

RESOLUTION NO. R-2004-2424

RESOLUTION APPROVING ZONING PETITION CA2003-100  
(CONTROL NUMBER 2003100)  
CLASS A CONDITIONAL USE  
PETITION OF FIVE SMOOTH STONES INC.  
BY DRAGONFLY ENGINEERING COMPANY, AGENT  
(FIVE STONES MINE)

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 Board of County Commissioners, pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA2003-100 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 recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.
9. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2 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 CA2003-100, the petition of Five Smooth Stones Inc., by Dragonfly Engineering Company, agent, for a Class A Conditional Use to allow a Type IIIA Excavation in the Agricultural Production Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in 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 NEWELL and, upon being put to a vote, the vote was as follows:

Karen T. Marcus	-	<b>AYE</b>
Tony Masilotti	-	<b>AYE</b>
Jeff Koons	-	<b>AYE</b>
Warren H. Newell	-	<b>AYE</b>
Mary McCarty	-	<b>AYE</b>
Burt Aaronson	-	<b>AYE</b>
Addie L. Greene	-	<b>AYE</b>

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

BY:   
COUNTY ATTORNEY

DOROTHY H. WILKEN, CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK

Sharon R. Bock, Clerk & Comptroller  
Palm Beach County

By:   
Deputy Clerk

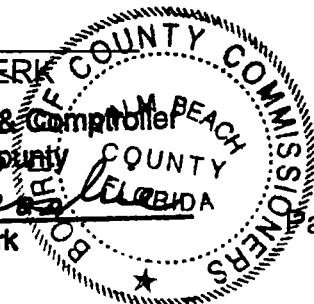


EXHIBIT A

LEGAL DESCRIPTION

UNIT NOS. 1 THROUGH 13, INCLUSIVE, AND 40 THROUGH 52, INCLUSIVE, OF TRACTS G, H, I, AND J, OSCEOLA GROVES, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 20, PAGE 30, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

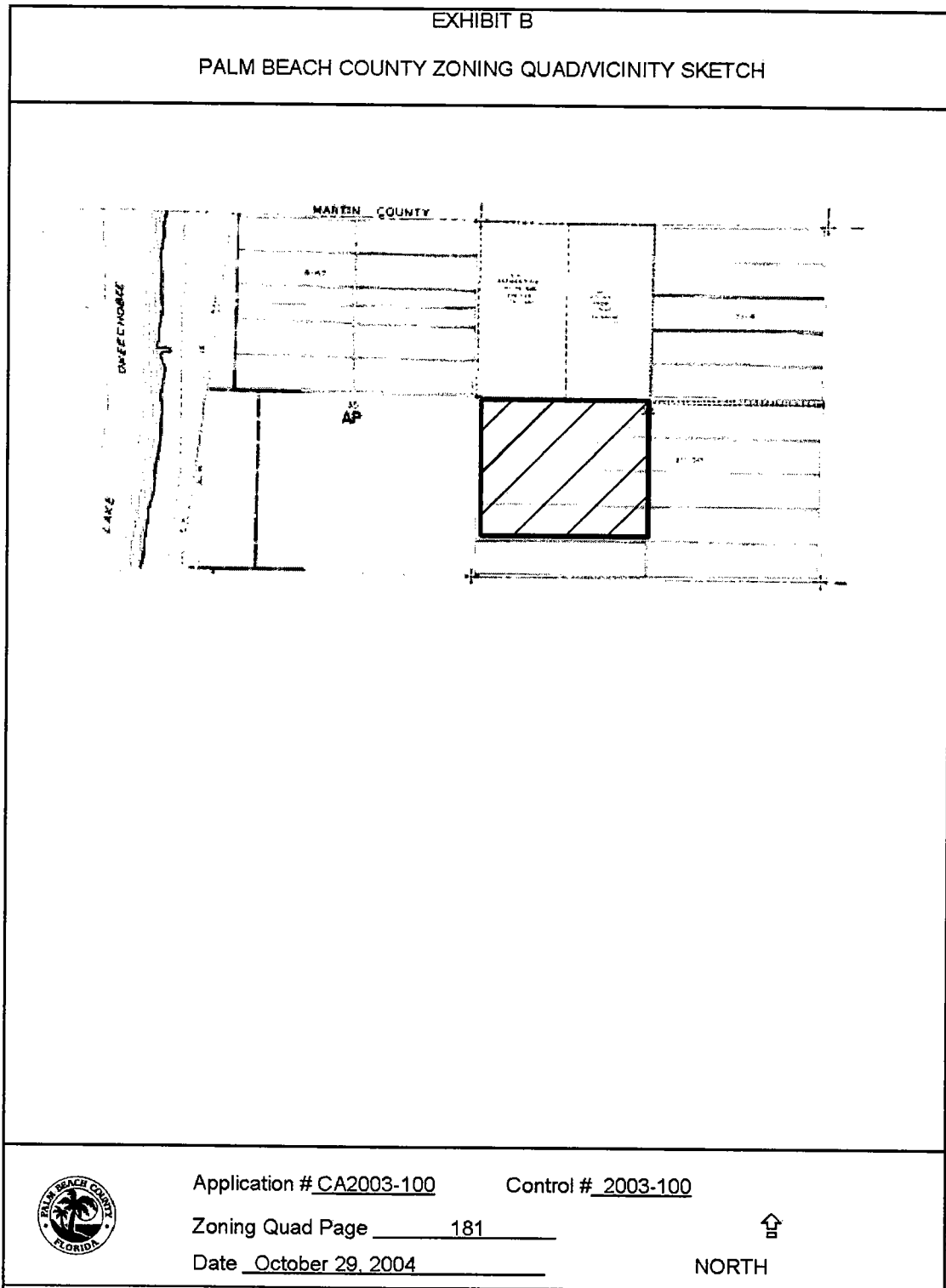
TOGETHER WITH A 30 FOOT WIDE STRIP OF LAND BEING ALL THAT PORTION OF THE UNNAMED 30 FOOT ROAD LYING BETWEEN THE SOUTH LINE OF UNITS 1 THROUGH 13, INCLUSIVE, TRACT J AND THE NORTH LINE OF UNITS 40 THROUGH 52, INCLUSIVE, TRACT I, OSCEOLA GROVES, ACCORDING TO THE PLAT THEREOF, AS RECORDED ON PLAT BOOK 20, PAGE 30, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

ALSO TOGETHER WITH A 30 FOOT WIDE STRIP OF LAND BEING ALL THAT PORTION OF THE UNNAMED 30 FOOT ROAD LYING BETWEEN THE SOUTH LINE OF UNITS 1 THROUGH 13, INCLUSIVE, TRACT I AND THE NORTH LINE OF UNITS 40 THROUGH 52, INCLUSIVE, TRACT H, OSCEOLA GROVES, ACCORDING TO THE PLAT THEREOF, AS RECORDED ON PLAT BOOK 20, PAGE 30, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

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TOTAL CONTAINING: 121.113 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 August 16, 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)

#### B. LANDSCAPING

1. Prior to final site plan approval by the Development Review Officer (DRO), the property owner(s)/developer shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRO: LANDSCAPE - Zoning)

#### C. HEALTH

1. Prior to final site plan approval by the Development Review Officer (DRO), application and engineering plans to construct a limited use commercial well in accordance with Rule 64E-8, FAC and Palm Beach County ECR-II shall be submitted to the Palm Beach County Health Department. (DRO: HEALTH-Health)
2. Prior to final site plan approval by the Development Review Officer (DRO), application and engineering plans to construct an onsite sewage treatment and disposal system (OSTDS) in accordance with Rule 64E-6, FAC and Palm Beach County ECR-I shall be submitted to the Palm Beach County Health Department. (DRO: HEALTH-Health)

#### D. PLANNING

1. Starting on October 28, 2005, the property owner shall submit an annual report to the Planning Director that shall demonstrate compliance with the requirements of Future Land Use Element (FLUE) Policy 2.3-e.3 regarding mining and excavation activities within the Agricultural Production (AP) Future Land Use (FLU) designation. To ensure compliance with this policy, this report shall contain the following: a. Copies of all contracts for removal of fill from the site with FDOT or its vendors, SFWMD or its vendors, the County or its vendors, or any other entity building public roadway projects or its vendors. b. And a listing of the amount of fill to be taken from the site to only one or more of the above entities along with a statement from the appropriate above entity(s) confirming that they received that amount of fill for the year in question. c. This report shall be submitted on an annual basis, until such time that the Planning Director authorizes the termination of further review. d. Should the property be found in non-compliance with this condition or with the requirements of removal of fill from this site per Policy 2.3-e.3, Staff will prepare a Status Report to the Board of County Commissioners with a recommendation to revoke the zoning approval for excavation on this site. No administrative time extension to this condition shall be allowed. (DATE: MONITORING - Planning)

2. In the event of discovery of any archeological artifacts during project construction, the property owner shall stop construction in that area and immediately notify the Bureau of Historic Sites and Properties in the Florida Department of State. In addition, in accordance with Ordinance No. 93-4, Archaeological Site Protection Regulations, and ULDC Article 9, Chapter A, the PZB Executive Director and the Planning Director shall be contacted within one (1) working day of discovering the artifacts. Proper protection, to the satisfaction of the County and the Bureau, shall be provided by the property owner. (ONGOING: CODE ENF/PLANNING - Planning)

E. ENGINEERING

1. Prior to DRO certification of the Final Development Plan, the property owner shall abandon all existing 30 foot platted road right of ways through the site. (DRO: ENG – Eng)
2. The Property owner shall construct a left turn lane north approach on SR 98/ US 441 at the Projects Entrance. This construction shall be completed prior to May 1, 2005. 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. (DATE/BLDG PERMIT: MONITORING – Eng)
3. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG - 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)