

RESOLUTION NO. R-2005-0375

RESOLUTION APPROVING ZONING PETITION Z/COZ2004-020
(CONTROL NO. 2004020)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF SARA H. JOHNSON, TRUSTEE
BY DLCA, AGENT
(JOHNSON SUBDIVISION)

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 Z/COZ2004-020 was presented to the Board of County Commissioners at a public hearing conducted on February 24, 2005; 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 Z/COZ2004-020, the petition of Sara H. Johnson, Trustee by DLCA, agent, for an Official Zoning Map Amendment with a Conditional Overlay Zone 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 February 24, 2005, 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 Greene 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 | - | Absent |
| Warren H. Newell | - | Aye |
| Mary McCarty | - | Aye |
| Burt Aaronson | - | Aye |

The Chairman thereupon declared that the resolution was duly passed and adopted on February 24, 2005.

Filed with the Clerk of the Board of County Commissioners on 9 day of March, 2005.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY


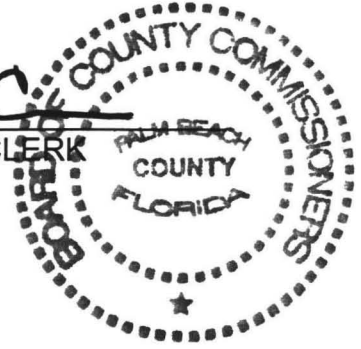
BY: 
DEPUTY CLERK 

EXHIBIT A

LEGAL DESCRIPTION

A parcel of land lying in a portion of Sections 17 and 18 Township 45 South, Range 42 East, Palm Beach County, Florida, said land being a portion of Tract 38, Block 46, The **Palm Beach Farms Co. Plat No. 3** according to the Plat thereof on file in the Office of the Circuit Court in and for Palm Beach County, Florida, recorded in **Plat Book 2, Page 45**. Said lands being more particularly described as follows: The South 64.00 feet of aforesaid Tract 38, Block 46, Less the West 29.00 feet thereof. AND Tract 39, Block 46, The **Palm Beach Farms Co. Plat No. 3**, 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 2 Page 45. Said lands situate, lying and being in Palm Beach County, Florida. LESS and EXCEPT the West 29 feet thereof.

EXHIBIT B
VICINITY SKETCH

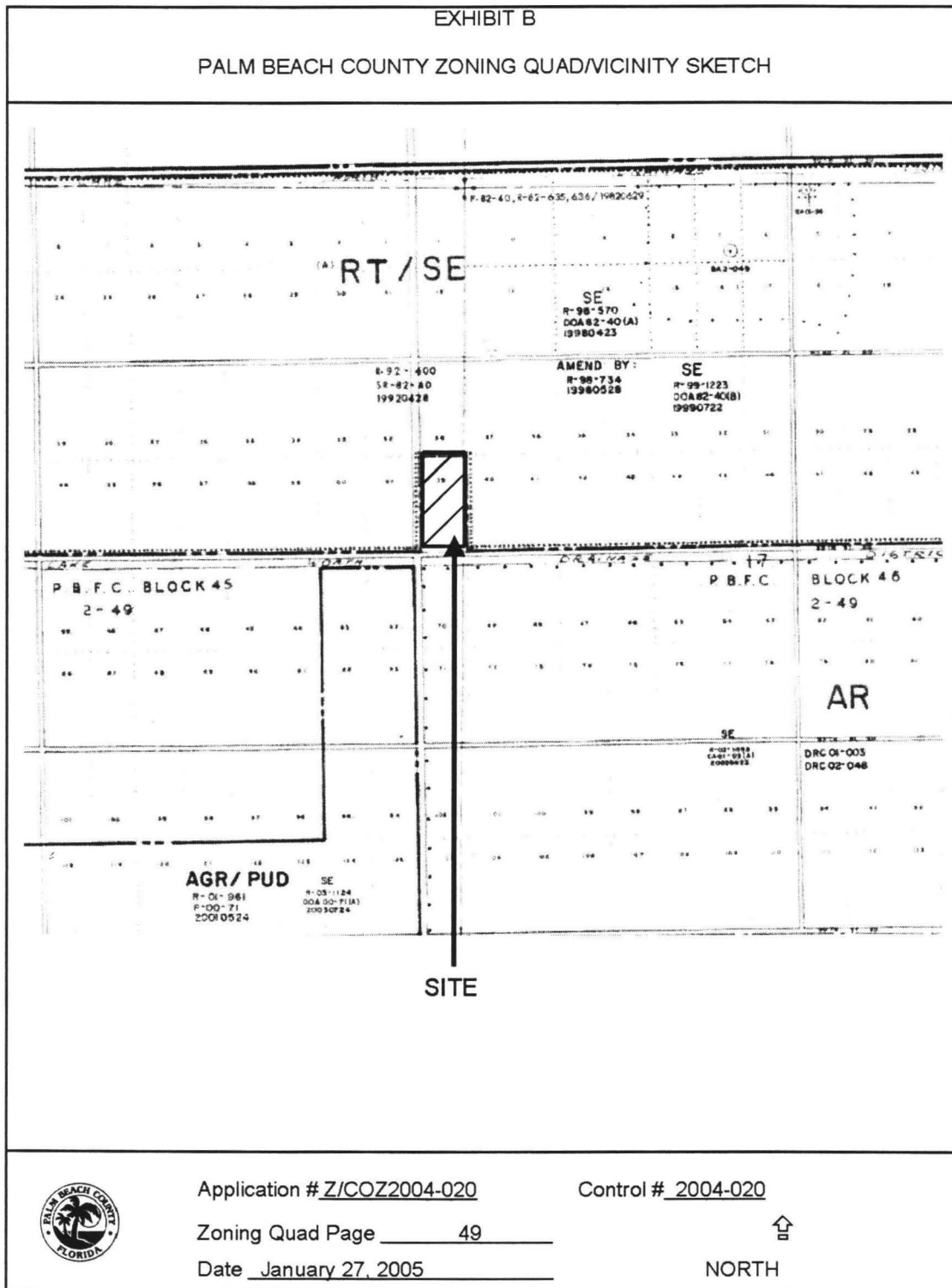


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. The property owner shall include in any homeowner's documents, as well as written sales brochures, sales contracts, and related Site Plans a disclosure statement identifying and notifying of the existence of active agricultural use in the vicinity of the development. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning on February 24, 2006 and shall continue on an annual basis until all units within the development have been sold or the property owner relinquishes control to a homeowner's association. (DATE: MONITORING - Zoning)

B. 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 in the landscape buffers by this approval 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. (BLDG PERMIT: LANDSCAPE - Zoning)
3. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)
4. 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)
5. 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)

C. LANDSCAPING ALONG THE WEST PROPERTY LINE (FRONTAGE OF LYONS ROAD)

1. In addition to code requirements, landscaping and buffering along the west property line fronting Lyons Road shall be upgraded to include:
 - a. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet; and,
 - b. a minimum of 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. (BLDG PERMIT: LANDSCAPE - Zoning)

D. PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate the existing or proposed/future sidewalk along Lyons Road. (DRO: PLANNING - Planning)
2. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to include sidewalks on both sides of the fifty (50) foot right-of-way from the project to the existing or proposed/future sidewalk along Lyons Road. (DRO: PLANNING - Planning)

E. ENGINEERING

1. The property owner shall convey to Palm Beach County Land Development Division by warranty deed for Lyons Road, 55 feet from centerline on or before June 1, 2005. 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: MONITORING -Eng)
2. Prior to June 1, 2005, the property owner shall convey a temporary roadway construction easement along Lyons Road 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. (DATE: MONITORING - Eng)
3. LANDSCAPE WITHIN THE MEDIAN OF LYONS ROAD

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Lyons 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 property owner shall be perpetually maintained by the property owner, his successors and

assigns, without recourse to Palm Beach County, unless petitioner 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 property owner 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: ENG - 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 beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Lyons 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. (ONGONG: ENG - Eng)
4. 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 February 24, 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)
5. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG -Eng)
 6. Prior to final approval by the Development Review Officer (DRO), the property owner shall submit a drainage report demonstrating that the Final Subdivision Plan meets the minimum drainage criteria of Palm Beach County and the South Florida Water Management District. (DRO: ENG - Eng)

F. 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 HOME BUYERS/TENANTS AND
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 a Certificate of Occupancy (CO), the school bus shelter shall be constructed by the property owner 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: ENG - School Board)

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 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)