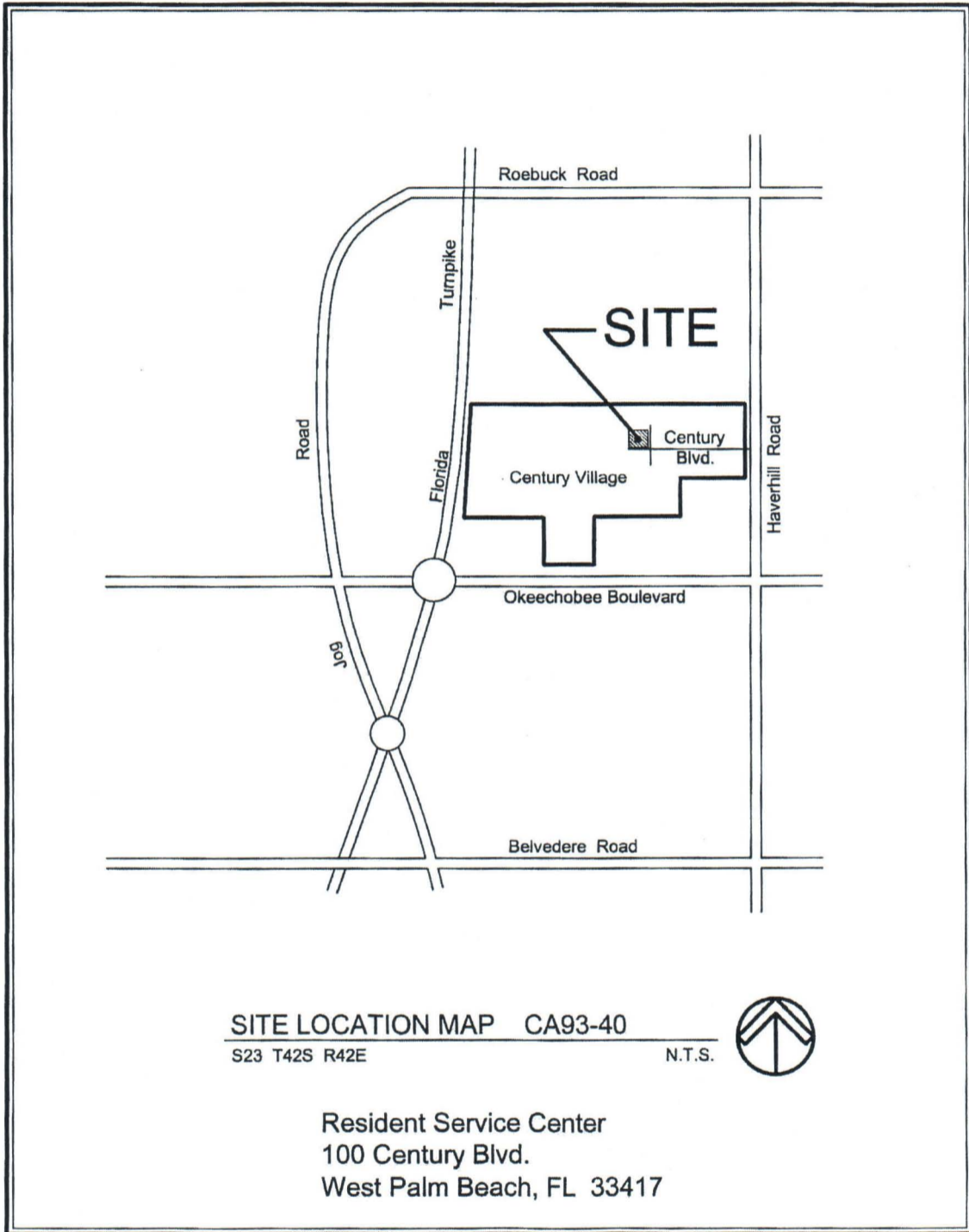


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.All Petitions 1 of Resolution R-2009-704, Control No. 1993-040, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-94-111 (Control 93-40), 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 Commissioner, unless expressly modified. (ONGOING: MONITORING - Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-94-111 and R-2009-0704 (Control 93-40), 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.All Petitions 2 of Resolution R-2009-704, Control No. 1993-040, which currently states:

Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated March 12, 2009. 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)

Is hereby amended to read:

Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated April 21, 2010. 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)

ARCHITECTURAL REVIEW

1.All roof or ground mounted air conditioning, mechanical equipment, electrical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (BLDG. PERMIT: ARCH REVIEW - Zoning) (Previous Architectural Review 1 of Resolution R-2009-0704, Control No. 1993-040)

2.Prior building permit approval, similar architectural character and treatment including but not limited to color, material, fenestration and roofline, shall be provided to the additional 3,160 square feet building and elevator to be consistent with the architecture of the existing building. (BLDG: ARCH REVIEW - Zoning) (Previous Architectural Review 2 of Resolution R-2009-0704, Control No. 1993-040)

ENGINEERING

1.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 shall be issued after December 31, 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.E of the Unified Land Development Code. (DATE: MONITORING Eng) (Previous Eng 1 of Resolution R-2009-704, Control 1993-040)

2.Previous Eng 2 of Resolution R-2009-704, Control 1993-040, which currently states: Prior to April 23, 2010, the property owner shall subdivide the offsite parking area south of Century Boulevard from Tract 8 of Plat Book 28, Page 219, in accordance with Article 11. (DATE:MONITORING-Eng)

Is hereby amended to read:

Prior to April 23, 2012, the property owner shall subdivide the offsite parking area south of Century Boulevard from Tract 8 of Plat Book 28, Page 219, in accordance with Article 11. (DATE:MONITORING-Eng)

LANDSCAPE - GENERAL

1.Zoning-Landscaping 1 of Resolution R-2009-704, Control No. 1993-040, which currently states:

Canopy trees 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. (BLDG PERMIT: LANDSCAPE Zoning)

Is hereby amended to state:

Canopy trees shall be native and meet the following minimum standards at installation: Tree height: fourteen (14) feet. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE Zoning)

2.Prior to the issuance of a building permit for the building addition, the property owner shall replace all dead and missing plant materials on the entire subject property. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Zoning-Landscaping 2 of Resolution R-2009-704, Control No. 1993-040)

3.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. (ONGOING: LANDSCAPE - Zoning) (Previous Zoning-Landscaping 7 of Resolution R-2009-704, Control No. 1993-040)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

4.Zoning-Landscaping 4 of Resolution R-2009-704, Control No. 1993-040, which currently states:

Landscaping and buffering along the north property line shall be upgraded to include:

- a. A minimum ten (10) foot wide landscape buffer strip.
- b. A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (BLDG PERMIT: LANDSCAPING-Zoning) (Previous Landscaping D-1, Resolution R-94-111, Control No. 1993-040)

Is hereby amended to read:

Landscaping and buffering along the north property line shall be upgraded to include:

- a. A minimum ten (10) foot wide landscape buffer strip.

b. A six (6) foot high opaque plastic fence. The fence shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (BLDG PERMIT: LANDSCAPING-Zoning)

5.Zoning-Landscaping 5 of Resolution R-2009-704, Control No. 1993-040, which currently states:

The following landscaping requirements shall be installed in the buffer:

- a. One (1) native canopy tree planted every twenty (20) feet on center.
- b. One (1) native palm tree or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees or pine trees may supersede the requirement for a native canopy tree in that location.
- c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation shall be planted on both sides of the wall and shall be maintained at a minimum height of forty-eight (48) inches. (BLDG PERMIT: BUILDING-Landscaping)

Is hereby amended to read:

The following landscaping requirements shall be installed in the buffer:

- a. One (1) native canopy tree planted every twenty (20) feet on center.
- b. One (1) native palm tree or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees or pine trees may supersede the requirement for a native canopy tree in that location.
- c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation shall be planted on both sides of the fence and shall be maintained at a minimum height of forty-eight (48) inches. (BLDG PERMIT: BUILDING-Landscaping)

LANDSCAPE - PERIMETER-ZONING - LANDSCAPING-LANDSCAPING ALONG SOUTH AND EAST PROPERTY LINES (ABUTTING RIGHTS-OF-WAY)

6.Landscaping within the required buffer along the south and east property lines shall be upgraded to include:

- a. One (1) native canopy tree planted every twenty (20) feet on center.
- b. One (1) native palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location.
- c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (ONGOING: LANDSCAPING-Zoning)(Previous Landscaping C-1, Resolution R-94-111, Control No. 1993-040)

LIGHTING

1.Prior to the issuance of a Certificate of Occupancy (CO) for the building addition or the elevator, whichever shall first occur, the outdoor lighting shall comply with ULDC 5.E.4.E. (CO: BLDG - Bldg) (Previous Lighting 4 of Resolution R-2009-704, Control No. 1993-040)

PARKING

1.All delivery and/or loading areas shall be screened from view from the north property line by a twelve (12) foot high wing wall, measured from finished grade to highest point, consistent with the color and character of the principle structure. (DRO: ZONING-Zoning) (Previous Condition G.2, Resolution R-94-111, Control No. 1993-040)

2.Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within the loading and delivery areas designated on the site plan. (ONGOING: CODE ENF-Code Enf) (Previous Condition G.3. Resolution R-94-111, Control No. 1993-040)

3.The parking area along the south side of Century Boulevard shall be used for employee parking only. Appropriate signs shall be posted restricting this area to employee parking only. (ONGOING: CODE ENF-Code Enf) (Previous Condition G.4. Resolution R-94-111, Control No. 1993-040)

4.No parking of any vehicles shall be permitted along the rear of the facility except in parking spaces designated on the site plan. (ONGOING: CODE ENF-Code Enf) (Previous Condition G.5. Resolution R-94-111, Control No. 1993-040)

5.Bus parking is prohibited on the site. Buses may drop-off and pick-up passengers only. (ONGOING: CODE ENF-Code Enf)

SIGNS

1.Prior to final approval by the Development Review Officer (DRO), the Master Sign Plan shall be revised to limit freestanding signs to one (1) sign with a maximum sign face area of twelve (12) square feet as indicated on the April 27, 1994 Certified site plan. The sign shall be limited to a maximum height of six (6) feet. (DRO: ZONING - Zoning) (Previous Condition Signs 1 of Resolution R-2009-704, Control No. 1993-040) [Completed.]

SITE DESIGN-DUMPSTER

1.All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall not be located within fifty (50) feet of the north property line and shall be confined to areas designated on the site plan. (BLDG PERMIT: BLDG - Zoning) (Previous Condition Dumpster 1, Resolution R-2009-0704, Control No. 1993-40)

USE LIMITATIONS

1.The site is limited to 31,800 square feet. Uses shall be limited to the following limitations of the Neighborhood Commercial (CN) Zoning District and shall be for the exclusive use of the Century Village residents and their guests:

- a. Retail, General (Class A approved CA93-40): maximum of 3,000 square feet per use and shall be limited to: the sale of prescription and over-the-counter pharmaceutical drugs, health aids, durable medical goods, other health-related items, convenience food and household items, newsstand and gift shop, and postal service, and which are for the exclusive use of the Century Village residents;
- b. Medical or Dental Office (Class A approved CA93-40)
- c. Office, Business or Professional (Class A approved CA93-40): limited to legal, accounting, tax, insurance, real estate, or other Florida state-licensed professional services which do not include the sale of goods; management functions which directly relate to the management and operation of Century Village Communities; or, other services or property management functions for service to Century Village residents only.
- d. Personal Services (Class A approved CA93-40)
- e. Adult Day Care, Limited (Class A approved CA93-40)
- f. Financial institution: limited to up to 5,000 square feet. Drive thru services not permitted. (DRO approval Petition 2008-1684) (ONGOING: ZONING-Zoning) (Previous Use Limitations 1 Resolution R-2009-704, Control No. 1993-040)

2.The property owner and all lessees shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SWA) (ONGOING: CODE ENF - Code Enf) (Previous Condition J.1. Resolution R-94-111, Control No. 1993-040)

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)