

RESOLUTION NO. R-2004- 2035

RESOLUTION APPROVING ZONING PETITION Z2004-017
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF VICTOR & ELOISA GONALEZ
BY JOHN T. PAXMAN, PA, AGENT
(TACOS AL CARBON)

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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), have been satisfied; and

WHEREAS, Zoning Petition Z2004-017 was presented to the Board of County Commissioners at a public hearing conducted on September 30, 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 2.F (CONCURRENCY - Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 2.K.3.b (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 Z2004-017, the petition of Victor & Eloisa Gonzalez by John T. Paxman, PA, agent, for an Official Zoning Map Amendment from the Neighborhood Commercial and the Multifamily Residential Zoning Districts to the General 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 September 30, 2004, subject to the conditions of the CONDITIONAL OVERLAY ZONE described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner NEWELL 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	-	AYE
Mary McCarty	-	AYE
Burt Aaronson	-	AYE
Addie L. Greene	-	AYE

The Chair thereupon declared that the resolution was duly passed and adopted on September 30, 2004.

Filed with the Clerk of the Board of County Commissioners on 9th day of NOVEMBER, 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

BY:





DEPUTY CLERK

EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION:

LOTS 1, 2, AND 3, LESS THE WEST 15 FEET, BLOCK 4, OF **PLAT NO. 1 OF GREENACRES**, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 12, PAGE 72, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, ACCORDING TO WARRANTY DEED AS RECORDED IN OFFICIAL RECORDS BOOK 12807, PAGE 1597 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH,

LOTS 4 AND 5, BLOCK 4 OF **GREENACRES PLAT NO. 1**, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA IN PLAT BOOK 12, PAGE 72, ACCORDING TO WARRANTY DEED AS RECORDED IN OFFICIAL RECORDS BOOK 13901, PAGE 0011 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH ,

THE WEST FIFTEEN (15) FEET OF LOTS 1, 2 AND 3, BLOCK 4 OF **GREENACRES PLAT NO. 1**, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 12, PAGE 72, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, ACCORDING TO CORRECTIVE QUIT-CLAIM DEED AS RECORDED IN OFFICIAL RECORDS BOOK 16904, PAGE 0156 OF THE PUBLIC RECORDS OF PAM BEACH COUNTY, FLORIDA.

LESS THE FOLLOWING PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORD BOOK 2646, PAGE 1124, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

A PARCEL OF LAND FOR ROAD RIGHT-OF-WAY PURPOSES IN SECTION 25, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF LOTS 1 AND 2, BLOCK 4, **GREENACRES PLAT NO. 1**, AS RECORDED IN PLAT BOOK 12, PAGE 72, PUBLIC RECORDS OF SAID PALM BEACH COUNTY, FLORIDA, LYING NORTH OF THE PROPOSED SOUTH RIGHT-OF-WAY LINE AS SHOWN ON THE RIGHT-OF-WAY MAP OF LAKE WORTH ROAD AS RECORDED IN ROAD BOOK 5, PAGES 125 THRU 138, PUBLIC RECORDS OF PALM BEACH COUNTRY, FLORIDA.

CONTAINING 23,009 SQUARE FEET OR 0.5282 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

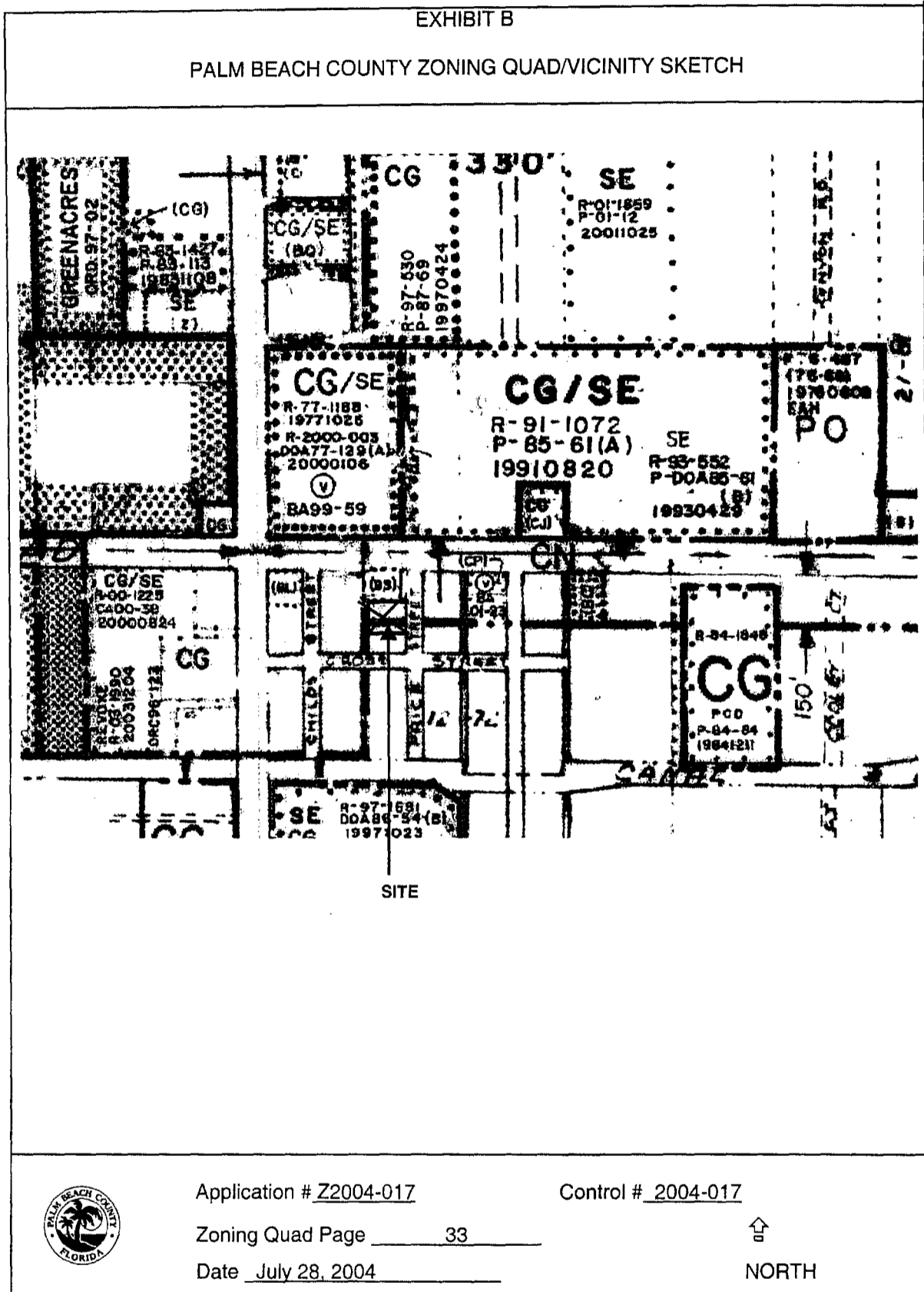


EXHIBIT C

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 June 22, 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)
2. Lots 1, 2, 3, 4 and 5, Block 4, of Greenacres Plat No. 1 shall be developed under a unified site plan. (DRO: ZONING - Zoning)

There are no Conditions of Approval B, C and D.

E. ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the property owner shall be restricted to the following phasing schedule:

No Building Permits for the site shall be issued after August 26, 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 Section E of the Unified Land Development Code. (DATE: MONITORING - Eng)

2. **LANDSCAPE WITHIN THE MEDIAN OF LAKE WORTH ROAD**

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Lake Worth Road. This landscaping and irrigation shall strictly conform to 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 property owner, his successors and assigns, without recourse to Palm Beach County, unless the property owner provides payment for maintenance as set forth in Paragraph d below.

- a. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING - Eng)
- b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)
- c. At the property owner'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 property owner. The property owner 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 property owner. (ONGOING: MONITORING - Eng)

- d. Also, prior to the issuance of a Building Permit, and at the option of the property owner, the property owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the projects front footage along Lake Worth Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: MONITORING - Eng)
3. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: MONITORING - Eng)

F. 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 Article 2.E 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)