

RESOLUTION NO. R-2003-0427

RESOLUTION APPROVING ZONING PETITION Z2002-049
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF DON AND SUSAN DELUCIA
BY ROBERT BENTZ, AGENT
(DELRAY PLAZA)

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 Z2002-049 was presented to the Board of County Commissioners at a public hearing conducted on March 27, 2003; 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 has considered the findings in the staff report and the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
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 Z2002-049, the petition of Don and Susan Delucia by Robert Bentz, agent, for an Official Zoning Map Amendment rezoning from the Agricultural Reserve Zoning District to the Community Commercial Zoning District 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 March 27, 2003, subject to the conditions of the CONDITIONAL OVERLAY ZONE described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson 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:

Karen T. Marcus, Chair	-	Absent
Tony Masilotti, Vice Chairman	-	Aye
Jeff Koons	-	Absent
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on March 27, 2003.

Filed with the Clerk of the Board of County Commissioners on 3 day of April, 2003.

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

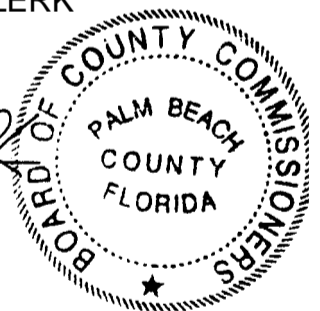


EXHIBIT A
LEGAL DESCRIPTION

THE EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, LESS THE SOUTH 310 FEET THEREOF, LYING WEST OF STATE ROAD 7 RIGHT OF WAY, PALM BEACH COUNTY, FLORIDA. CONTAINING 0.907 ACRES, MORE OF LESS.

CONTAINING 0.907 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

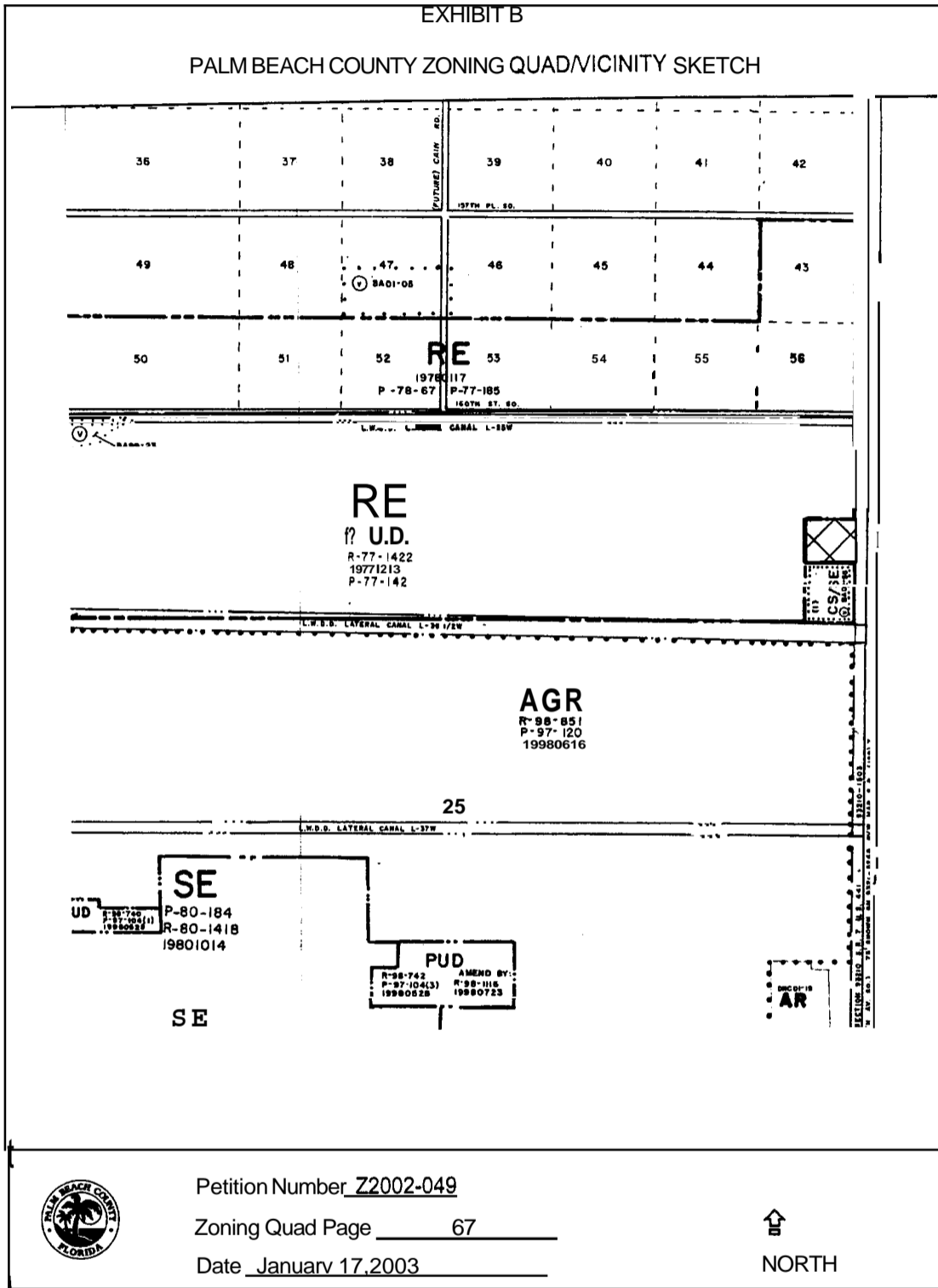


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. 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 27, 2003. 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)

B. ARCHITECTURAL REVIEW

1. At time of submittal for final DRC certification of the site plan, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Section 6.6.E and Section 6.6.C of the ULDC. Development shall be consistent with the approved architectural elevations and the certified DRC site plan. (DRC: ZONING – Zoning)
2. The maximum height for all structures, measured from finished grade to highest point, shall be twenty (20) feet, excluding architectural elements not exceeding twenty-five (25) feet in height. (BLDG PRMT: BLDG/ARCH REV – Zoning)

C. BUILDING AND SITE DESIGN

1. Development shall be consistent with the approval for the parcel to the south (Valencia Center, Petition 1981-224A), including but not limited to: architectural consistency between all buildings, signage and project identification; and, all landscaping. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements; and, use of similar tree and shrub material. (DRC/BLDG PRMT: ARCH REV/LANDSCAPE – Zoning)

D. LANDSCAPING STANDARD

1. Fifty percent of canopy trees to be planted in the landscape buffers shall be native 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 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 shrub or hedge materials shall be planted in continuous 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 and hierarchical effect:
 - a. Eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. Twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. Forty-eight (48) to seventy-two (72) inches – large shrub; and
 - d. This condition shall not apply to five (5) foot wide compatibility buffers and landscape buffers where a single row of shrubs is required along either side of a fence or wall. (CO: LANDSCAPE – Zoning)
 4. All trees and palms shall be planted in a meandering and naturalistic pattern, with exception to five (5) foot wide buffers. (CO: LANDSCAPE – Zoning)
 5. 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)

E. ENGINEERING

1. Prior to issuance of a Building Permit the property owner shall receive approval from the DRC for a final site plan. (BLDG PERMIT: MONITORING – Eng)
2. Prior to final approval by the DRC:
 - a. the site plan shall be amended to relocate the project entrance to the north termination of the parking aisle. Site plan shall also provide for cross access to the commercial site to the south. (DRC: ENG – Eng)
 - b. the property owner shall convey a cross access easement to the property owner to the south. Location of this easement shall be approved by the County Engineer. Form and content shall be approved by the County Attorney. (DRC: ENG – Eng)
3. LANDSCAPE WITHIN MEDIAN OF SR 7
 - a. The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of SR 7. This landscaping and irrigation shall strictly conform with 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 petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Condition 4.d. below. .
 - b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PRMT: MONITORING – Eng)
 - c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING – Eng)
 - d. At petitioner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner 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 petitioner. The petitioner 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 Petitioner. (ONGOING)

- e. At petitioner's option, prior to issuance of a building permit, the petitioner may make a contribution to the County's OTIS program for installation and maintenance of median landscaping on qualifying thoroughfares. This payment shall relieve petitioner of the obligation for installation and maintenance of median landscaping established in Paragraph A. This payment, shall be based on the project's front footage along SR7. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date the payment is made. (ONGOING)

F. LANDSCAPING ALONG EAST PROPERTY LINE (SR 7/US 441 FRONTAGE)

- 1. Landscaping and buffering along the east property line abutting SR 7/US 441 shall be upgraded to include:
 - a. A minimum twenty (20) foot wide right-of-way buffer strip. No width reduction shall be permitted;
 - b. A continuous two (2) foot high berm measured from top of curb;
 - c. One (1) native 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; and
 - 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. (CO: LANDSCAPE – Zoning)

G. LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINES (ABUTTING RIO POCO PUD)

- 1. Landscaping and buffering along the north and west property lines shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip. No easement encroachment or width reduction shall be permitted;
 - b. A continuous two (2) foot berm measured from finished grade to top of berm. Field adjustment of berm may be permitted for preservation of existing vegetation;
 - c. A six (6) foot high concrete or concrete screen panel wall. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
 - d. One (1) native canopy tree for each twenty (20) linear feet of property line, to be planted alternating on both sides of the wall; and
 - e. One (1) palm or pine for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters, to be planted alternating on both sides of the fence. (CO: LANDSCAPE – Zoning)

2. The following landscaping shall be required along the interior side of the required fence:
 - a. One (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches;
 - b. 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
 - c. One (1) large shrub for each ten (10) linear feet of property line, to be installed at a minimum height of thirty (30) inches. (CO: LANDSCAPE – Zoning)
3. Along the exterior side of the required fence, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center, to be maintained at a minimum height of seventy-two (72) 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 fifteen (15) feet in height measured from finished grade to highest point. (CO: BLDG – Zoning)
3. All outdoor, freestanding lighting fixtures be setback fifty (50) feet from the north property line, and twenty-five (25) feet from the west property line. (CO: BLDG – Zoning)
4. All outdoor lighting shall be extinguished one-half hour after business hours, excluding security lighting only. (ONGOING: CODE ENF – Zoning)
5. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF – Zoning)

I. PLANNING

1. Prior to final site plan certification by the Development Review Committee (DRC), the site plan shall be revised to relocate the 4' sidewalk to the west side of the building to extend from the building to the south property line in a location to align with the sidewalk on the Valencia Center petition. (DRC: PLANNING – Planning)
2. Prior to final site plan certification by the Development Review Committee (DRC), the site plan shall be revised to include a notation showing a vehicular future cross access point to the parcel to the south of the site. This notation shall read “vehicular cross access to be paved to the property line”. (DRC: PLANNING – Planning)
3. Prior to the issuance of a certificate of occupancy, the property owner shall pave a vehicular cross access point and pave the sidewalk on the western property line to the edge of the south property line. The vehicular cross access point shall be paved at the location shown on the final certified site plan that will read “vehicular cross access to be paved to the property line.” (CO: MONITORING – Planning)

J. SIGNS

1. Freestanding point of purchase signs shall be limited as follows:
 - a. Maximum sign height: eight (8) feet;

- b. Maximum sign face area per side: forty (40) square feet;
 - c. Maximum number of signs: one (1);
 - d. Location: a minimum of one-hundred and fifty (150) feet north of the south property line;
 - e. Style: monument only; and
 - f. Signs shall be limited to project identification only. (CO: BLDG – Zoning)
2. Wall signs shall be limited to east facades of the building and individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to identification of tenants only. (CO: BLDG – Zoning)

K. USE LIMITATIONS

- 1. Retail business activity shall not be allowed on the property, including deliveries, prior to 6:00 a.m. nor continue later than 9:00 p.m. Monday through Saturday, and prior to 10:00 a.m. nor continue later than 6:00 p.m. on Sunday. (ONGOING: CODE ENF – Zoning)
- 2. Outdoor storage or placement of any material, refuse, equipment or debris shall not be permitted. (ONGOING: CODE ENF – Zoning)
- 3. Outdoor retail business activities shall not be allowed on the property, excluding deliveries only. (ONGOING: CODE ENF – Zoning)
- 4. Overnight parking of delivery vehicles or trucks shall not be permitted. (ONGOING: CODE ENF – Zoning)
- 5. Outdoor speaker or public address systems which are audible from any property line shall not be permitted on site. (ONGOING: CODE ENF – 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)