

RESOLUTION NO. R-2006- 2557

RESOLUTION APPROVING ZONING APPLICATION CA2006-959
(CONTROL NO. 2006-362)
CLASS A CONDITIONAL USE
PETITION OF BALMORAL AT DELRAY LAKES ESTATES LLC
BY LAND DESIGN SOUTH, INC.AGENT
(BALMORAL AT DELRAY LAKE 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, and the Palm Beach County Unified Land Development Code, as amended, is authorized and empowered to consider applications relating to zoning; 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 Class A Conditional Uses; 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 CA2006-959 was presented to the Board of County Commissioners at a public hearing conducted on November 27, 2006; 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 recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (MONITORING) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Class A Conditional Use is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use;
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 4.B, Supplementary Use Standards of the Palm Beach County Unified Land Development Code. This Class A Conditional Use also meets applicable local land development regulations;
3. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development;
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands;
5. This Class A Conditional Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.

6. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
7. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. The applicant has demonstrated sufficient justification that there are changed circumstances that require the Class A Conditional Use.

WHEREAS, Article 2.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 CA2006-959, the application of Balmoral at Delray Lakes Estates LLC, by Land Design South, Inc., agent, for a Class A Conditional Use to allow an Agricultural Reserve Subdivision in the Agricultural Reserve 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 November 27, 2006, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Koons 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:

Addie L. Greene, Chairperson	- Aye
John F. Koons, Vice Chair	- Aye
Karen T. Marcus	- Aye
Warren H. Newell	- Aye
Mary McCarty	- Aye
Burt Aaronson	- Aye
Jess Santamaria	-

The Chairperson thereupon declared that the resolution was duly passed and adopted on November 27, 2006.

Filed with the Clerk of the Board of County Commissioners on 27th day of November, 2006.

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

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1

THE N 1/2 OF TRACT 41 AND 42, SECTION 20, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 2, PAGES 26-28, AS RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,
SAID LAND SITUATE, LYING AND BEING LOCATED IN PALM BEACH COUNTY, FLORIDA.

PARCEL 2

TRACT 55 AND THE SOUTH HALF OF TRACT 42, THE PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGES 26-28, INCLUSIVE. THESE TRACTS BEING IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

PARCEL 3

TRACT 56 AND THE SOUTH HALF OF TRACT 41, THE PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGES 26-28 INCLUSIVE, BEING IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

PARCEL 4

THE WEST 15.00 FEET OF TRACTS 40 AND 57, OF THE PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 26-28 INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

TOGETHER WITH:

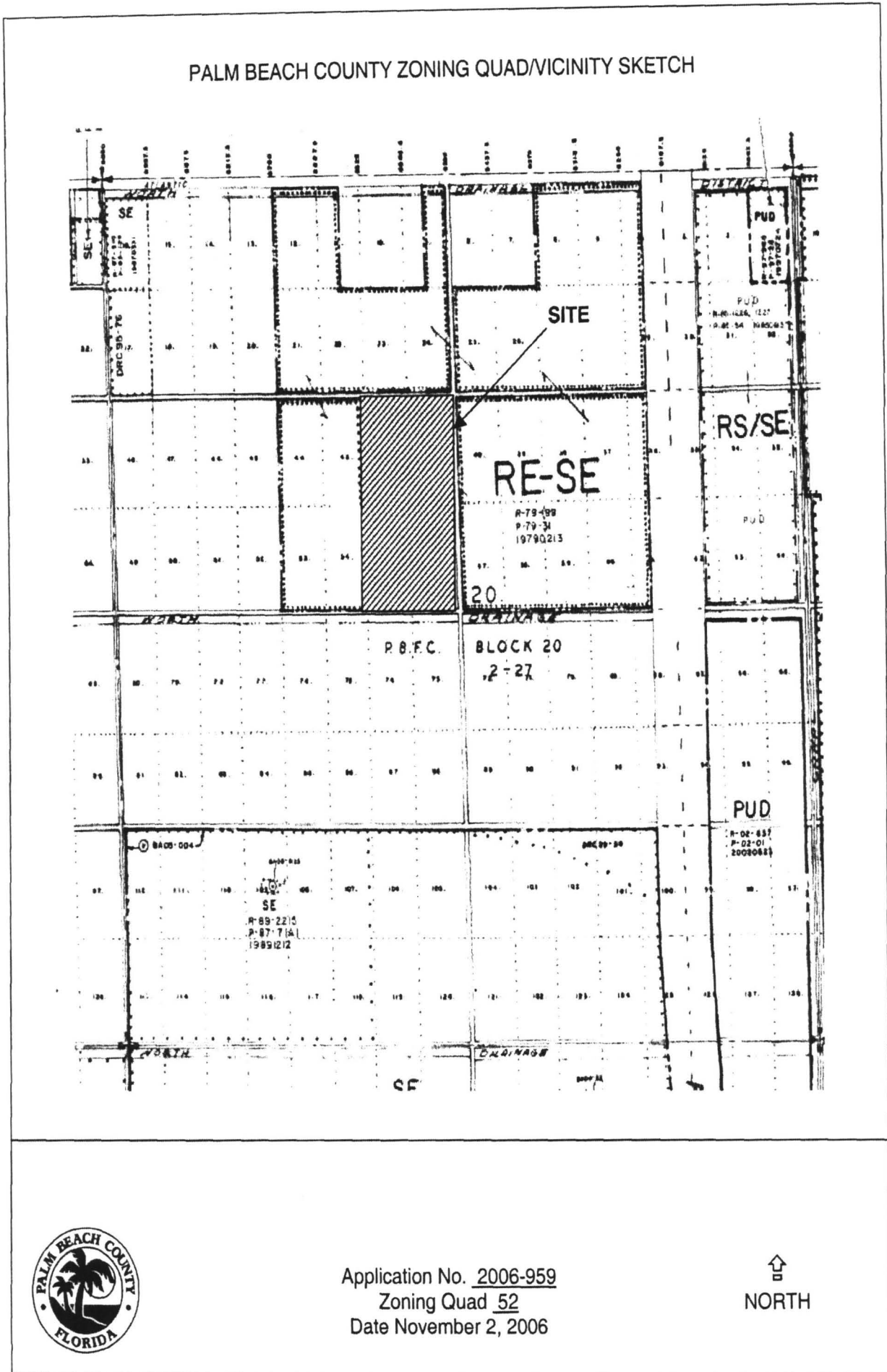
THE SOUTH 15.00 FEET OF TRACTS 23 AND 24 OF THE PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 26-28 INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

TOGETHER WITH:

THE SOUTH 15.00 FEET OF THE WEST 15.00 FEET OF TRACT 25 OF THE PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 26-28 INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

EXHIBIT B

VICINITY SKETCH



Application No. 2006-959
Zoning Quad 52
Date November 2, 2006



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses as approved by the Board of County Commissioners. The approved preliminary subdivision plan is dated September 18, 2006. 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)

ENGINEERING

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

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, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2. Prior to final approval by the Development Review Officer (DRO), the property owner shall obtain the drainage easements necessary from Delray Lakes Estates PUD Homeowners Association (HOA) to provide legal positive outfall. (DRO: ENG - ENG)

HEALTH

1. The site shall be served by sanitary sewer and a community water system. Neither an onsite sewage treatment and disposal system (OSTDS) nor potable water wells shall be approved for use on the property. All existing OSTDS shall be abandoned in accordance with Chapter 64E-6, FAC and Palm Beach County ECR-I. All existing onsite potable water supply systems shall be abandoned in accordance with Chapter 64E-8, FAC, and Palm Beach County ECR-II. (ONGOING: CODE ENF - Health)

ZONING – LANDSCAPING STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with the conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. Field adjustment of fence 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. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING – LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING LWDD CANAL L-35)

3. Prior to approval of the final subdivision plan by the Development Review Officer (DRO), the plan shall be revised to include the required Incompatibility Buffer along the south property line adjacent to the LWDD L-35 canal. (DRO: ZONING - Zoning)

SITE DESIGN

1. Property Development Regulations for each lot shall be generally consistent with the Delray Lakes Estates, and shall have the following minimum setbacks: Front – twenty-five (25) feet; Side – seven and one half (7.5) feet; Side Street – fifteen (15) feet and Rear – fifteen (15) feet. (DRO: ZONING-Zoning)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD – School Board)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD - PBCWUD)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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; 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 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 a 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 Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

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. (ONGOING: MONITORING - Zoning)