

RESOLUTION NO. R-2011-1450

RESOLUTION APPROVING ZONING APPLICATION ABN/EAC-2011-01173  
(CONTROL NO. 2001-00009)  
an Expedited Application Consideration  
APPLICATION OF Florida Power & Light Company  
BY Gunster, Yoakley & Stewart, PA, AGENT  
(Pratt Whitney Business Park-Blackbird)

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/EAC-2011-01173 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 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 ABN/EAC-2011-01173, the petition of Florida Power & Light Company, by Gunster, Yoakley & Stewart, PA, agent, for an Expedited Application Consideration to delete (Signs and Use Limitations) conditions of approval in the MUPD 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

**EXHIBIT A  
TO SPECIAL WARRANTY DEED  
Legal Description of Premises**

PARCEL A

Parcel 3 of BLACKBIRD SUBDIVISION, according to the plat thereof recorded in Plat Book 98, page 54, Public Records of Palm Beach County, Florida.

PARCEL B

Non-exclusive easement for access purposes for the benefit of Parcel A described above, as created by and as more particularly described in the Declaration of Access Easement recorded in Official Records Book 14534, page 386, Public Records of Palm Beach County, Florida.

PARCEL C

Non-exclusive easement for irrigation purposes for the benefit of Parcel A described above, as created by and as more particularly described in the Shared Irrigation System and Reciprocal Easement Agreement recorded in Official Records Book 14534, page 397, Public Records of Palm Beach County, Florida.

PARCEL D

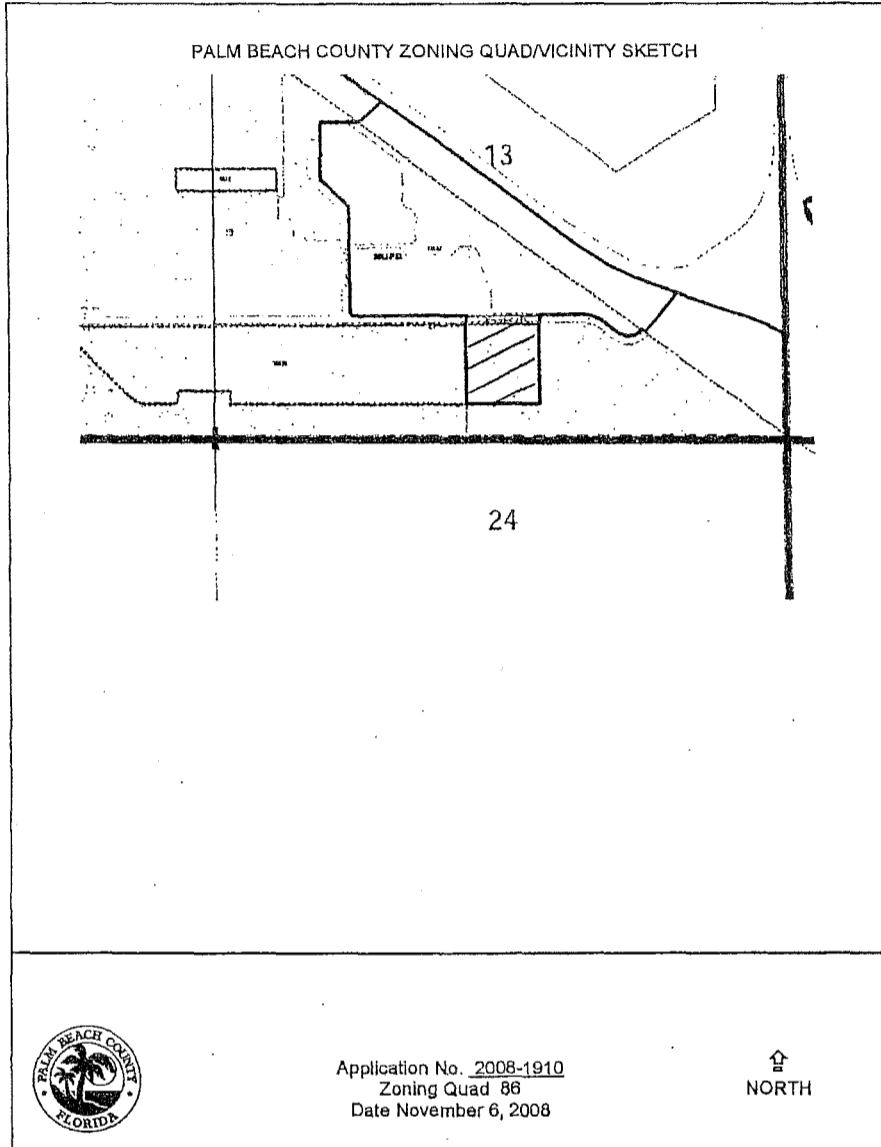
Non-exclusive easement for sewer utility purposes for the benefit of Parcel A described above, as reserved and described in Paragraph 3(g) of Section C of Exhibit B attached to the Special Warranty Deed recorded in Official Records Book' 14534, page 417, Public Records of Palm Beach County, Florida,

PARCEL E

Non-exclusive easement for sewer utility purposes for the benefit of Parcel A described above, as granted by the Special Warranty Deed recorded in Official Records Bock 15039, page 241, Public Records of Palm Beach County, Florida, in, through, under and over the land described in Exhibit A-I attached thereto.

EXHIBIT B  
VICINITY SKETCH

VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Condition All Petitions 1 of Resolution R-2009-0493, Control No. 2001-009A, which currently states:

Development of the site is limited to the use approved by the Board of County Commissioners. The approved Preliminary Site plan is dated January 16, 2009 for MUPD 1 and August 26, 2003 for MUPD 2. All modifications must be approved by the Board of County Commissioners or Zoning Commission 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:

The approved Preliminary Site plan is dated August 15, 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-2009-0493 (Control 2001-00009), 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)

3. The previous Requested Use approval for a Daycare, General use applicable to the subject property, as contained in Resolution R-2003-1391, DOA 2001-00009 (Control 2001-00009), is hereby revoked. (ONGOING: MONITORING - Zoning)

#### DRO

1. Prior to the final approval by the Development Review Officer, the Concurrency Table on MUPD 2 shall be updated to reflect the changes for Innovation Center, MUPD 1. (DRO: Zoning -Zoning) (Previous DRO Condition 1 of R-2009-0493, Control No. 2001-009)

#### ENGINEERING

1. The Property Owner shall construct dual left turn lanes east approach at the intersection of Seminole Pratt Whitney Road and Bee Line Highway, if required by the County Engineer.

a. Any and all costs associated with the 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. (ONGOING: ENGINEERING-Eng)

b. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit, for the north parcel, if required by the County Engineer. (BLDG PERMIT: MONITORING-Eng)

c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy, for the north parcel, if required by the County Engineer. (CO: MONITORING-Eng) (Previous Condition E.1 of Resolution R-2009-493, Control No. 2001-009)

2. Any site plan for the parcel of land immediately east of the KOB Parcel (known as the Ballfield Parcel) should show the extension of Seminole-Pratt Whitney Road through the Ballfield Parcel to connect to the railroad crossing on Innovation Drive. (DRO:ENGINEERING-Eng) (Previous Condition E.2 of Resolution R-2009-493, Control No. 2001-009)

3. 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 Condition E.3 of Resolution R-2009-493, Control No. 2001-009)

4. The Property Owner shall construct:

i. Left turn lane east approach on Innovation Dr. at the west entrance for MUPD1, and  
ii. Left turn lane east approach on Innovation Dr. at the east entrance for MUPD1.  
This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the 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 from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng) (Previous Condition E.4 of Resolution R-2009-493, Control No. 2001-009)

5. Prior to final DRO approval, the site plan shall be revised to show all proposed gate locations for MUPD1. Proposed gates shall only be closed after hours. (DRO:ENGINEERING-Eng) (Previous Condition E.5 of Resolution R-2009-493, Control No. 2001-009) [Note: COMPLETED]

#### LANDSCAPE - GENERAL

1. Fifty-percent of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:

a. Tree height: Fourteen (14) feet;  
b. Trunk diameter: 3.5 inches measured at 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 3.5 feet in length.

Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous Landscape Condition 1. of R-2009-0493, Control No. 2001-009)

2. All shrub or hedge material shall be planted in a continuous hierarchy of layers consisting of varying heights where two (2) or more shrub sizes are specified herein, as follows:

eighteen (18) to twenty-four (24) inches groundcover and small shrub;  
twenty-four (24) to thirty-six (36) inches medium shrub; and,  
forty-eight (48) to sixty (60) inches large shrub

These heights shall be continuously maintained to achieve the hierarchical effect. Credit may be given for existing or relocated shrub material provided they meet ULDC requirements. (CO: LANDSCAPE Zoning) (Previous Landscape Condition 2. of R-2009-0493, Control No. 2001-009)

3.All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning) (Previous Landscape Condition 3. of R-2009-0493, Control No. 2001-009)

#### LANDSCAPE - PERIMETER-LANDSCAPING ALONG NORTH PROPERTY LINE OF INNOVATION CENTER -MUPD 1 (ABUTTING INNOVATION DRIVE

4.In addition to Code requirements, landscaping and buffering along the north property line of Innovation Center (MUPD 1) only shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
- c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (CO: LANDSCAPE-Zoning) (Previous Landscape Condition 4. of R-2009-0493, Control No. 2001-009)

#### LANDSCAPE - PERIMETER-LANDSCAPING ALONG EAST PROPERTY LINE OF INNOVATION CENTER -MUPD 1 (ABUTTING BALLFIELD)

5.In addition to Code requirements, landscaping and buffering along the east property lines of Innovation Center (MUPD 1) only shall be upgraded to include:

- a. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (CO: LANDSCAPE-Zoning) (Previous Landscape Condition 5 of R-2009-0493, Control No. 2001-009)

#### LANDSCAPE - PERIMETER-LANDSCAPING ALONG SOUTH AND WEST PROPERTY LINES OF MUPD 2 (ADJACENT TO INNOVATION DRIVE AND BLACKBIRD WAY)

6.Landscaping and buffering along the south and west property lines of MUPD 2 only shall be upgraded to include:

- a. a minimum fifteen (15) foot wide landscape buffer strip;
- b. a minimum two (2) foot high continuous berm measured from top of curb;
- c. one (1) canopy tree planted every thirty (30) feet on center;
- d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- f. one (1) large/medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty six (36) inches at installation. (CO: LANDSCAPE-Zoning) (Previous Landscape Condition 6. of R-2009-0493, Control No. 2001-009)

#### LANDSCAPE - GENERAL-LANDSCAPE ALTERNATIVE PLAN

7.Prior to final certification of the preliminary development plans for MUPD 1 and MUPD 2, an Alternative Landscape Plan shall be submitted for any portion of the site where existing vegetation might affect the proposed landscaping. (DRO: LANDSCAPE-Zoning) (Previous Landscape Condition 7. of R-2009-0493, Control No. 2001-009)

8.Prior to final DRC certification, the applicant shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRO: LANDSCAPE-Zoning) (Previous Landscape Condition 8. of R-2009-0493, Control No. 2001-009)

#### PLANNED DEVELOPMENT

1.A maximum of four (4) parcels shall be permitted on site. (DRO: ZONING-Zoning) (Previous Multiple Use Planned Development (MUPD) Condition 1. of R-2009-0493, Control No. 2001-009)

2.Prior to certification of the preliminary development plans by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. The covenant shall be recorded in a form and manner acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended

without written approval from the Zoning Director. (DRO: ZONING-Co Atty) (Previous Multiple Use Planned Development (MUPD) Condition 2. of R-2009-0493, Control No. 2001-009)

3. Prior to certification of the preliminary development plans by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING-Co Atty) (Previous Multiple Use Planned Development (MUPD) Condition 3. of R-2009-0493, Control No. 2001-009)

4. Prior to final site plan certification by the Development Review Committee (DRC), the preliminary development plan for Pod A shall be amended to indicate a focal point in the round-a-bout at the terminus of Blackbird Way. The focal point shall be in the form of a plaza, fountain, arcade or any other site element or similar pedestrian oriented public area. (DRO: ZONING-Zoning) (Previous Multiple Use Planned Development (MUPD) Condition 4. of R-2009-0493, Control No. 2001-009)

## SIGNS

1. Previous Signs Condition 1. of R-2009-0493, Control No. 2001-009 which currently states:

1. Freestanding point of purchase signs for MUPD 1 and MUPD 2 shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point -twenty (20) feet;
- b. Maximum sign face area per side -200 square feet;
- c. Maximum number of signs -one (1);
- d. Location project's entrance on the Bee Line Highway;
- e. Style -monument style only; and
- f. No sign space shall be permitted to advertise the general day care use.

Is hereby amended to read:

1. Freestanding point of purchase signs for MUPD 1 and MUPD 2 shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point -twenty (20) feet;
- b. Maximum sign face area per side -200 square feet;
- c. Maximum number of signs -one (1);
- d. Location project's entrance on the Bee Line Highway;
- e. Style -monument style only. (CO/ONGOING: BLDG/CODE ENF-Eng)

## SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 94,044 square feet for Innovation Center (MUPD 1) and a maximum of 406,522 square feet for Pratt and Whitney Business Park MUPD 2. Expansion shall be limited to an increase of five percent (5%) of the total square footage or 1,000 square feet whichever is less for each MUPD, subject to approval by Traffic Division and DRO. (DRO: ZONING -Zoning) (Previous Building and Site Design Condition 1 of R-2009-0493, Control No. 2001-009)

## USE LIMITATIONS

1. Previous Use Limitation Condition 1. of R-2009-0493, Control No. 2001-009 which currently states:

1. Prior to final site plan approval by the Development Review Committee, the preliminary development plans shall be amended to reflect that only the following uses are allowed on the site:

- a. financial institution (not open to the public, provide on-site services only, and no drive-thru lanes);
- b. medical or dental laboratory;



- c. office, business, or professional (excluding medical, dental, legal, accounting, and real estate) (not open to the public-no outside traffic shall be generated);
- d. data information processing;
- e. heliport or helipad as an accessory use only subject to review and approval as a Conditional Use, Class A;
- f. government services (uses that are not open to the public);
- g. manufacturing and processing;
- h. warehousing;
- i. laboratory, industrial research;
- j. wholesaling;
- k. contractor's storage yard to be screened from view and not open to the public or used for the storage of debris, inoperative vehicles or trailers;
- l. general day care center, limited to on-site employees of MUPD 1, MUPD 2, and contiguous facilities located south of the Bee Line Highway and having an Economic Development Center (EDC) Future Land Use (FLU) designation; and,
- m. any accessory uses that are allowed by the ULDC shall not generate any traffic from outside of the site.

Is hereby amended to read:

Prior to final site plan approval by the Development Review Committee, the preliminary development plans shall be amended to reflect that only the following uses are allowed on the site:

- a. financial institution (not open to the public, provide on-site services only, and no drive-thru lanes);
- b. medical or dental laboratory;
- c. office, business, or professional (excluding medical, dental, legal, accounting, and real estate) (not open to the public-no outside traffic shall be generated);
- d. data information processing;
- e. heliport or helipad as an accessory use only subject to review and approval as a Conditional Use, Class A;
- f. government services (uses that are not open to the public);
- g. manufacturing and processing;
- h. warehousing;
- i. laboratory, industrial research;
- j. wholesaling;
- k. contractor's storage yard to be screened from view and not open to the public or used for the storage of debris, inoperative vehicles or trailers; and,
- l. any accessory uses that are allowed by the ULDC shall not generate any traffic from outside of the site. (DRO/CO: ZONING/BLDG-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)