

RESOLUTION NO. R-2004-0511

RESOLUTION APPROVING ZONING PETITION Z2003-057  
OFFICIAL ZONING MAP AMENDMENT (REZONING)  
WITH A CONDITIONAL OVERLAY ZONE (COZ)  
PETITION OF GARRETT BENDER & MITCH & TERI GEVINSON  
BY LAND DESIGN SOUTH, AGENT  
(BARWICK ROAD 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 Z2003-057 was presented to the Board of County Commissioners at a public hearing conducted on March 25, 2004; 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 Z2003-057, the petition of Garrett Bender & Mitch & Teri Gevinson 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 March 25, 2004, subject to the conditions of the CONDITIONAL OVERLAY ZONE described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty 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:

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	-	Absent

The Chair thereupon declared that the resolution was duly passed and adopted on March 25, 2004.

Filed with the Clerk of the Board of County Commissioners on 14 day of April, 2004.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:

  
COUNTY ATTORNEY

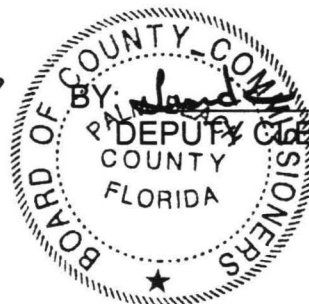


EXHIBIT A  
LEGAL DESCRIPTION

PARCEL 1

THE NORTH 280.2 FEET, LESS THE WEST 130 FEET (MEASURED AT RIGHT ANGLES) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 1, TOWNSHIP 46 SOUTH, RANGE 42 EAST, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

PARCEL 2

THE WEST 130 FEET (MEASURED AT RIGHT ANGLES) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 1, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS RIGHTS-OF-WAY AND EASEMENTS OF RECORD.

AND

THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 1, TOWNSHIP 46 SOUTH, RANGE 42 EAST, LESS THE SOUTH 115 FEET AND THE WEST 130 FEET AND PART OF THE NORTH 280.2 FEET LYING EAST OF THE WEST 130 FEET.

AND

THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 1, TOWNSHIP 46 SOUTH, RANGE 42 EAST, LESS AND EXCEPTING THEREFROM THE SOUTH 115 FEET AND LESS THE NORTH 280.2 FEET AND THE EAST 40 FEET.

LEGAL DESCRIPTION ( OVERALL PARCEL )

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE EAST 40.00 FEET AND LESS THE SOUTH 115.00 FEET THEREOF.

CONTAINING 8.00 ACRES MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH

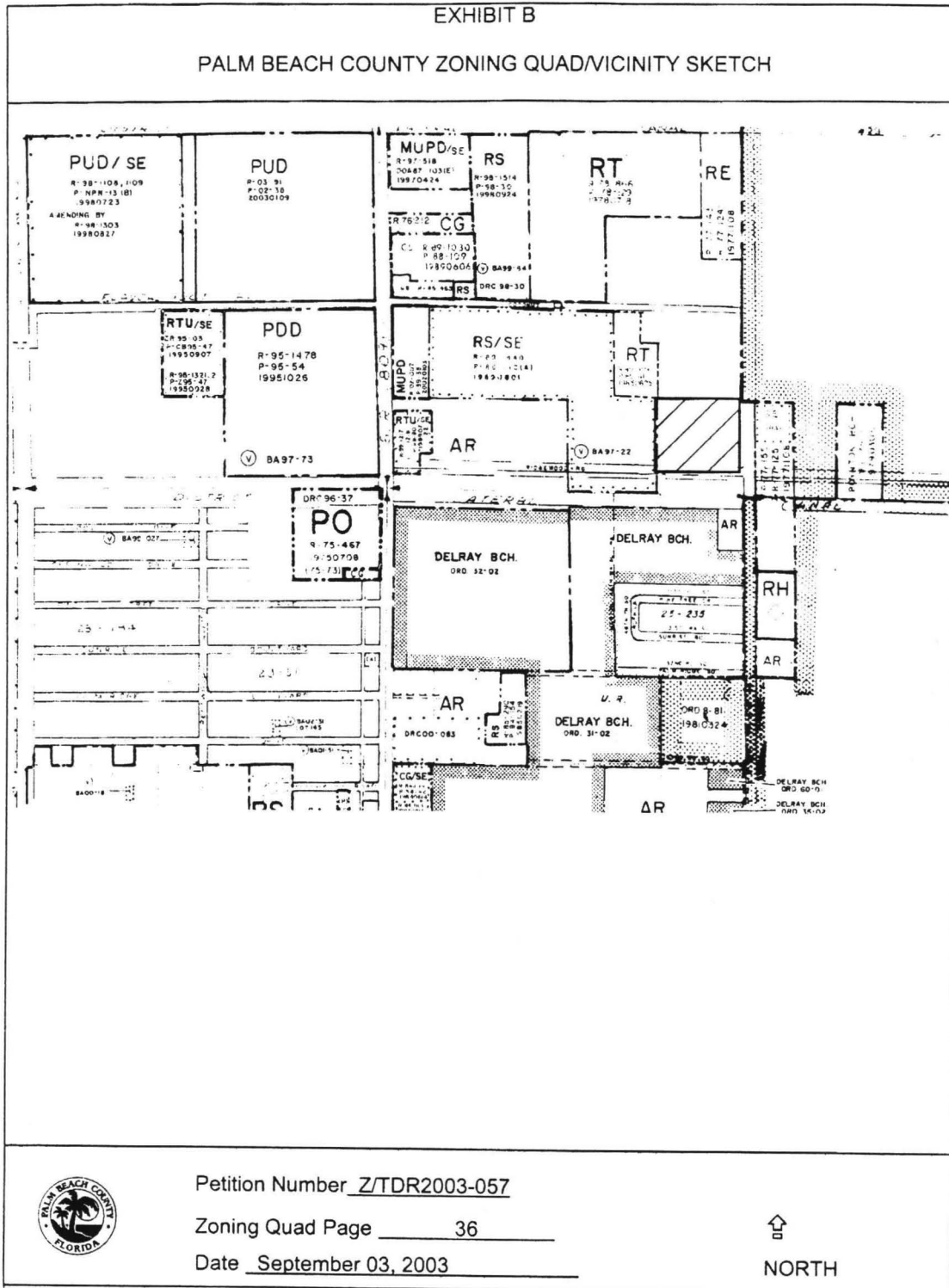


EXHIBIT C

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 February 5, 2004. 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. LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (RIDGEWOOD ROAD AND BARWICK ROAD FRONTAGE)

1. In addition to code requirements, landscaping and buffering along the south and east property lines shall be upgraded to include one (1) palm tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (CO: LANDSCAPE – Zoning)

C. PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall include street cross section details of a landscaped pathway/sidewalk along the property's frontage along Barwick Road, with canopy trees twenty-five (25) feet on center, in order to provide shade/canopy for the sidewalk along Barwick Road. (DRO: LANDSCAPE/PLANNING – Planning)
2. Prior to final site plan approval by the Development Review Officer (DRO), in order to comply with Recommendation 41 from the West Boynton Area Community Plan, the property owner shall provide cross-section details depicting landscaped and shaded sidewalks for pedestrian circulation for all internal sidewalks shown in this project. (DRO: PLANNING – Planning)

D. SCHOOL BOARD

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 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). (ONGOING: SCHOOL BOARD – School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board and the County Engineer. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use to the shelter. Maintenance of the bus shelter(s) shall

be the responsibility of the residential property owner. (CO: SCHOOL BOARD/ENG – School Board)

E. ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
  - a. No Building Permits for the site may be issued after March 25, 2007. 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 Chapter E of the Unified Land Development Code. (DATE: MONITORING – Eng)
2. Prior to the issuance of the first Building Permit the property owner shall convey a roadway construction easement to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owner's road right of way. Construction within this easement shall conform to Palm Beach County Standards. (BLDG PERMIT: ENGINEERING – Eng)
3. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Barwick 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 PERMIT: MONITORING – Eng)
4. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENGINEERING – Eng)

F. SITE DESIGN

1. Decorative pavement such as paver block or stamped concrete shall be provided at the main entrance of Barwick Road and the cul-de-sac. (CO: LANDSCAPE – Zoning)
2. Decorative street lights shall be provided subject to approval by the County Engineer. (CO: LANDSCAPE – Eng/Zoning)

G. 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)