

RESOLUTION NO. R-2016- 1073

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2016-00440  
(CONTROL NO. 1979-00191)  
a Development Order Amendment  
APPLICATION OF Florida Power and Light  
BY Urban Design Kilday Studios, AGENT  
(Florida Power and Light Company-Boynton Beach Service 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 pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application ZV/DOA-2016-00440 was presented to the Board of County Commissioners at a public hearing conducted on August 25, 2016;

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 ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, THE Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Development Order Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the ULDC 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 Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the ULDC 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 ZV/DOA-2016-00440, the Application of Florida Power and Light, by Urban Design Kilday Studios, Agent, for a Development Order Amendment to reconfigure site plan, and modify and delete Conditions of Approval (Alternative Landscape Plan, and Engineering), on a parcel of land generally described as shown on the legal description 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 August 25, 2016, 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 Valeche and, upon being put to a vote, the vote was as follows:

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

The Mayor thereupon declared that the resolution was duly passed and adopted on August 25, 2016.

Filed with the Clerk of the Board of County Commissioners on August 29th, 2016.

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: [Signature]  
COUNTY ATTORNEY

BY: [Signature]  
DEPUTY CLERK

The seal is circular with a double-line border. The outer ring contains the text "COUNTY COMMISSIONERS" at the top and "PALM BEACH COUNTY, FLORIDA" at the bottom, separated by a star on the left. The center of the seal contains the text "DEPUTY CLERK" and "SHARON R. BOCK" in a smaller font.

EXHIBIT A

LEGAL DESCRIPTION

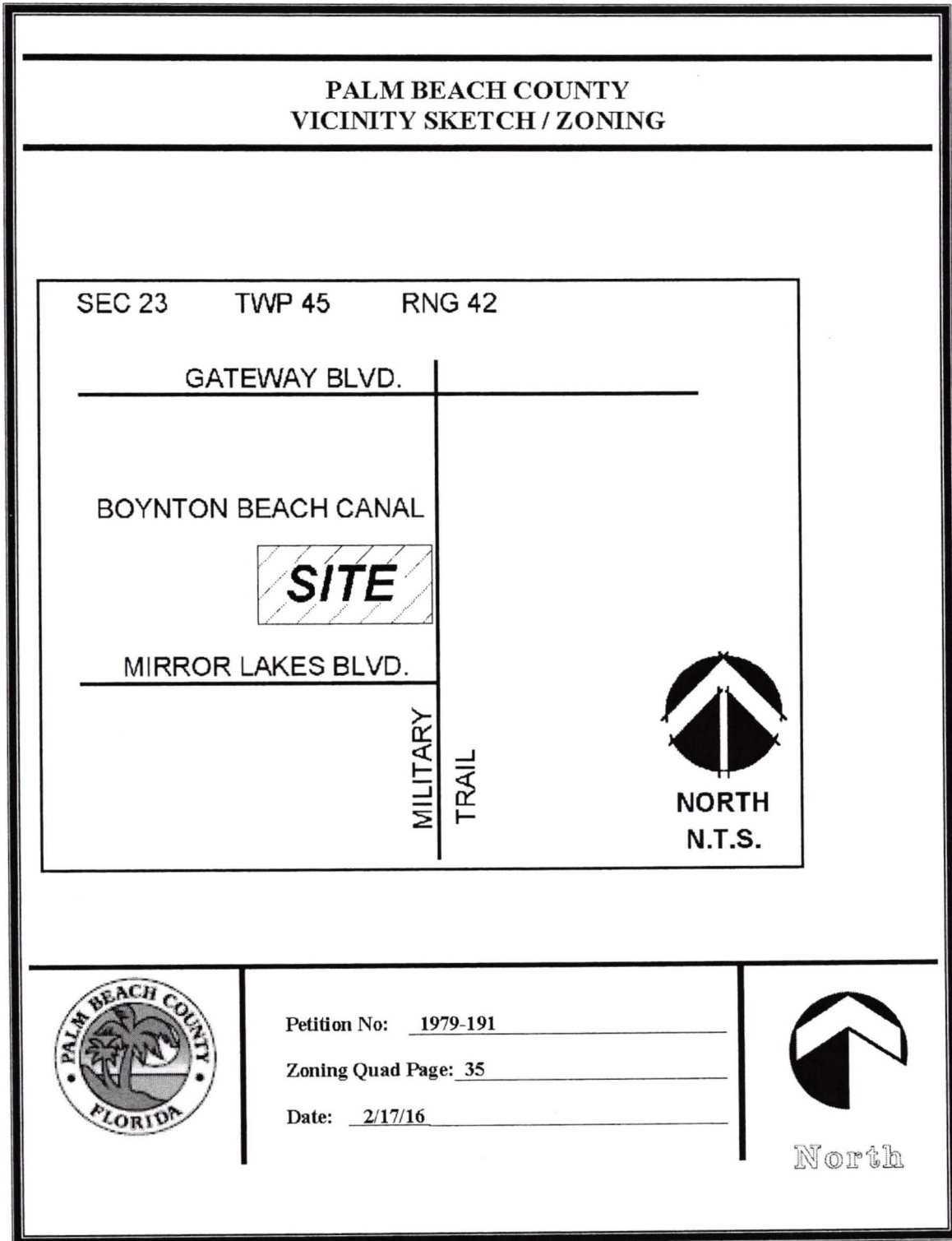
**LAND DESCRIPTION:**

THE NORTH 660 FEET OF THE EAST 1320 FEET OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 23, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE NORTH 70 FEET, AND LESS THE EAST 60 FEET THEREOF.

SAID LANDS SITUATE IN PALM BEACH COUNTY AND CONTAINING 745,601 SQUARE FEET (17.117 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-2001-1856 (Control 1979-00191), 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 ALL PETITIONS Condition 1 of Resolution R-2001-1856, Control No.1979-00191, which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated August 23,2001. 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 Preliminary Site Plan is dated June 10, 2016. 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)

##### ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the Public Utility Use (Service Center Building) shall be submitted simultaneously with final site plan for final architectural review and approval. The proposed use shall be subject to compliance with Article 5.C, Design Standards, of the Unified Land Development Code. The Elevations shall be consistent with the Preliminary Elevations dated May 12, 2016, and prepared by BRPH. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO/ONGOING: ZONING - Zoning)

##### ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2001-1856, Control No.1979-00191, which currently states:

##### LANDSCAPE WITHIN MEDIAN OF MILITARY TRAIL

a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department Permit Section for a permit to landscape the adjacent median of Military Trail Right-of-Ways. This permit shall comply with all agency requirements, including but not limited to indemnifying Palm Beach County. When permitted by the Land Development Division of the Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the latest revision to the Palm Beach County Engineering and Public Works Department Streetscape Standards. The property owner shall also be responsible for supplementing any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscaping installation and maintenance requirements shall be subject to the standards as set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County



Engineer.

b. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of the first certificate of occupancy.

c. If the Developer does not enter into an agreement with Palm Beach County to assume the maintenance responsibility, then appropriate property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit.

**Is hereby amended to read:**

The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of Military Trail. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners' approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPMT/CO: MONITORING - Engineering)

c. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner.

d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Military Trail. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPMT: MONITORING - Engineering)

2. The Property Owner shall modify and lengthen the existing south approach, left turn lane on Military Trail at the project's entrance. 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. (BLDGPMT: MONITORING - Engineering)



b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDG/PMT/CO: MONITORING - Engineering)

3. 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, 2020. 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 - Engineering)

#### **LANDSCAPE - GENERAL**

1. Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2001-1856, Control No.1979-00191, which currently states:

Prior to final DRC certification, the petitioner shall submit an Alternative Landscape Plan to relocate the required hedge and tree material from the north property line to the southern portion of the property,

**Is hereby deleted.** [REASON: No longer required.]

2. Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2001-1856, Control No.1979-00191, which currently states:

The Alternative Landscape Plan shall include seven (7) gallon size Areca Palms with a minimum four (4) feet height at time of installation to be planted a maximum five (5) feet on center along the entire south property line (a distance of approximately 1260 feet).

**Is hereby amended to read:**

The Landscape Buffer along the entire south property line (approximately 1,260 feet) shall be maintained to include the Areca Palm hedge as currently installed. Should the hedge need to be replaced the following shall apply:

a. minimum four (4) feet in height at installation; and  
b. maximum spacing five (5) feet on center. (ONGOING: ZONING - Zoning)

3. One canopy type tree to be planted thirty (30) feet on center along the south property line of the Service Center from the east property line to the east side of the existing substation (a distance of approximately 660 feet). [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2001-1856, Control No.1979-00191)

4. Concurrent with the submittal for Final Approval by the Development Review Officer (DRO), the Property Owner shall submit a Landscape Plan for review and approval. The Plan(s) shall be prepared in compliance with all landscape related Conditions of Approval for the subject site. (DRO: ZONING - Zoning)

5. Prior to issuance of Certificate of Occupancy for the proposed Service Center (Building A) the Applicant shall replace any dead or missing landscape material as shown on the approved Alternative Landscape Plan dated December 12, 2001. (CO: ZONING - Zoning)

#### **USE LIMITATIONS**

1. Use of the site shall be limited to a Utility Use, including a Utility Power Facility Substation, Offices, Warehouse, Repair and Maintenance, Truck Wash, Outdoor Storage, and Storage buildings for Florida Power and Light, and a Commercial Communication Tower and accessory structures. (ONGOING: 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: 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; 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: MONITORING - Zoning)

## **DISCLOSURE**

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