

RESOLUTION NO. R-2014- 0875

RESOLUTION APPROVING ZONING APPLICATION ABN/DOA-2014-00291
(CONTROL NO. 1996-00016)
a Development Order Amendment
APPLICATION OF AP2012 Boynton LLC
BY Urban Design Kilday Studios, AGENT
(Boynton Health Care 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;

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;

WHEREAS, Zoning Application ABN/DOA-2014-00291 was presented to the Board of County Commissioners at a public hearing conducted on June 26, 2014;

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;

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;

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;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

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; and,

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/DOA-2014-00291, the petition of AP2012 Boynton LLC, by Urban Design Kilday Studios, agent, for a Development Order Amendment to reconfigure the site plan and add beds to an existing Nursing or Convalescent Facility, in the RS 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 June 26, 2014, 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 Burdick and, upon being put to a vote, the vote was as follows:

Commissioner Priscilla A. Taylor, Mayor	-	Aye
Commissioner Paulette Burdick, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Jess R. Santamaria	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on June 26, 2014.

Filed with the Clerk of the Board of County Commissioners on July 02, 2014.

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



The seal is circular with a double-line border. The outer ring contains the text 'PALM BEACH COUNTY COMMISSIONERS' at the top and 'BOARD OF COUNTY COMMISSIONERS' at the bottom, separated by a star at the bottom center. The inner ring contains the text 'PALM BEACH COUNTY' at the top and 'FLORIDA' at the bottom, also separated by a star at the bottom center.

EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED IN SECTION 28, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL B-3, ACCORDING TO THE PLAT OF BOYNTON BEACH ENTERPRISE CENTER REPLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 80, PAGES 160 THROUGH 161, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT AS CONTAINED IN THE INSTRUMENT RECORDED IN OFFICIAL RECORDS BOOK 10087, PAGE 933, FOR STORM AND OVERFLOW WATER DRAINAGE EASEMENT OVER, UNDER AND UPON THE EAST 30 FEET OF THE WEST 398.88 FEET OF THE SOUTH 160 FEET OF PARCEL B-2, AND THE SOUTH 84.59 FEET OF THE WEST 398.88 FEET OF PARCEL B-2, ACCORDING TO THE PLAT OF BOYNTON BEACH ENTERPRISE CENTER PLAT NO. 2, ACCORDING TO THE PLAT OF BOYNTON BEACH ENTERPRISE CENTER PLAT NO. 2, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 79, PAGES 152 THROUGH 155, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS LYING AND SITUATED IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 207,134 SQUARE FEET (4.755 ACRES) MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

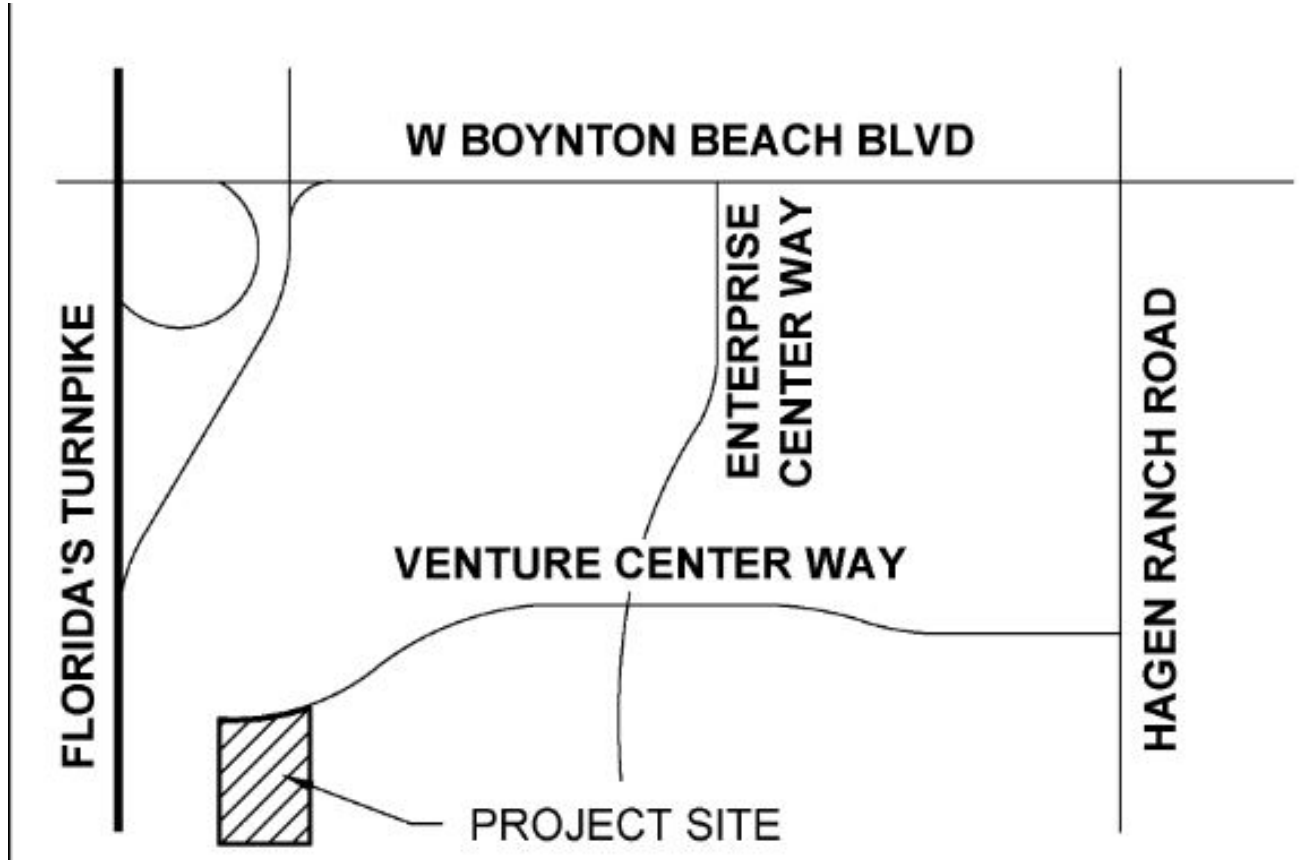


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-96-993 (Control 1996-00016), 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 and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous A condition 1 of Resolution R-1996-993, Control No.1996-00016, which currently states:

Development of the site is limited to the uses and site design approved by the Board of County Commissioners (site plan dated March 28, 1996). 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.

Is hereby amended to read:

The approved Preliminary Site Plan is dated April 10, 2014. 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)

3. Previous F condition 1 of Resolution R-1996-993, Control No.1996-00016, which currently states:

The nursing/convalescent facility shall be limited to a maximum of 71 residents.

Is hereby deleted. [REASON: No longer applicable, Superseded]

4. Previous F condition 2 of Resolution R-1996-993, Control No.1996-00016, which currently states:

The congregate living facility shall be limited to a maximum of 42 residents.

Is hereby deleted. [REASON: No longer applicable. The use to be abandoned.]

ENGINEERING

1. The Property Owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project, Zoning Petition Number 96-16, to be paid at the time of issuance of the Building Permit presently is \$15,125 (275 additional trips X \$55.00 per trip). (Previous E condition 1 of Resolution R-1996-993, Control No.1996-00016) (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

2. Prior to the issuance of a certificate of occupancy, the property shall have platted paved access in accordance with provisions of Article 8 of the Unified Land Development Code. Construction of the paved access shall be in accordance to non plan collector standards. (Previous E condition 2 of Resolution R-1996-993, Control No.1996-00016) (BLDGPMT/CO: LAND DEVELOPMENT - Land Development) [Note: COMPLETED]

3. The property owner shall negotiate, in good faith, a contract for a proportionate share of

the cost of operation and maintenance of mass transit generated by this projects identifiable impacts. This condition shall remain in effect until June 24, 1997. (Previous B condition 2 of Resolution R-1996-993, Control No.1996-00016) (DATE: MONITORING - Engineering) [Note: COMPLETED]

HEALTH

1. Previous condition number F.1 of Resolution R-96-993; Control number1996-016 which reads:

The nursing/convalescent facility shall be limited to a maximum of 7 1 residents. (ONGOING: HEALTH - Zoning)

Is Hereby DELETED: Reason--Now Regulated by AHCA

2. Previous condition number F.2 of Resolution R-96-993; Control number 1996-016 which reads:

The congregate living facility shall be limited to a maximum of 42 residents. (ONGOING: HEALTH - Zoning)

Is Hereby DELETED: Reason--Now regulated by AHCA

LANDSCAPE - GENERAL

1. Previous C condition 1 of Resolution R-1996-993, Control No.1996-00016, which currently states:

Prior to final site plan certification, the east, west and south perimeter buffer strips shall be labeled as Alternative 3 buffers.

Is hereby deleted. [REASON: No longer applicable. The Applicant added the south and west buffers to the Non-conformity Table on the Site Plan, and therefore are vested, and the East buffer meets the current Code.]

2. Prior to final site plan certification, the western Alternative 3 landscape buffer shall show a hedge along the entire length of the buffer strip meeting the following criteria: a. height: two (2) feet at planting; and b. spacing: two (2) feet on center. (Previous C condition 2 of Resolution R-1996-993, Control No.1996-00016) [Note: COMPLETED]

3. Prior to final site plan certification, the site plan shall be revised to show all proposed fencing and/or walls within a required landscape buffer to be constructed on the interior side of the required landscape. (Previous C condition 3 of Resolution R-1996-993, Control No.1996-00016) [Note: COMPLETED]

4. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:

a. Tree height: fourteen (14) feet.

b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.

c. Canopy diameter: seven (7) feet. Diameter: shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least: 3.5 feet in length. (Previous C condition 4 of Resolution R-1996-993, Control No.1996-00016) (ONGOING: LANDSCAPE - Landscape)

5. Prior to June 26, 2015, the Property Owner shall replace all dead and missing plant materials on the entire subject property. (ONGOING: LANDSCAPE - Landscape)

SIGNS

1. Previous D condition 1 of Resolution R-1996-993, Control No.1996-00016, which currently states:

Freestanding signs identifying the congregate living facility and the nursing/convalescent

facility shall be limited as follows: a. Maximum sign height, measured from finished grade to highest point - 10 feet; b. Maximum sign face per side - 32 square feet; c. Style - Monument style only; d. Maximum number of signs - 2 (one for congregate living facility and one for nursing convalescent facility.)

Is hereby amended to read:

Freestanding signs identifying the Nursing or Convalescent Facility shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - ten feet;
- b. Maximum sign face per side - 32 square feet;
- c. Style - Monument style only;
- d. Maximum number of signs - One for Nursing or Convalescent Facility. (ONGOING: ZONING - Zoning)

SITE DESIGN

1. Prior to final certification of the master plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate bus access and/or a bus stop(s) on or adjacent to the subject property. Bus access and/or bus stops shall be located and constructed by the petitioner in a manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer.

The petitioner shall dedicate additional right-of-way to accommodate this requirement, if requested by the County Engineer. Bus stops, if required, shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use, and bicycle rack. (Previous B condition 1 of Resolution R-1996-993, Control No.1996-00016) [Note: COMPLETED]

2. Prior to Final Approval by the Development Review Officer (DRO), the Applicant shall revise the Non-Conformities Chart on the Preliminary Site Plan to be more specific to the Code Sections for the non-conformities related to the landscaping buffers to the north, south and west, and for the existing building facades.
(DRO: 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: ZONING - Zoning)

2. Previous G condition 1 of Resolution R-1996-993, Control No.1996-00016, which currently states:

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; 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; 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 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. Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Is hereby amended to read:

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; 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; the 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 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 of Approval; 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: ZONING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.