

RESOLUTION NO. R-2011- 1449

RESOLUTION APPROVING ZONING APPLICATION DOA-2011-00155
(CONTROL NO. 1979-00031)
a Development Order Amendment
APPLICATION OF Delray Lakes Estate Homeowners Associate
BY Land Design South, Inc., AGENT
(Delray Lakes Estates)

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 DOA-2011-00155 was presented to the Board of County Commissioners at a public hearing conducted on September 26, 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 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 DOA-2011-00155, the petition of Delray Lakes Estate Homeowners Associate, by Land Design South, Inc., agent, for a Development Order Amendment to delete a Condition of Approval (Engineering) in the RE 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 September 26, 2011, 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 Abrams 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	-	Aye
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 September 26, 2011.

Filed with the Clerk of the Board of County Commissioners on September 28th, 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

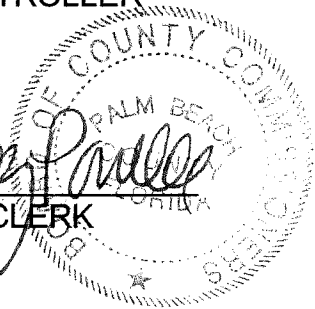
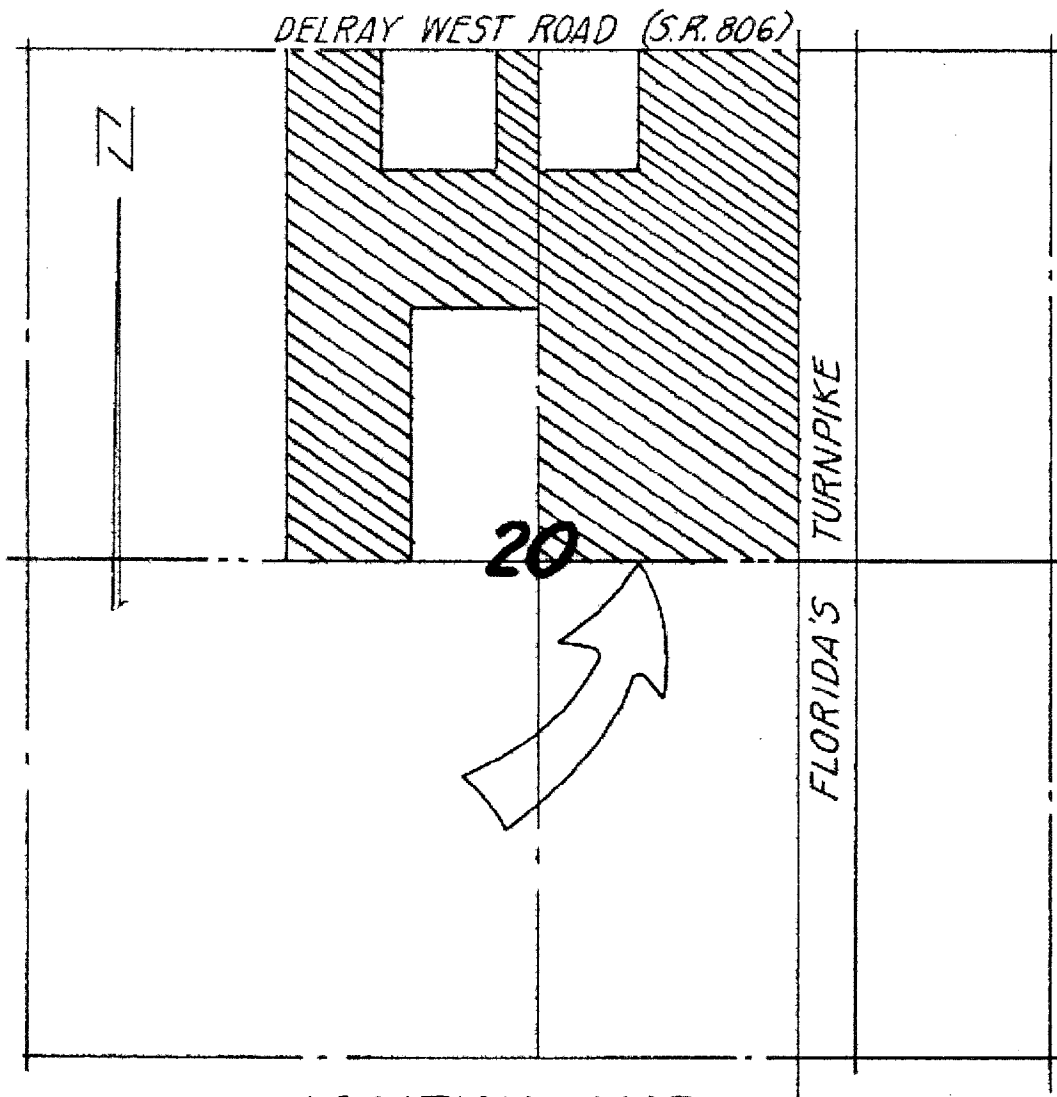


EXHIBIT A

LEGAL DESCRIPTION

All of the plat of Delray Lakes Estates, as recorded in plat book 41, pages 200-201, of the public records of Palm Beach County, Florida.

EXHIBIT B
VICINITY SKETCH



LOCATION MAP
SEC. 20, TWP. 46.S, R. 42E
SCALE: 1"=1000

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. The approved Preliminary Master Plan is dated May 16, 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 as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-79-199 (Control 1979-031), 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 or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

AIRPORTS

1. The developer shall insure that all prospective purchasers are advised of the adjacent airport with its crop dusting orientation as well as the potential noise, health and safety (physical) hazard which the airport use poses to the residents. (ONGOING: AIRPORTS- Air) (Previous Condition 11 of Resolution R-1979-199, Control No. 1979-031)

2. The developer must conduct a noise study on the subject property after the required berms and trees are installed, to measure the noise level created by aircraft using the adjacent airstrip. (ONGOING: AIRPORTS- Air) (Previous Condition 12 of Resolution R-1979-199, Control No. 1979-031)

3. The developer shall provide additional buffering where necessary to reduce noise levels to below 60 db on the entire subject site. This additional buffering must be approved by the Health Department. (ONGOING: AIRPORTS- Air) (Previous Condition 13 of Resolution R-1979-199, Control No. 1979-031)

ENGINEERING

1. Within ninety (90) days of Special Exception approval, petitioner shall convey to Palm Beach County sixty (60) feet from centerline for Delray West Road. (ONGOING: ENGINEERING Eng) (Previous Condition 1 of Resolution R-1979-199, Control No. 1979-031) [Note: COMPLETED]

2. Petitioner shall construct left turn lane, east approach, on Delray West Road. (ONGOING: ENGINEERING Eng) (Previous Condition 2 of Resolution R-1979-199, Control No. 1979-031) [Note: COMPLETED]

3. Petitioner shall construct all road radii according to Palm Beach County Standards. (ONGOING: ENGINEERING Eng) (Previous Condition 3 of Resolution R-1979-199, Control No. 1979-031)

4. Petitioner shall abandon Palm Beach Farms platted roads. (ONGOING: ENGINEERING Eng) (Previous Condition 4 of Resolution R-1979-199, Control No. 1979-031)

5. Petitioner shall contribute Twenty-Three Thousand Five Hundred Dollars (\$23,500.00) towards the cost of meeting this project's direct and identifiable traffic impact, to be paid at the time of issuance of a building permit(s). However, if an ordinance dealing with this subject matter is adopted, this condition will be superseded by that ordinance; except that, regardless of the form or status of any ordinance, this development shall be required to provide as a minimum the above Twenty-Three Thousand Five Hundred Dollars (\$23,500.00) towards alleviating some of its traffic impacts. (BLDG PERMIT: ENGINEERING Eng) (Previous Condition 5 of Resolution R-1979-199, Control No. 1979-

031) [Note: COMPLETED]

6.Previous Condition 9 of Resolution R-1979-199, Control No. 1979-031, which currently states:

The proposed road right of way providing access to Delray West Road for the out parcel farm must be a public road and must be constructed prior to the issuance of any building permits in this development. (ONGOING: ENGINEERING Eng)

Is hereby deleted. [Reason: To allow petitioner to process abandonment with outparcel owner's consent]

7.The property owner shall have Palm Beach County's interest in Persimmon Avenue abandoned in accordance with the Abandonment Ordinance, prior to installation of any gates, guardhouses, security or any other private features in any public right of way. (ONGOING: ENGINEERING - Eng)

HEALTH

1. The developer shall provide additional buffering where necessary to reduce noise levels to below 60db on the entire subject site. This additional buffering must be approved by the Health Department. (ONGOING: HEALTH-Health) (Previous condition number 13 of Resolution R-79-199, control 1979-031) [Note: COMPLETED]

LANDSCAPE - GENERAL

1.The developer must install a six (6) foot high fence on the adjacent property along the entire west property line of this development for security against dangerous interaction between residents and the adjacent crop dusting facility. This fence must be augmented by the installation of a berm planted with trees to reduce noise disturbance. (ONGOING: LANDSCAPE - Zoning) (Previous Condition 9 of Resolution R-1979-199, Control No. 1979-00031)

SCHOOL BOARD

1.Condition 6 of Resolution R-1979-199, Control No. 1979-31, which currently states:

The Petitioner shall enter into a formal contract with the School Board of Palm Beach County to contribute .4 of 1% of the selling price of each residential dwelling unit in a planned unit development on a one time initial sales basis. However, if an ordinance dealing with this subject matter is adopted, this condition will be superceded by that ordinance; except that regardless of the form or status of any ordinance, this development shall be required to provide as a minimum the above .4 of 1% of the initial sales price toward alleviating some of the development's school impact.

Is hereby deleted [REASON: No longer applicable]

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)