

RESOLUTION NO. R-2019- 1954

RESOLUTION APPROVING ZONING APPLICATION EAC-2019-01292
(CONTROL NO. 2003-00086)

a Development Order Amendment Expedited Application Consideration
APPLICATION OF CREG, LLC
BY Cotleur & Hearing, Inc., AGENT
(Boynton Golf 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;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application EAC-2019-01292 was presented to the Board of County Commissioners at a public hearing conducted on December 19, 2019;

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 (Application Processes and 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 Processes) for a Development Order Amendment Expedited Application Consideration ;

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.B.6.C (Board Action) 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 EAC-2019-01292, the Application of CREG, LLC, by Cotleur & Hearing, Inc., Agent, for a Development Order Amendment Expedited Application Consideration to modify a Condition of Approval, 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 December 19, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McKinlay moved for the approval of the Resolution.

The motion was seconded by Commissioner Weinroth and, upon being put to a vote, the vote was as follows:

Commissioner Dave Kerner, Mayor	-	Aye
Commissioner Robert S. Weinroth, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on December 19, 2019.

Filed with the Clerk of the Board of County Commissioners on January 13th, 2020

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

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE
SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42
EAST, PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT LANDS DESCRIBED IN AND CONVEYED BY WARRANTY
DEED TO LAKE WORTH DRAINAGE DISTRICT, A SPECIAL TAXING DISTRICT
RECORDED JUNE 26, 2017 IN OFFICIAL RECORDS BOOK 29180, PAGE 1368, OF
THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 8.16 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

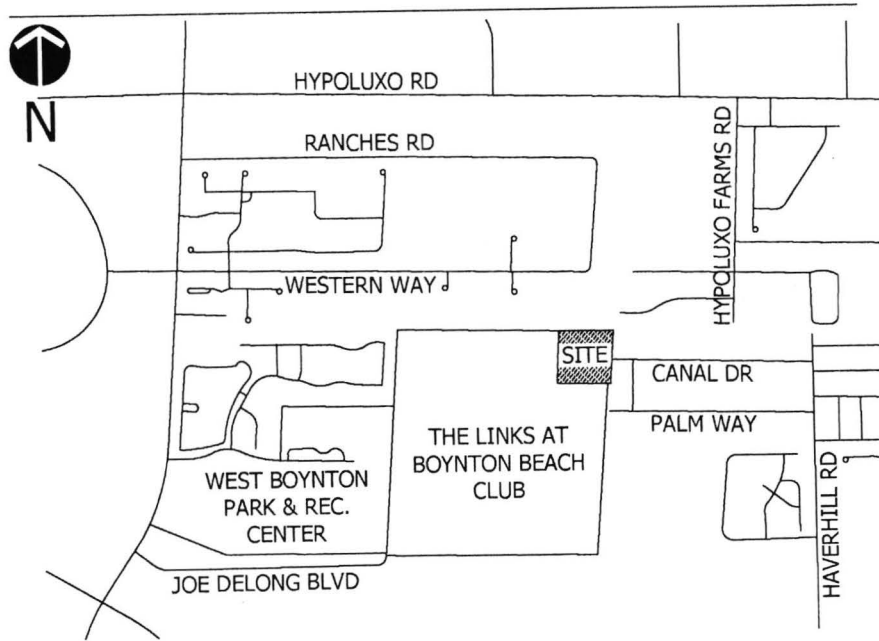


EXHIBIT C

CONDITIONS OF APPROVAL

Expedited Application Consideration

ALL PETITIONS

1. Development of the site is limited to the single-family residential uses as approved by the Board of County Commissioners. 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) (Previous ALL PETITIONS Condition 1 of Resolution R-2005-607, Control No.2003-00086)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2005-0607 (Control 2003-00086), 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)

BUILDING AND SITE DESIGN

1. Decorative street lights shall be provided pursuant to the ULDC, subject to approval by the County Engineer. (Previous BUILDING AND SITE DESIGN Condition 1 of Resolution R-2005-607, Control No.2003-00086)

2. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to show an architectural focal point at the roundabout median located to the south of lots 12 and 13. Details of this architectural focal point shall be submitted to the Architectural Review Section for review and approval. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous BUILDING AND SITE DESIGN Condition 2 of Resolution R-2005-607, Control No.2003-00086)

3. Decorative pavers (stamped concrete or paving blocks) shall be provided along the internal driveway with the proposed minimum dimensions and layout as indicated on the site plan dated February 10, 2005. (BLDGPMT: ZONING - Zoning) (Previous BUILDING AND SITE DESIGN Condition 3 of Resolution R-2005-607, Control No.2003-00086)

4. No gates shall be permitted at the entrance to the subject property from Canal Drive. (BLDGPMT/ONGOING: CODE ENF - Zoning) (Previous BUILDING AND SITE DESIGN Condition 4 of Resolution R-2005-607, Control No.2003-00086)

5. Previous BUILDING AND SITE DESIGN Condition 5 of Resolution R-2005-607, Control No.2003-00086, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the petitioner/Property Owner shall revise the site plan to provide a minimum of 0.48 acres of on site recreation exclusive of landscape buffers and meeting the required minimum dimensions.

Is hereby amended to read:

The Property Owner shall provide a minimum of 0.17 acres of on-site recreation, exclusive of landscape buffers and meeting the required minimum dimensions, or as approved by Palm Beach County Parks and Recreation Department. (DRO: PARKS AND RECREATION - Parks and Recreation)

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2005-607, Control No.2003-00086, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after February 1, 2008. 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.

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after October 26, 2023. 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 - Engineering)

2. The Property owner shall construct Canal Drive from its present paved terminus west of Haverhill Road through this project's site. Construction of this road shall include a canal crossing over the LWDD E3 Canal. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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 by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDGPM: MONITORING - Engineering)

b. Construction for this improvement shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering) (Previous ENGINEERING Condition 2 of Resolution R-2005-607, Control No.2003-00086)

3. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2005-607, Control No.2003-00086)

4. The Property owner shall construct a six-foot wide meandering pedestrian asphalt pathway on Canal Drive from Haverhill Road to this site. This pedestrian pathway shall connect to the proposed internal sidewalk of the development. This construction shall be concurrent with the paving and drainage improvements for this site. Any and all costs associated with this

construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations.

a. Permits required by Palm Beach County for the construction of this pedestrian pathway shall be obtained prior to Technical Compliance for the first plat. (PLAT: ENGINEERING - Engineering) [Note: COMPLETED]

b. Construction for the pedestrian pathway shall be completed prior to the issuance of a Land Development Permit or any Land Development clearing of the site. [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2005-607, Control No.2003-00086)

5. Prior to issuance of the first building permit the property owner shall post surety to the office of the County Engineer to guarantee the repair or required pavement overlay of Canal Drive damaged during the construction of this site. Amount of the surety shall be approved by the County Engineer and shall be released upon completion of the paving and drainage improvements for the site and issuance of all certificates of occupancy for the single family dwelling units. (BLDGPM: MONITORING - Engineering) (Previous ENGINEERING Condition 5 of Resolution R-2005-607, Control No.2003-00086)

ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) (Previous ENVIRONMENTAL Condition 1 of Resolution R-2005-607, Control No.2003-00086)

LANDSCAPE - GENERAL

1. Berm height shall be measured from the nearest top of the curb, the crown of the road, or the nearest adjacent finished floor elevation, whichever is higher. Minor height adjustment may be permitted subject to approval by the Landscape Section prior to the issuance of a building permit. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 1 of Resolution R-2005-607, Control No.2003-00086)

2. Field adjustment of berm location may be permitted for transverse of utility easement or pedestrian walkways or to accommodate existing vegetation. (BLDGPM/DRO: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 2 of Resolution R-2005-607, Control No.2003-00086)

3. Prior to final approval of the site plan by the Development Review Officer (DRO), the Property Owner shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRO: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 3 of Resolution R-2005-607, Control No.2003-00086)

LANDSCAPE - PERIMETER

4. LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES (ABUTTING LWDD CANALS AND NEIGHBORING RESIDENTIAL)

In addition to the ULDC requirements, landscaping along the north and east property lines shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted; and,
- b. a continuous three (3) foot high berm measured from top of curb. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2005-607, Control No.2003-00086)

PARKS

1. Developer is required to complete and open the recreational amenities to the residents prior to the issuance of the 6th building permit, unless the developer enters into a phasing plan with the Palm Beach County Parks and Recreation Department. (BLDGPM: MONITORING - Parks and Recreation)

PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be revised to contain:

- a. street cross-section details depicting landscaped and shaded sidewalks for pedestrian circulation for all internal sidewalks within this project (Rec. 35 of the WBACP); and,
- b. indicate a curbed sidewalk on the proposed bridge across the Lake Worth Drainage District E-3 canal for bicycle and pedestrian access to the Biltmore Terrace subdivision (DRO: PLANNING - Planning) (Previous PLANNING Condition 1 of Resolution R-2005-607, Control No.2003-00086)

2. Prior to the release of the first residential Building Permit, the plans shall be amended to reflect and correct the tabular breakdown of the units approved by the BCC and identify the pedestrian access across the bridge to the eastern property line. (BLDGPM: PLANNING - Planning)

SCHOOL BOARD

1. Previous SCHOOL BOARD Condition 1 of Resolution R-2005-607, Control No.2003-00086, which currently states:

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).

Is hereby amended to read:

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 necessarily be assigned to the public school closest to their residences. Students in Palm Beach County are assigned annually to schools under the authority of the School Board and, by direction of the Superintendent, public school attendance zones are subject to change. 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)

USE LIMITATIONS

1. Construction access shall be provided on Canal Drive, subject to the following:

- a. Hours of operation for construction shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday;
- b. construction shall be prohibited on Saturday, Sunday and statutory holidays;
- c. the construction route shall be appropriately signed during construction of the subject site; and,
- d. security personal shall provide traffic control along Canal Drive from Haverhill Road to the subject site at all times during construction hours for the site.

(ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2005-607, Control No.2003-00086)

2. Construction traffic shall be prohibited from utilizing the following to gain access to the subject site:

- a. the sections of Canal Drive and Dolphin Drive between Military Trail and Haverhill Road; and,
- b. the entire length of Palm Way and Worrall Road. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 2 of Resolution R-2005-607, Control No.2003-00086)

3. Previous USE LIMITATIONS Condition 3 of Resolution R-2005-607, Control No.2003-00086, which currently states:

The Property Owner shall include in all homeowners documents as well as written sales brochures, sales contracts, master plans and related site plans a disclosure statement identifying and notifying that the existing Boynton Municipal Golf Course to the south and to the west of this development is not part of this residential project, and no reliance or promotion of lots with golf course views shall be made.

The Property Owner shall submit documentation of compliance with this condition on an

annual basis to the monitoring section of Planning, Zoning and Building beginning on January 1, 2006, and shall continue on an annual basis until all units have been sold or the Property Owner relinquishes control to the Homeowners Association.

Is hereby amended to read:

The Property Owner shall include in all homeowners documents as well as written sales brochures, sales contracts, master plans and related site plans a disclosure statement identifying and notifying that the existing Boynton Municipal Golf Course to the south and to the west of this development is not part of this residential project, and no reliance or promotion of lots with golf course views shall be made.

The Property Owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring section of Planning, Zoning and Building prior to the issuance of the first Building Permit and shall continue on an annual basis until all units have been sold or the Property Owner relinquishes control to the Homeowners Association. (BLDGPM: MONITORING - 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.