

RESOLUTION NO. R-2005- 1124

RESOLUTION APPROVING ZONING APPLICATION Z/COZ2004-292  
(CONTROL NO. 2003-066)  
OFFICIAL ZONING MAP AMENDMENT (REZONING)  
WITH A CONDITIONAL OVERLAY ZONE (COZ)  
APPLICATION OF SHAD ARCADE INC.  
BY JON E. SCHMIDT & ASSOCIATES - JON E. SCHMIDT, AGENT  
(WESTGATE & WABASSO COMMERCIAL)

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 Application Z/COZ2004-292 was presented to the Board of County Commissioners at a public hearing conducted on June 15, 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 Application Z/COZ2004-292 the application of Shad Arcade Inc., by Jon E. Schmidt & Associates agent, for an Official Zoning Map Amendment from the General Commercial and the Residential High Density 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 June 15, 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 KOONS and, upon being put to a vote, the vote was as follows:

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

The Chairman thereupon declared that the resolution was duly passed and adopted on June 15, 2005.


Filed with the Clerk of the Board of County Commissioners on 20th day of JULY, 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

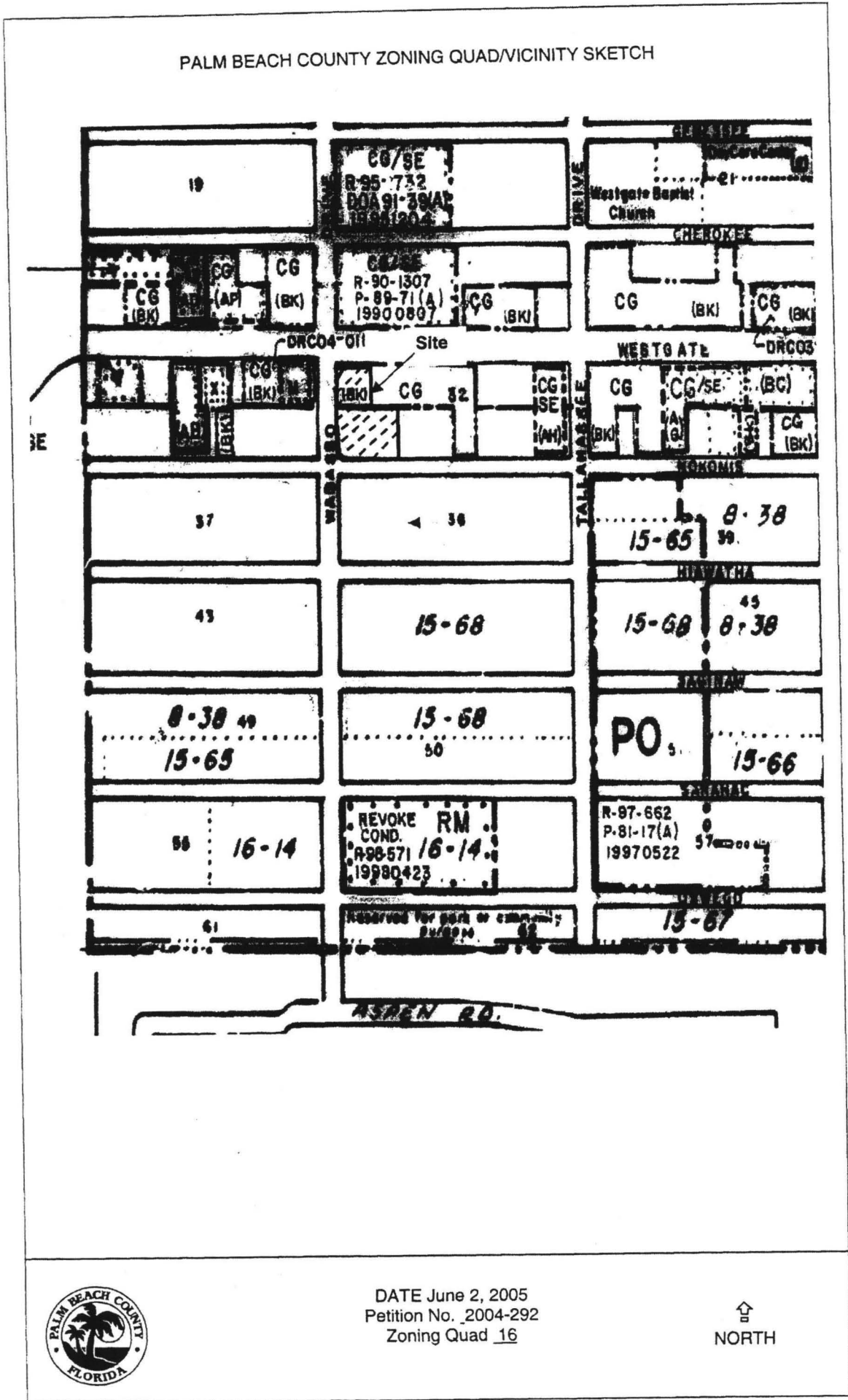
LOT 1 THROUGH 6, 31 THROUGH 40 BLOCK 32, WEST GATE ESTATES (NORTHERN SECTION), ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 38, PALM BEACH COUNTY, FLORIDA. PUBLIC RECORDS LESS THAT PORTION OF LOTS 1 AND 2 , BLOCK 32, CONVEYED TO PALM BEACH COUNTY IN OFFICIAL RECORDS BOOK 9133, PAGE 1341: SAID LAND SITUATE, LYING AND BERING IN PALM BEACH COUNTY, FLORIDA.

CONTAINING: 46,490 SQUARE FEET OR 1.067 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B

VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVALS

#### 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 June 15, 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 the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. A recorded plat waiver is also acceptable provided this property is eligible for a plat waiver in accordance with the provisions of the ULDC as determined by the County Engineer. (BLDG PERMIT: MONITORING-Eng)

3. **ADDITIONAL ROAD RIGHT OF WAY WABASSO DRIVE**

Prior to the issuance of a building permit, the property owner shall convey to Palm Beach County Land Development Division by warranty deed for Wabasso Drive, 40 feet from centerline. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The Developer 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." (BLDG. PERMIT: MONITORING-Eng)

4. **TEMPORARY ROADWAY CONSTRUCTION EASEMENT**

Prior to issuance of a building permit, the property owner shall convey a temporary roadway construction easement along Wabasso Drive 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)

5. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG -Eng)

#### HEALTH

1. Owners and operators 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: CODE ENF -Health)

#### 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
  - a. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
  - b. 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
  - c. Referral to code enforcement; and/or
  - d. 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)