

RESOLUTION NO. R-2011-1121

RESOLUTION APPROVING ZONING APPLICATION ABN/CB/DOA/CA-2010-02810
(CONTROL NO. 1980-00228)
a Development Order Amendment
APPLICATION OF Old Naples LLC
BY Frogner Consulting, LLC, AGENT
(1650 N. Military Building)

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 ABN/CB/DOA/CA-2010-02810 was presented to the Board of County Commissioners at a public hearing conducted on July 28, 2011; 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 a Development Order Amendment.

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 ABN/CB/DOA/CA-2010-02810, the petition of Old Naples LLC, by Frogner Consulting, LLC, agent, for a Development Order Amendment to reconfigure the site plan, modify uses, and modify/delete Conditions of Approval (Engineering, Landscape, Signs) in the General Commercial (CG) 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 28, 2011, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 28, 2011.

Filed with the Clerk of the Board of County Commissioners on August 2, 2011.

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

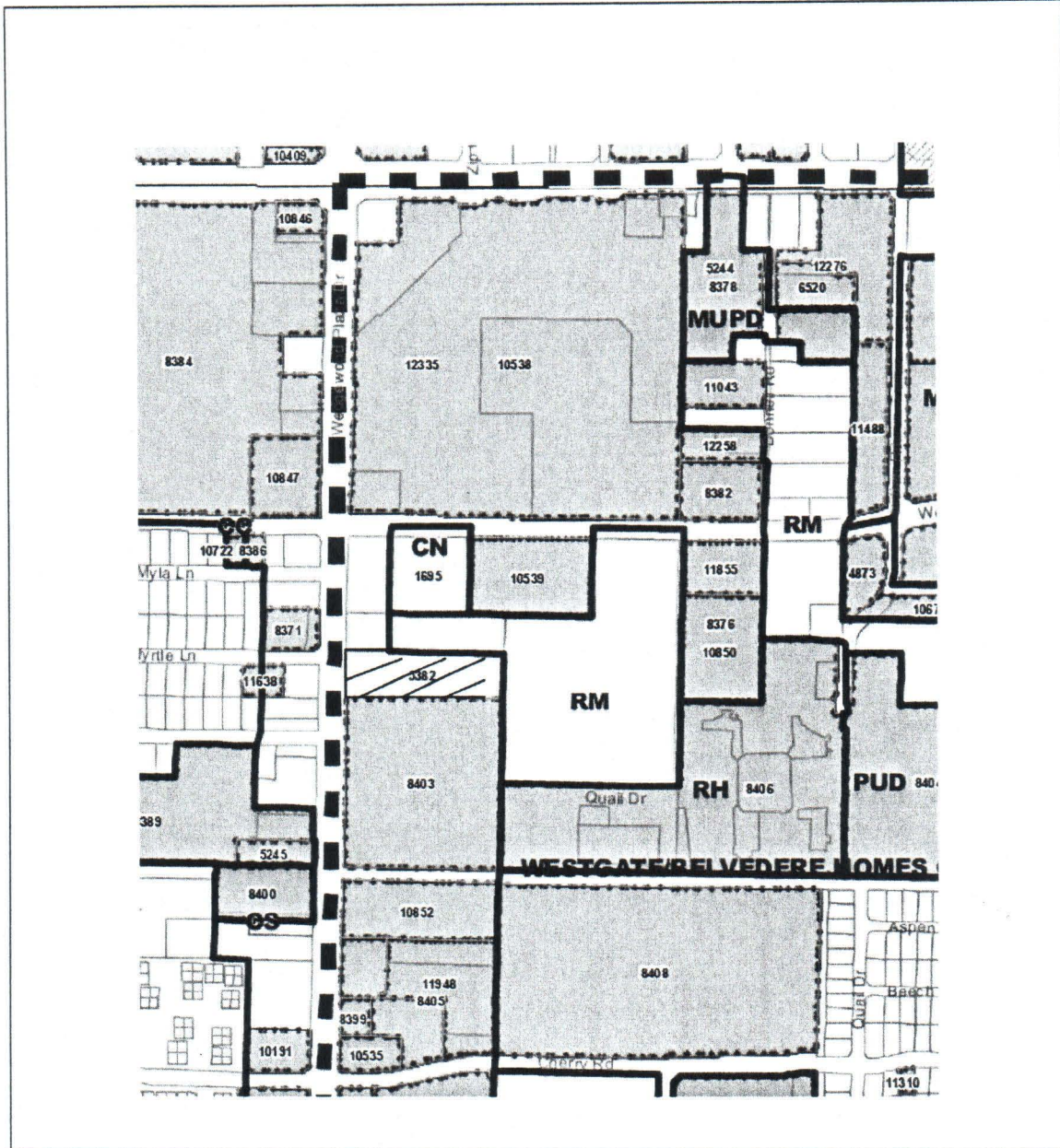
LEGAL DESCRIPTION

LEGAL DESCRIPTION:

The South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 25, Township 43 South, Range 42 East, **LESS** the West 53 feet thereof for right-of-way of State Road 809, and **LESS** the North 150 feet of the South $\frac{1}{2}$ of the North $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ thereof; said lands situate, lying and being in Palm Beach County, Florida.

EXHIBIT B

VICINITY SKETCH



ABN/CB/DOA/CA-2010-2810
1650 N. Military Building
Quad Map



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All Petition Condition 1. of Resolution ZR-2009-043, Control No. 1980-228, which currently states:

The approved site plan is dated October 17, 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)

Is hereby amended to read:

The approved Preliminary Site Plan is dated May 13, 2011. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer (DRO) as established in the Unified Land Development Code (ULDC), must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

1. Previous Condition E1 of Resolution ZR-2009-043, Control No. 1980-228, which currently states:

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

a. No Building Permits for the site may 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng)

Is hereby deleted. [Reason: Revised traffic study no longer requires this condition.]

2. Previous Condition E2 of Resolution ZR-2009-043, Control No. 1980-228, which currently states:

The Property Owner shall modify the existing parking area to provide adequate driveway throat distance as required by FDOT and approved by the County Engineer. Any and all costs associated with the construction shall be paid by the property owner.

a. Permits required from Palm Beach County for this construction shall be obtained, construction finished and satisfactory inspections completed prior to July 7, 2010. (DATE: MONITORING Eng)

Is hereby amended to read:

The Property Owner shall modify the existing parking area to provide adequate driveway throat distance as required by FDOT and approved by the County Engineer. Any and all costs associated with the construction shall be paid by the property owner.

a. Permits required from Palm Beach County for this construction shall be obtained, construction finished and satisfactory inspections completed prior to July 28, 2012. (DATE: MONITORING - Eng)

3. Previous Condition E3 of Resolution ZR-2009-043, Control No. 1980-228, which currently states:

No Building Permits for the site shall be issued until the Property Owner provides

documentation to the Traffic Division that the applicable maximum allowable limits for the Westgate TCEA development identified in Table TE-6 of the Comprehensive Plan will not be exceeded. (BLDG PERMIT: MONITORING-Eng)

Is hereby deleted. [Reason: Revised traffic study no longer requires this condition.]

4. The property owner shall record either a shared parking agreement or a unity of control, consistent with Article 6.A.1.D.10.e and subject to County Attorney approval, prior to issuance of the next certificate of occupancy or permit inspection. (CO: MONITORING - Co Atty)

LANDSCAPE - GENERAL

1. Landscape Condition 1 of Resolution ZR-2009-043, Control No. 1980-228, which currently states:

Prior to the issuance of any Building Permit after October 1, 2009, the property owner shall replace all dead and missing plant materials on the entire subject property. (BLDG PERMIT: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: Code Requirement of Article 7.H.2. Landscape Field Inspections]

2. Landscape Condition 2 of Resolution ZR-2009-043, Control No. 1980-228, which currently states:

A minimum of 10 trees shall be planted in the landscape buffers along the western 250' of the south property line:

- 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. (DRO BLDG PERMIT: LANDSCAPE - Zoning)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO) the Final Site Plan shall indicate a minimum of ten (10) trees planted in the landscape buffer along the western two-hundred and fifty (250) feet of the south property line; and,

- a. Tree height: fourteen (14) feet. (DRO: LANDSCAPE - Zoning)

3. Prior to approval by the final DRO, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (DRO: LANDSCAPE - Zoning) (Previous Landscape Condition 3 of Resolution ZR-2009-043, Control No. 1980-228)

4. Landscape Condition 4 of Resolution ZR-2009-043, Control No. 1980-228 which currently states:

On or before July 1, 2010, the applicant shall upgrade the site to include the items noted on the site plan dated October 17, 2009. (BLDG PERMIT: LANDSCAPE - Zoning)

Is hereby deleted: [REASON: Condition is no longer applicable. New uses and site plan are referenced in revised All Petition Condition 1]

SIGNS

1. Signs Condition 1 of Resolution ZR-2009-043, Control No. 1980-228, which currently states:

Freestanding signs fronting on Military Trail shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point shall be 15 feet;
- b. maximum sign face area per side shall be 100 square feet;
- c. maximum number of signs - one (1);
- d. style - monument style only.

The existing freestanding signs shall be removed on or before October 1, 2010. (BLDG PERMIT: BLDG - Zoning)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the property owner shall:

- 1) Provide proof that the permit for the freestanding sign adjacent to the ingress/egress point is complete; and,
- 2) Apply for a building permit to demolish the existing pole sign. The existing pole sign shall be demolished and the demolition permit completed prior to December 31, 2011. (DRO: ZONING - Zoning)

USE LIMITATIONS

1.Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility or on the property. (ONGOING: CODE ENF - Zoning) (Previous Use Limitations Condition 2 of Resolution ZR-2009-043, Control No. 1980-228)

UTILITIES

1.Prior to final approval by the Development Review Officer (DRO), the property owner shall provide utility easements over existing onsite utilities. (DRO: WUD WUD)

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)