

RESOLUTION NO. R-2003-1759

RESOLUTION APPROVING ZONING PETITION Z/COZ2002-058A
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF TLHC-2
BY LAND DESIGN SOUTH, AGENT
(10 ACRE DILLMAN PROPERTY)

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/COZ2002-058A was presented to the Board of County Commissioners at a public hearing conducted on October 23, 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 Z/COZ2002-058A, the petition of TLHC-2 by Land Design South, agent, for an Official Zoning Map Amendment rezoning from the Agricultural Residential Zoning District to the Residential Transitional 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 October 23, 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 Koons and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on October 23, 2003.

Filed with the Clerk of the Board of County Commissioners on 24 day of November, 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

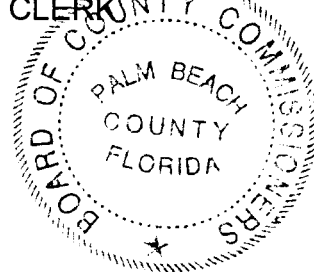


EXHIBIT A
LEGAL DESCRIPTION

TRACT 57, BLOCK 11, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED
IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH
COUNTY, FLORIDA.

CONTAINING 10.00 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

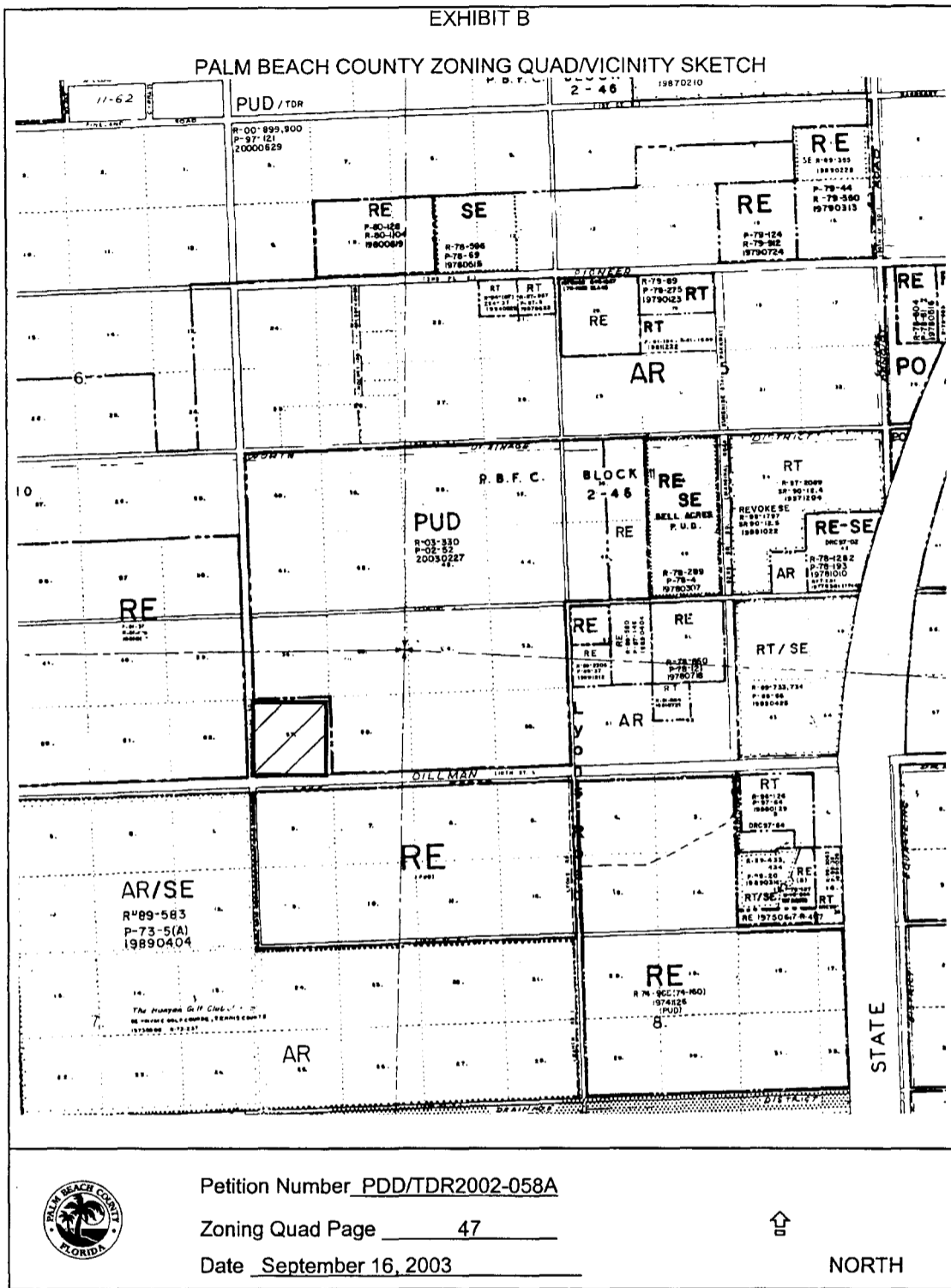


EXHIBIT C

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 September 24, 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. CROSS ACCESS

1. Prior to site plan approval by the Development Review Committee (DRC), the petitioner shall complete the following:
 - a. Revise the site plan to show vehicular and pedestrian cross access point to the edge of the north property line at a location which aligns in a contiguous manner with the internal roadway for the Agradex PUD; and,
 - b. Record a cross access agreement from the subject property to the Agradex PUD (Petition 2002-052) to the north, in a form acceptable to the County Attorney. (DRC: COUNTY ATTY – Planning)
2. Prior to the issuance of the first certificate of occupancy (CO), the property owner shall complete pavement of the vehicular and pedestrian cross access point pursuant to Condition B.1.a. (CO: LANDSCAPE – Planning)
3. Only one (1) gate shall be permitted at the vehicular cross access to the Agradex PUD (Petition 2002-052). If the gate is located on the subject site, residents of the Agradex PUD shall be given complete access in accordance with the cross access agreement required in Condition B. 1.b (BLDG/CODE ENF: BLDG PRMT/ONGOING – Planning)

C. LANDSCAPING – STANDARD

1. Canopy trees required in the perimeter buffer shall be native species 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 shrub or hedge materials in the perimeter buffer 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;
 - d. This condition shall not apply where a single-row of shrubs or hedge material is required along one side of a fence or wall. (CO: LANDSCAPE – Zoning)
4. All trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE – Zoning)
5. A group of three (3) or more palm or pine trees may not supersede the requirement for canopy tree in that location, unless specified herein. (CO: LANDSCAPE – Zoning)

D. LANDSCAPING ALONG SOUTH PROPERTY LINE (DILLMAN ROAD FRONTAGE)

1. Landscaping and buffering along the south property line fronting on Dillman Road shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip. No width reduction shall be permitted;
 - b. One (1) native canopy tree for each thirty (30) linear feet of frontage;
 - c. One (1) palm or pine for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - d. One (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - e. One (1) medium shrub for four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
 - f. One (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE – Zoning)

E. ENGINEERING

1. Prior to issuance of the first building permit, the property owner shall convey a temporary roadway construction easement along Dillman Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PRMT: MONITORING – Eng)
2. The property owner shall convey to Palm Beach County Land Development Division by warranty deed for Dillman Road, an additional 30 feet of right of way along the project's entire frontage prior to June 1, 2004. Right of way conveyance shall be free of all encumbrances and encroachments. Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or

clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert fees including Attorney's fees, as well as the actual cost of the clean up. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (DATE:MONITORING-Eng)

3. On or before June 1, 2004, the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Dillman Road along the property frontage. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate section of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. (DATE: MONITORING – Eng)
4. Prior to technical compliance the property owner shall convey a temporary roadway construction easement to Palm Beach County at the Projects Entrance Road(s). This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owner's road right of way. Construction by the applicant within this easement shall conform to Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (TC: ENG – Eng)
5. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG – Eng)
6. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a) No Building Permits shall be issued until construction has begun for the 8 lane median divided construction of SR 80 from SR 7 to the Florida Turnpike plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)
 - b) No Building Permits for the site may be issued after November 1, 2006. 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 Section 5.8 of the Unified Land Development Code. (DATE: MONITORING – Eng)

F. LANDSCAPING ALONG WEST PROPERTY LINE (WHIPPOORWILL BOULEVARD FRONTAGE)

1. Landscaping and buffering along the west property line abutting Whippoorwill Boulevard shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip. No width reduction shall be permitted;
 - b. One (1) native canopy tree for each twenty (20) linear feet of frontage;
 - c. One (1) palm or pine for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - d. One (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - e. One (1) medium shrub for four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
 - f. One (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation.
(CO: LANDSCAPE – Zoning)

G. LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES (RECREATION AND OPEN SPACE TRACTS ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the north and east property lines of the recreation and open space tracts 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. One (1) canopy tree planted for each twenty (20) linear feet of the property line;
 - c. One (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - d. One (1) small shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - e. One (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
 - f. One (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation.
(CO: LANDSCAPE – Zoning)

H. PLANNING

1. Prior to final Development Review Committee (DRC) approval of the site plan, the property owner shall revise the site plan to indicate a mulched or paved pedestrian trail fronting the .15 acre recreation area and along the 1.53 acre lake area and .81 acre dry detention area, excluding mulching or paving in front of lots 1, 8, or 9 as shown on the BCC approved site plan dated September 24, 2003. In addition, at least two (2) benches shall be placed along the lake pathway. (DRC/CO: PLANNING/LANDSCAPE – Planning)

2. Prior to final Development Review Committee (DRC) site plan approval, the site plan shall be revised to include the location of the existing or proposed future sidewalk for Dillman Road since the site is within two (2) miles of a school. (DRC: PLANNING – Planning)

I. SCHOOL

1. 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 WITH SCHOOL AGE CHILDREN/HOME
BUYERS/TENANTS"

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). (ONGOING: SCHOOL DISTRICT – School District)

2. Prior to the issuance of the first Certificate of Occupancy the property owner shall provide a bus shelter at an adequate location to the School District and Engineering Department. The subject bus shelter shall be designed and constructed in a manner or form acceptable to both the School District and Engineering Department. (CO: SCHOOL BOARD/ENG – School District)

J. SIGNS

1. Freestanding signs shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point: six (6) feet, excluding architectural features;
 - b. Maximum sign face area per side: thirty (30) square feet;
 - c. Maximum number of signs: one (1) pair;
 - d. Style: entrance wall signage only; and
 - e. Location: Dillman Road entrance. (CO: BLDG – Zoning)

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. 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)