

RESOLUTION NO. R-2004- 2423

RESOLUTION APPROVING ZONING PETITION PDD2004-440
(CONTROL NO. 2004-326)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF THE PALM BEACH POST
BY KILDAY & ASSOCIATES, INC., AGENT
(PALM BEACH POST PRODUCTION FACILITY)

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 PDD2004-440 was presented to the Board of County Commissioners at a public hearing conducted on November 18, 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, (Concurrency) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067; and,
7. This official zoning map amendment (rezoning) with approved conditions 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 PDD2004-440, the petition of The Palm Beach Post by Kilday & Associates, Inc., agent, for an Official Zoning Map Amendment to a Planned Development District from the Agricultural Residential Zoning District to the Multiple Use Planned Development District 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 November 18, 2004, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner KOONS moved for the approval of the Resolution.

The motion was seconded by Commissioner MARCUS and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on November 18, 2004 .

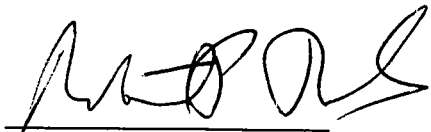
Filed with the Clerk of the Board of County Commissioners on 10th day of JANUARY, 2005.

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~~

Sharon R. Bock, Clerk & Comptroller
Palm Beach County

By


Deputy Clerk

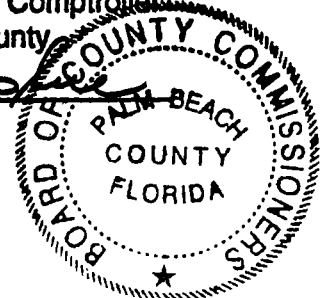


EXHIBIT A
LEGAL DESCRIPTION

TRACT 27, LESS THE NORTH 46 FEET THEREOF; TRACT 28, LESS THE NORTH 46 FEET AND THE WEST 40 FEET THEREOF; THE NORTH 80 FEET OF TRACT 33, LESS THE WEST 40 FEET THEREOF; THE NORTH 80 FEET OF TRACT 34, ALL IN BLOCK 7, PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

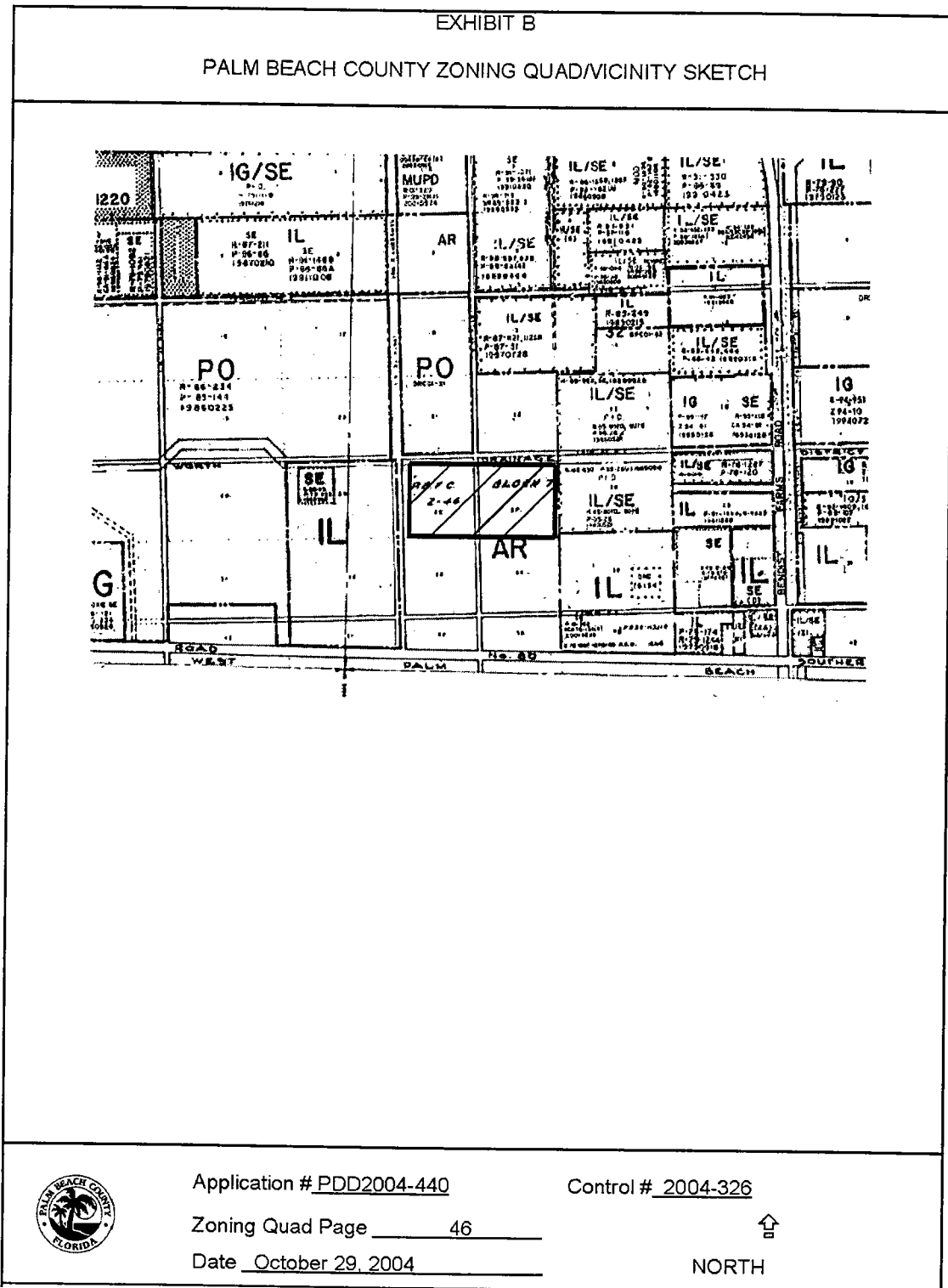
THAT CERTAIN 30 FOOT STRIP OF LAND LYING EAST OF TRACT 28 AND WEST OF TRACT 27 AND LYING EAST OF THE NORTH 80 FEET OF TRACT 33 AND WEST OF THE NORTH 80 FEET OF TRACT 34, BLOCK 7, PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THAT PORTION THEREOF LYING WITHIN THE RIGHT-OF-WAY OF LAKE WORTH DRAINAGE DISTRICT CANAL NO. L-4.

LESS AND EXCEPT:

THAT CERTAIN ACCESS EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 10668, PAGE 982, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 20.75 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



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Date October 29, 2004

NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated September 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)

B. ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the building shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Section 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)
2. The maximum height of the building shall be eighty (80) feet, subject to compliance with all applicable ULDC regulations. All heights shall be measured from finished grade to the highest point of the building, including air conditioning, mechanical equipment, satellite dishes and architectural features. (DRO/BLDG PERMIT: ZONING/BLDG - Zoning)
3. Design of gutters and downspouts shall be integrated into the architectural design of the building. Painting of the gutters and downspouts shall not constitute architectural integration. (BLDG PERMIT: ARCH REVIEW - Zoning)
4. All focal points and required pedestrian amenities shall be subject to review and approval by the Architectural Review Section prior to final approval by the Development Review Officer (DRO). (DRO: ARCH REVIEW - Zoning)

C. HEALTH DEPARTMENT

1. The owner or operator of facilities generating industrial, hazardous or toxic waste shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: HEALTH/CODE ENF - Health)

D. LANDSCAPING - STANDARD

1. A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (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 three and one-half (3.5) feet in length; and,

- d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)
2. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation, unless otherwise indicated herein:
 - 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. (BLDG PERMIT: LANDSCAPE - Zoning)
3. Field adjustment of berm and plant material location may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easement crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)
4. Berm height shall be measured from the nearest top of the curb, the crown of the nearest road, or the nearest adjacent finished floor elevation, whichever is higher. Minor height adjustment may be permitted subject to the approval by the Landscape Section prior to the issuance of a building permit. (BLDG PERMIT: LANDSCAPE - Zoning)

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 may be issued after January 1, 2008. 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. Prior to issuance of a Building Permit, the property owner shall plat or record a plat waiver for the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING - Eng)
3. The property owner shall convey to Palm Beach County Land Development Division by warranty deed for Sansbury's Way, 60 feet from centerline on or before May 1, 2005, or prior to the issuance of the first Building Permit, whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The property owner 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 also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes 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 witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. 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/BLDG PERMIT: MONITORING - Eng)

4. Prior to issuance of a building permit, the property owner shall convey a temporary roadway construction easement along Sansbury's Way to Palm Beach County. Construction by the property owner 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)
5. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG - Eng)
6. The property owner shall restripe the existing pavement markings on Sansbury's Way to provide for a left turn lane north approach on Sansbury's Way at each of the project's entrances. This restriping shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated for this improvement on shall be paid by the property owner.
 - a. Permits required by Palm Beach County for this restriping shall be obtained prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING - Eng)
 - b. Construction for this improvement shall be completed prior to the issuance of a Certificate of Occupancy. (CO: MONITORING - Eng)
7. The property owner shall construct a right turn lane south approach on Sansbury's Way at the project's north entrance. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
 - a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)
 - b. Construction for this improvement shall be completed prior to the issuance of a Certificate of Occupancy. (CO: MONITORING - Eng)

F. LANDSCAPING - INTERIOR

1. Foundation planting or grade level planters shall be provided along the north, south, east and west facades of the building and consist of the following:
 - a. The minimum width of the required landscape areas shall be eight (8) feet;
 - b. The length of the required landscaped areas shall be no less than fifty (50) percent of the total length of the building along the south, east and west facades, and no less than forty (40) percent of the total length of the building along the north facade;
 - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building façade with a maximum spacing of twenty (20) feet on center and appropriate ground cover; and,
 - d. Trees and/or palms within the required landscape areas along the south and west facades of the building shall have the following minimum heights at installation:
 - 1) twenty-four (24) feet or greater: minimum sixty (60) percent of all required trees and/or palms;
 - 2) eighteen (18) feet to twenty-four (24) feet: minimum twenty (20) percent of all required trees and/or palms; and,
 - 3) sixteen (16) feet to eighteen (18) feet: minimum twenty (20) percent of all required trees and/or palms. (DRO/BLDG PERMIT: ZONING/LANDSCAPE - Zoning)

G. 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. (BLDG PERMIT/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. (BLDG PERMIT: BLDG - Zoning)
3. No portion of the building shall be illuminated above a height of twenty-five (25) feet measured from finished grade, excluding wall signs, windows and/or lighting required by law only. (ONGOING: CODE ENF - Zoning)

H. PLANNING

1. Prior to the issuance of the Certificate of Occupancy (CO), the property owner shall pave the pedestrian pathway shown on the certified site plan that reads "proposed location of pedestrian connection to the property to the south" to the edge of the southern property line at a location that is in alignment with a sidewalk from the commercial property to the south. (CO: MONITORING/PLANNING - Planning)
2. Prior to the issuance of the certificate of occupancy (CO), the property owner shall pave the vehicular connection shown on the certified site plan that reads "proposed vehicular connection for future development" to the edge of the northeastern property line at the location shown on the certified site plan. This vehicular connection shall also include a pedestrian pathway that shall also be paved to the property line. (CO: MONITORING/PLANNING - Planning)
3. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall record cross access easements from the subject property to the parcel to south for a pedestrian connection only and to the parcel to the northeast for both a vehicular and pedestrian connection in a form acceptable to the County Attorney. (DRO: COUNTY ATTY -Planning)

I. SIGNS

1. Wall signs shall be limited to the south and west facades of the building. Individual lettering size for wall signs attached to the south façade shall be limited to a maximum of ninety-six (96) inches high, subject to compliance with all applicable ULDC regulations. Wall signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG - Zoning)
2. Illumination of wall signs shall be limited to silhouette lighting only. (BLDG PERMIT: BLDG - Zoning)
3. A minimum vertical separation of fifteen (15) feet shall be provided between any wall sign and the roofline. (BLDG PERMIT: BLDG - Zoning)

J. USE LIMITATIONS

1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on the property, except within designated loading and delivery areas. (ONGOING: CODE ENF - Zoning)
2. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)

3. Repair or maintenance of vehicles shall not be permitted on the property, excluding incidental repairs. (ONGOING: CODE ENF - 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 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)