

RESOLUTION NO. R-2001- 0975

RESOLUTION APPROVING ZONING PETITION DOA74-081(E)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF FOX PROPERTY VENTURE  
BY ROBERT BENTZ, AGENT  
(FOX DRI- SOUTH MUPD)

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, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA74-081 (E) was presented to the Board of County Commissioners at a public hearing conducted on June 25, 2001; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), 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 made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, 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.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, 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.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 Petition DOA74-081 (E), the petition of Fox Property Venture, by Robert Bentz, agent, for a Development Order Amendment (DOA) to add an access point 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on June 25, 2001, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

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

|                              |   |     |
|------------------------------|---|-----|
| Warren H. Newell, Chairman   | - | Aye |
| Carol A. Roberts, Vice Chair | - | Aye |
| Karen T. Marcus              |   | Aye |
| Mary McCarty                 |   | Aye |
| Burt Aaronson                |   | Aye |
| Tony Masilotti               |   | Aye |
| Addie L. Greene              |   | Aye |

The Chair thereupon declared that the resolution was duly passed and adopted on June 25, 2001.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK

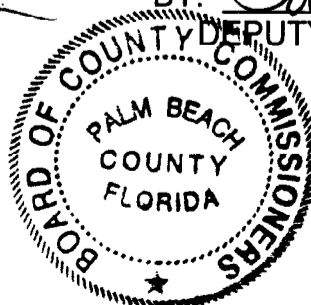


EXHIBIT A

LEGAL DESCRIPTION

SOUTH PARCEL:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 24; THENCE NORTH  $88^{\circ}48'13''$  WEST, ALONG THE SOUTH LINE OF SAID SECTION 24 (BASIS OF BEARING), A DISTANCE OF 98.73 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF STATE ROAD 7 (DB 992. PG. 123) AND THE POINT OF BEGINNING; THENCE NORTH  $00^{\circ}40'58''$  EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 1137.52 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF OKEECHOBEE BOULEVARD (ORB6320, PG 1274); THENCE NORTH  $88^{\circ}46'44''$  WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 224.14 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT; THENCE WESTERLY, ALONG SAID CURVE AND SAID RIGHT-OF-WAY, HAVING A RADIUS OF 11358.95 FEET, THROUGH A CENTRAL ANGLE OF  $03^{\circ}01'28''$ , A DISTANCE OF 599.60 FEET TO A POINT OF REVERSE CURVATURE; THENCE CONTINUING WESTERLY, ALONG SAID CURVE AND SAID RIGHT-OF-WAY, HAVING A RADIUS OF 11558.95 FEET, THROUGH A CENTRAL ANGLE OF  $03^{\circ}00'25''$ , A DISTANCE OF 606.63 FEET TO THE POINT OF TANGENCY; THENCE NORTH  $88^{\circ}47'47''$  WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 202.77 FEET TO THE NORTHEAST CORNER OF THE PALM BEACH COUNTY SCHOOL BOARDS PROPERTY; THENCE SOUTH  $02^{\circ}00'29''$  WEST, ALONG THE EAST LINE OF SAID PROPERTY, A DISTANCE OF 1106.31 FEET TO THE SOUTHEAST CORNER OF SAID PROPERTY, LYING ON THE SOUTH LINE OF SAID SECTION 24; THENCE SOUTH  $88^{\circ}48'13''$  EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 1658.46 FEET TO THE POINT OF BEGINNING.

EXHIBIT B  
VICINITY SKETCH

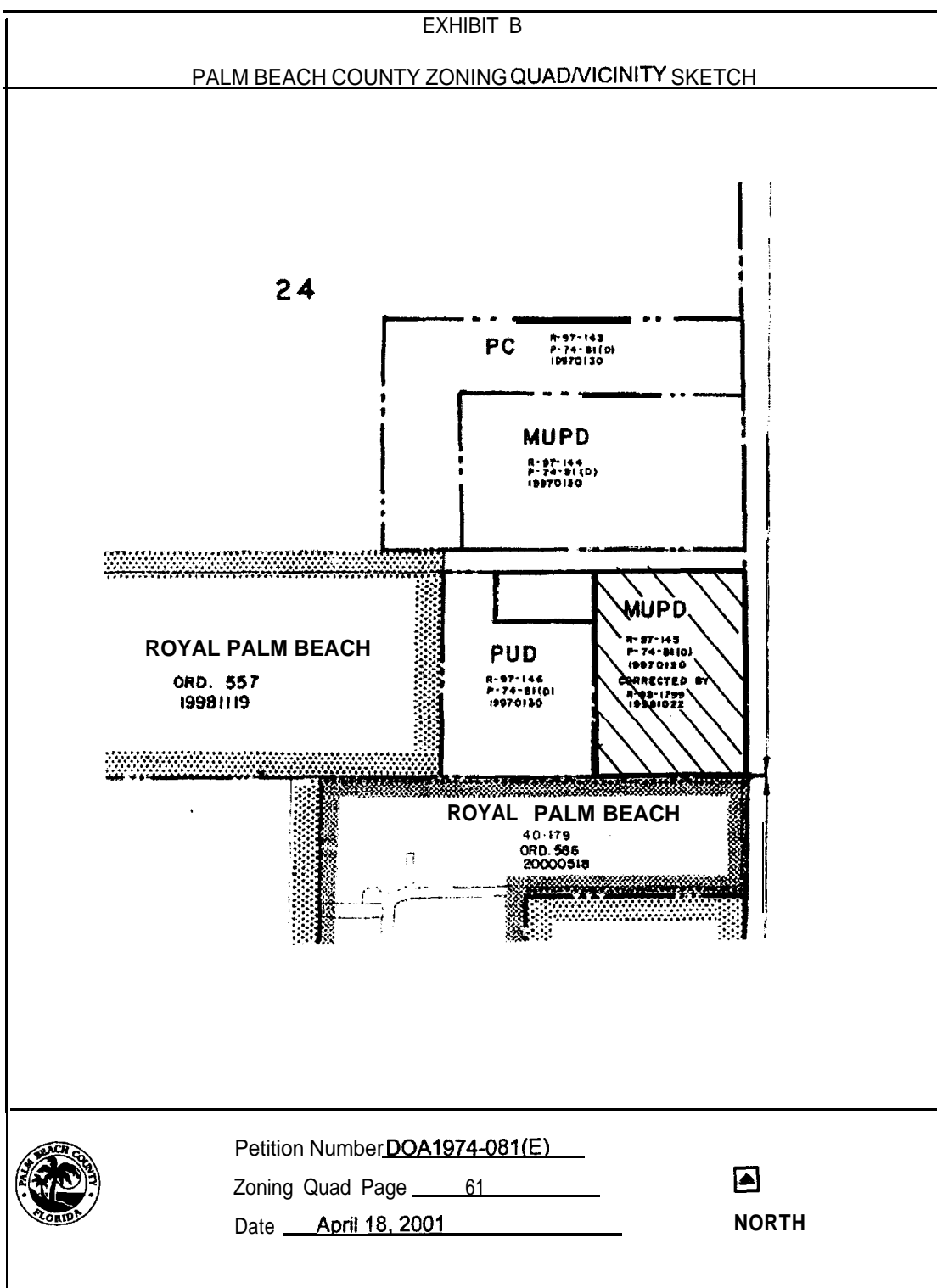


EXHIBIT C

MUPD REZONING  
(SOUTH SIDE OF OKEECHOBEE)  
CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-97-0145, Petition PDD74-81 (D), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)
2. **All conditions contained in Resolution R-74-699 are hereby repealed.** (MONITORING) (Previously Condition A. 1 of Resolution R-97-0145, Petition PDD74-81(D))
3. **The petitioner shall comply with all applicable previous conditions of approval contained in Resolution R-94-487 and the Final Order No. LW-93-037 for the State of Florida Land and Water Adjudicatory Commission Stipulated Settlement Agreement for FLWAC Case No. 74-18 and DOAH Case No. 77-0846, unless expressly modified.** (MONITORING) (Previously Condition A.2 of Resolution R-97-0145, Petition PDD74-81 (D))
4. **Development of the site is limited to the uses and general site design indicated on the master plan approved by the Board of County Commissioners. The approved master plan is Exhibit C of Settlement Agreement No. 77-0846, Final Order No. LW-93-037. All modifications must be approved by the Board of County Commissioners unless the proposed changes are in accordance with the ULDC or Settlement Agreement No. 77-0846.** (ONGOING: ZONING) (Previously Condition A.3 of Resolution R-97-0145, Petition PDD74-81 (D))

B. ANNEXATION

1. The property owner of the five (5) acre Parcel 4B shall voluntarily annex into the Village of Royal Palm Beach upon closing on the property subject to Palm Beach County review and approval. (ONGOING: PLANNING-Co Att)

C. AUTO SERVICE/GAS SALES

1. **All facilities providing gasoline sales to the general public shall provide air and water to the public at no charge.** (DRC/ONGOING: ZONING/CODE ENF) (Previously Condition B.I of Resolution R-97-0145, Petition PDD74-81(D))

D. BUILDING AND SITE DESIGN

1. **A maximum of 150,000 gross commercial floor area may be transferred from Pod 5 to Pod 4 of the DRI. This square footage may be permitted in combination with a maximum 400 resident CLF/nursing home.** (DRC: ZONING) (Previously Condition C. 1 of Resolution R-98-I 799, Petition PDD74-81(D))
2. **A maximum of five (1) one acre outparcels shall be permitted along the south side of Okeechobee Boulevard.** (DRC : ZONING) (Previously Condition C.2 of Resolution R-97-0145, Petition PDD74-81 (D))

E. ENGINEERING

1. The Property owner shall construct on SR 7 at the project south entrance into Parcel 4: (Control Number 0703-503)
  - A) Right turn lane north approach;
  - B) Directional left turn lane south approach.
    - 1) This construction shall be concurrent with the paving and drainage improvements for Parcel 4. 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.
    - 2) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance Building Permits for Parcel 4. (Control Number 0703-503) (BLDG PERMIT: Monitoring-Eng)
    - 3) Construction shall be completed prior to the issuance of Certificates of Occupancy for Parcel 4. (CO: MONITORING-Eng)
2. LANDSCAPE WITHIN MEDIAN OF STATE ROAD 7
  - A. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of SR 7 Road Right-of-Ways adjacent to Parcel 4. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department latest revision to the 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 landscape material, installation, and maintenance requirements shall be subject to the standards 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. (BLDG PERMIT: MONITORING - Eng)

- 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 a certificate of occupancy for Parcel 4. (Control Number 0703-503) (CO: MONITORING-Eng)
- C. If the Developer does not enter into an agreement with Palm Beach County to assume the maintenance responsibility, then appropriate property owner's 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 Building Permits for Parcel 4. (Control Number 0703-503) (BLDG PERMIT: MONITORING-Eng)

F. CLF/NURSING HOME

- 1. **The CLF/nursing home shall be limited to a combined maximum of 400 residents.** (DRC; ZONING) (Previously Condition D.I of Resolution R-97-0145, Petition PDD74-81(D))

G. LANDSCAPING

- 1. All landscaping shall be in conformance with previous Exhibit C of Settlement Agreement No. 77-0846, Final Order No. LW-93-037. (CO:LANDSCAPE)

H. MUPD

- 1. **Permitted and requested uses shall be allowed as indicated on Exhibit C of Settlement Agreement Case #770846, Final Order #LW93037.** (DRC: ZONING) (Previously Condition F.I of Resolution R-97-0145, Petition PDD74-81(D))

I. PARKING

- 1. **Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading and delivery areas.** (ONGOING: CODE ENF) (Previously Condition G.I of Resolution R-97-0145, Petition PDD74-81(D))
- 2. **Prior to site plan certification by the Development Review Committee (DRC), the site plan shall be amended to include shopping cart storage and retrieval corrals in all retail parking areas.** (DRC: ZONING) (Previously Condition G.2 of Resolution R-97-0145, Petition PDD74-81(D))

J. SIGNS

1. Freestanding point of purchase signs shall be in conformance with previous Exhibit C of Settlement Agreement No. 77-0846, Final Order No. LW-93-037. (CO:BLDG)

K. 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. Condition H. 1 of Resolution R-97-0145, Petition PDD74-81(D)) 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. (MONITORING)**

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; 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 the Code Enforcement Division 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 5.8 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. (MONITORING)