

RESOLUTION NO. R-2002- 06 19

RESOLUTION APPROVING ZONING PETITION Z/COZ1996-115(B)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF L&G ENTERPRISES INC.
BY RICHARD W. CARLSON, ESQ., AGENT
(AZURA TOWNHOUSES)

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 petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition Z/COZ1996-115(B) was presented to the Board of County Commissioners at a public hearing conducted on April 25, 2002; and

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

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan, contingent upon the approval of Small Scale Development Amendment No. 02-SCA 86 RES 1;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) with approved conditions does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20, as amended; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) 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 Z/COZ1996-115(B), the petition of L&G Enterprises Inc. by Richard W. Carlson, Esq., agent, for an Official Zoning Map Amendment rezoning from Residential Unit Development to Residential High Density with a Conditional Overlay Zone on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on April 25, 2002, subject to the conditions of the Conditional Overlay Zone 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 Aaronson and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that this resolution shall not become effective until Small Scale Development Amendment No. 02-SCA 86 RES 1 (VENTURES 11) is effective.

Filed with the Clerk of the Board of County Commissioners on 29 day of May, 2002.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

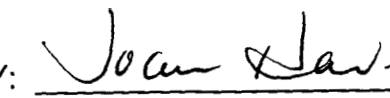
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

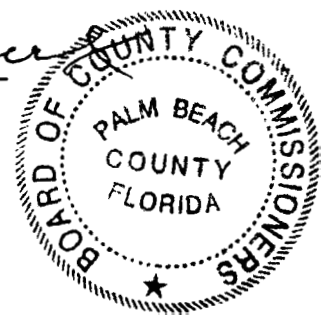


EXHIBIT A
LEGAL DESCRIPTION

LOT 8, BLOCK 4, PALM BEACH RANCHES, AN UNRECORDED SUBDIVISION OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 10 AND THE NORTHWEST QUARTER (NW 1/4) OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, ALSO DESCRIBED AS FOLLOWS:

SOUTH HALF (S 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 10, TOWNSHIP 45 SOUTH, RANGE 42 EAST, LESS THE WEST 40 FEET THEREOF. ALSO LESS THAT PORTION FOR RIGHT-OF-WAY DESCRIBED AS:

COMMENCING AT THE CENTER OF SAID SECTION 10; THENCE ALONG THE EAST-WEST QUARTER SECTION LINE OF SAID SECTION 10, N89 degrees 52' 20" E, A DISTANCE OF 40.08 FEET TO THE INTERSECTION OF A LINE PARALLEL WITH AND 40 FEET EASTERLY FROM THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 10 AND THE POINT OF BEGINNING. THENCE CONTINUE N 89 DEGREES 52' 20" E, A DISTANCE OF 20.03 FEET; THENCE N 03 DEGREES 20' 56" E, A DISTANCE OF 219.11 FEET; THENCE N 02 DEGREES 13' 12" E, A DISTANCE OF 123.17 FEET TO A POINT IN THE NORTH LINE OF SAID SOUTH HALF (S 1/2); THENCE ALONG SAID NORTH LINE S 89 DEGREES 47' 53" W, A DISTANCE OF 17.60 FEET TO A POINT ON SAID PARALLEL LINE; THENCE ALONG SAID PARALLEL LINE S 03 DEGREES 20' 56" W, A DISTANCE OF 342.39 FEET TO THE POINT OF BEGINNING. SAID NORTH-SOUTH QUARTER SECTION LINE BEARS N 03 DEGREES 20' 56" E (1972 FREE ADJUSTED DATUM) AND ALL BEARINGS SHOWN ARE RELATIVE THERETO.

EXHIBIT B
VICINITY SKETCH

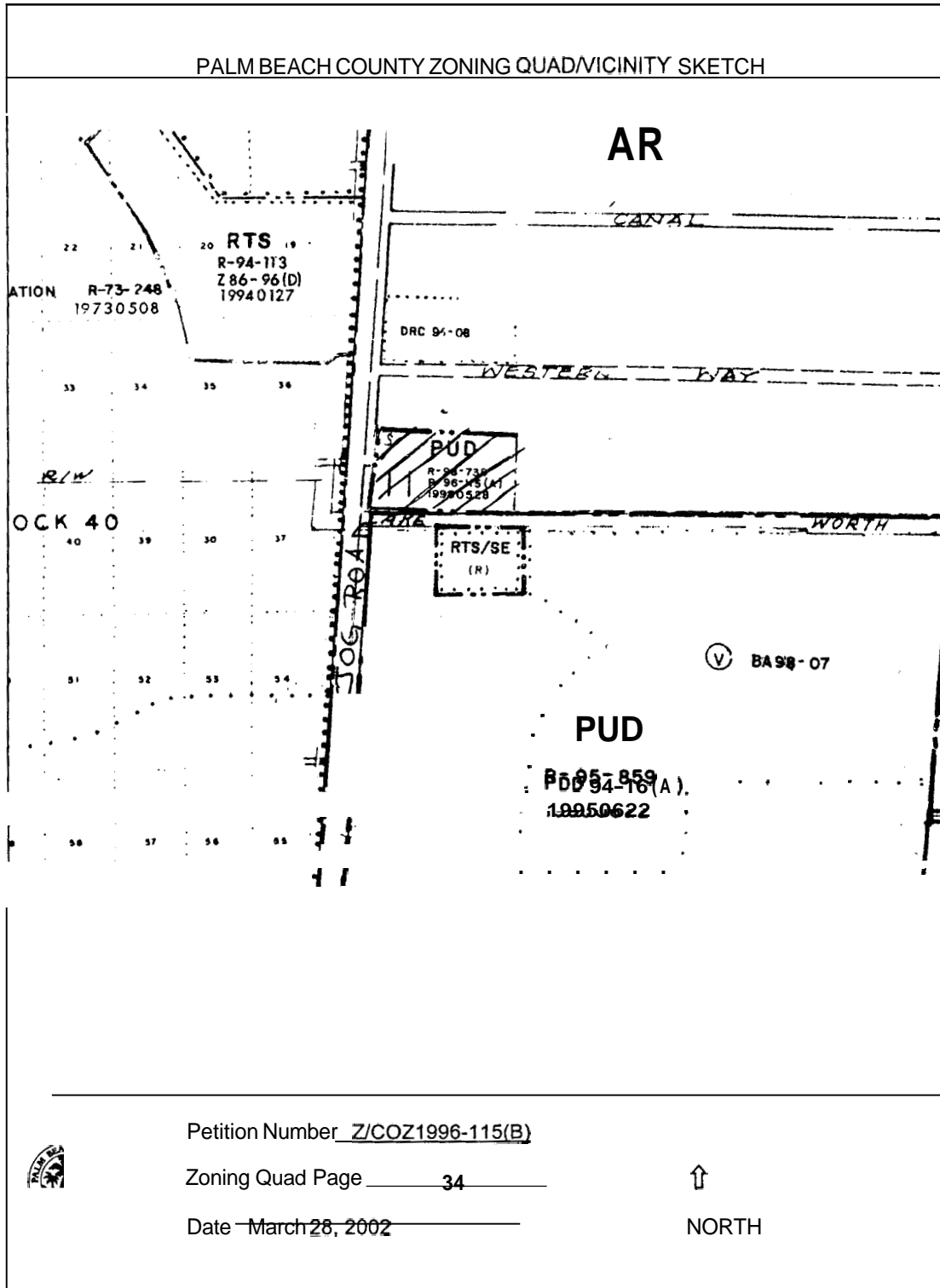


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. The Requested Use for a Congregate Living Facility, Type III granted under Resolution R-98-0735, Petition PDD96-115(A) is hereby revoked. (MONITORING – Zoning)
2. 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 February 19, 2002. 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)
3. The petitioner shall have three (3) years from adoption of the resolution approving Petition 96-115(B) to commence development on the site. Only one (1) administrative time extension for a maximum of twelve (12) months may be granted. (DATE: MONITORING – Zoning)

5. BUILDING AND SITE DESIGN

1. Prior to final site plan certification by the Development Review Committee (DRC), the site plan shall be amended to show a focal point at the terminus of the cul-de-sac. The focal point shall be in the form of a plaza, fountain, arcade or similar pedestrian oriented public areas acceptable to the Zoning Division. (DRC: ZONING – Zoning)

C. LANDSCAPING – STANDARD

1. Fifty-percent of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
 - c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length; and
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)
2. All palms required to be planted on site by this approval, except on individual residential lots, shall meet the following minimum standards at installation:
 - a. Palm heights: twelve (12) feet clear trunk;
 - b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and
 - c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
3. All trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)
4. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE – Zoning)

5. All shrub or hedge material shall be planted in overlapping masses and in a meandering and naturalistic pattern consisting of a minimum of *two* (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights:
 - i. eighteen (18) to twenty-four (24) inches – small shrub;
 - ii. twenty-four (24) to thirty-six (36) inches – medium shrub; and
 - iii. forty-eight (48) to seventy-two (72) inches – large shrub.
6. Street trees shall be planted within or adjacent to streets of fifty (50) feet in width or greater, subject to approval by the County Engineer. (CO: LANDSCAPE/ENG - Zoning)

D. LANDSCAPING ALONG WEST PROPERTY LINE (JOG ROAD FRONTAGE)

1. Landscaping along the west property line abutting Jog Road shall be upgraded to include:
 - a. A minimum twenty (20) foot wide right-of-way buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. A minimum *two* (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) foot measured from top of curb;
 - c. One (1) canopy tree for each thirty (30) linear feet of property line;
 - d. One (1) palm or pine for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters;
 - e. One (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches;
 - f. One (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches;
 - g. One (1) large shrub for each six (6) linear feet of property line, to be installed at a minimum height of thirty (30) inches; and
(CO: LANDSCAPE – Zoning)

E. ENGINEERING

1. LANDSCAPE WITHIN MEDIAN OF COUNTY ROADS

- 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 Jog Road Right-of-Ways to provide for:

a) Median landscaping;

b) Concrete median cut outs. This shall include the entire portion of the existing concrete median separator which extends south of this site.

This permit shall comply with all permit 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. (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 the first certificate of occupancy. (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 the issuance of a Building Permit. (BLDG PERMIT: MONITORING – Eng)
- D. The developer may, upon approval and sole discretion of the County Engineer, pay the cost of the installation and maintenance to Palm Beach County based upon a certified cost estimate and be relieved of Conditions E.I.A-C, above.

F. LANDSCAPING ALONG NORTH AND EAST PROPERTY LINES (ABUTTING AGRICULTURAL RESIDENTIAL)

- 1. Landscaping along the north and east property lines shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. A continuous two (2) foot high berm measured from finished grade;
 - c. One (1) canopy tree for each twenty (20) linear feet of property line;
 - d. One (1) palm or pine for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters;
 - e. One (1) small shrub for each four (4) linear feet of property line, to be installed at a minimum height of eighteen (18) inches;
 - f. One (1) medium shrub for each six (6) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches; and,
 - g. One (1) large shrub for each two (2) linear feet of property line, planted twenty-four (24) inches on center, to be installed at a minimum height of thirty (30) inches. (CO: LANDSCAPE – Zoning)

G. LANDSCAPING ALONG SOUTH PROPERTY LINE

- 1. Landscaping along the south property line shall be upgraded to include:

- a. A minimum fifteen (15) foot wide landscape buffer strip. No easement encroachment shall be permitted. Width reduction may be permitted per ULDC requirements;
- b. One (1) canopy tree for each twenty (20) linear feet of property line;
- c. One (1) palm or pine for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters;
- d. One (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches; and
- e. One (1) large shrub for each two (2) linear feet of property line, planted twenty-four (24) inches on center, to be installed at a minimum height of thirty (30) inches. (CO: LANDSCAPE – Zoning)

H. LIGHTING

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF – Zoning)
- 2. All outdoor, freestanding lighting fixtures shall not exceed twenty five (25) feet in height measured from finished grade to highest point. (CO: BLDG – Zoning)

I. PLANNING

- 1. Prior to final site plan certification by the Development Review Committee (DRC), the petitioner shall submit to the Planning Division cross-sections and details of the sidewalk/bicycle path depicting landscaped and shaded sidewalks with canopy trees along the east side of Jog Road and along the sidewalk internal to the site. (DRC: PLANNING – Planning)

J. SCHOOLBOARD

- 1. The subject development shall post a notice of annual boundary school assignments for students from this development. The District will provide an 1 1/2' X 17" sign to be posted in a clear and visible location in all sales offices and models.

"NOTICE TO HOME BUYERS/TENANTS"

"School age children may not be assigned to the public school closest to their residents. School Board policies regarding overcrowding 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)

K. SIGNS

- 1. Signage fronting on Jog Road shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point: six (6) feet;
 - b. Maximum total sign face area: sixty (60) square feet total;
 - c. Maximum number of signs: one (1) per entrance wall (maximum of two (2));
 - d. Style: entrance wall, monument style only;

- e. Location: within fifty (50) feet of the Jog Road entrance. Distance shall be measured from the centerline of the access drive. (CO: BLDG – Zoning)

L. 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 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. (ONGOING: MONITORING – Zoning)