

RESOLUTION NO. R-2005-1627

RESOLUTION APPROVING ZONING APPLICATION R2004-1029
(CONTROL NO. 2004-616)
REQUESTED USE
APPLICATION OF ASCOT DEVELOPMENT
BY GENTILE, HOLLOWAY, O'MAHONEY & ASSOCIATES, AGENT
(DELRAY MARKETPLACE TMD)

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 Requested 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 Application R2004-1029 was presented to the Board of County Commissioners at a public hearing conducted on August 25, 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 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 Requested Use is consistent with the Palm Beach County Comprehensive Plan, contingent upon the approval of Large Scale Development Amendment No. LGA 2005-00006;.
2. This Requested Use complies with relevant and appropriate portions of Article 4.B, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Requested Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Requested 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 Requested 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 Requested Use meets applicable local land development regulations.

7. This Requested Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Requested Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.
9. This Requested 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 Requested 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 Application R2004-1029, the application of Ascot Development, by Gentile, Holloway, O'Mahoney & Associates, agent, for a Requested Use to allow indoor entertainment and 4 single tenants exceeding 25,000 square feet in the Traditional Marketplace Development 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 August 25, 2005, subject to the conditions of approval described in EXHIBIT C-1, attached hereto and made a part hereof.

Commissioner Greene 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, Chairman	¥ Aye
Addie L. Greene, Vice Chairperson	¥ Aye
Karen T. Marcus	¥ Aye
Jeff Koons	¥ Aye
Warren H. Newell	¥ Aye
Mary McCarty	¥ Absent
Burt Aaronson	¥ Aye

The Chairman thereupon declared that this resolution shall not become effective until Large Scale Development Amendment No. LGA 2005-00006 (ATLANTIC AVENUE/LYONS ROAD-TMD a.k.a. DELRAY MARKETPLACE) is effective.

Filed with the Clerk of the Board of County Commissioners on 25th day of August 2005.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK

Application R2004-1029
Control No. 2004-616
Project No. 00937-000

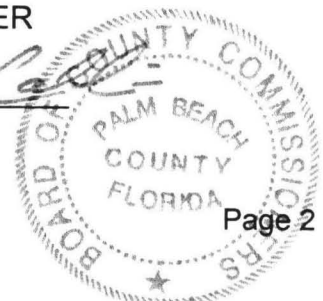


EXHIBIT A

LEGAL DESCRIPTION

Development Area:

TRACT 97, LESS THE EAST 195.0 FEET THEREOF, TRACTS 98, 99 AND THAT PORTION OF TRACT 100 LYING WITHIN 365.0 FEET OF THE EAST LINE OF SAID TRACT 99, TRACTS 124, 125, 126 AND 127; AND TRACT 128 LESS THE EAST 195.0 FEET AND LESS THE SOUTH 210.0 FEET OF THE WEST 210.0 FEET THEREOF, ALL BEING IN BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LESS THAT PORTION OF TRACTS 124, 125, 126 AND 127 DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 124; THENCE N.1° 12'10"W., ALONG THE WEST LINE OF SAID TRACT 124, A DISTANCE OF 10.0 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.1° 12'10"W., ALONG SAID WEST LINE, A DISTANCE OF 70.00 FEET TO A POINT ON A LINE 80.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 124; THENCE N.89°24'45"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 614.83 FEET; THENCE N.1°07'46"W., A DISTANCE OF 13.10 FEET TO A POINT ON A LINE 1320.0 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF TRACTS 98, 99 AND 100, BLOCK 18, OF SAID PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 1; THENCE N.88° 55'36"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 691.63 FEET TO A POINT ON THE EAST LINE OF SAID TRACT 127; THENCE S.1°06'52"E., ALONG SAID EAST LINE, A DISTANCE OF 47.96 FEET TO A POINT ON A LINE 51.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 127; S.89°24'45"W., ALONG SAID PARALLEL LINE, A DISTANCE OF 326.63 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 127; THENCE S.1°07'46"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 41.00 FEET TO A POINT ON A LINE 10.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124, 125 AND 126; THENCE S.89°24'45"W., ALONG SAID PARALLEL LINE, A DISTANCE OF 979.76 FEET TO THE POINT OF BEGINNING.

AND LESS THAT PORTION OF TRACT 124 DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT 124, BLOCK 118, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.89°03'02"E., ALONG THE NORTH LINE OF SAID TRACT 124, A DISTANCE OF 134.17 FEET; THENCE S.1°05'56"E., A DISTANCE OF 670.39 FEET TO A POINT ON A LINE 80.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 124; THENCE S.89°24'45"W., ALONG SAID PARALLEL LINE, A DISTANCE OF 132.96 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 124; THENCE N.1°12'10"W., ALONG SAID WEST LINE, A DISTANCE OF 669.56 FEET TO THE POINT OF BEGINNING.

DEVELOPMENTAL SITE CONTAINING 32.47 ACRES, MORE OR LESS.

Preserve Area 1:

TRACTS 1 AND 2, BLOCK 18, PALM BEACH FARMS COMPANY PLAT 1, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 26 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE NORTH 38.28 FEET OF SAID TRACTS 1 AND 2, BLOCK 18, PER CHANCERY CASE NO. 407, AS RECORDED IN OFFICIAL RECORDS BOOK 6495, PAGE 761, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH TRACTS 31 AND 32, BLOCK 18, PALM BEACH FARMS COMPANY PLAT 1, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 26 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

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

SAID LANDS LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, AND CONTAINING 875,585 SQUARE FEET (20.101 ACRES), MORE OR LESS.

Preserve Area 2:

THE NORTH ONE HALF (N 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA.

SUBJECT TO EASEMENTS, COVENANTS, RESTRICTIONS AND RESERVATIONS OF RECORD, MUNICIPAL ORDINANCES AND ZONING CODES, AND TAXES FOR THE YEAR OF CONVEYANCE AND SUBSEQUENT YEARS.

TOGETHER WITH:

THE SOUTH ONE HALF (S 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH A NON-EXCLUSIVE RIGHT OF INGRESS AND EGRESS OVER THE PROPERTY ON WHICH FLORIDA POWER AND LIGHT COMPANY PRESENTLY HOLDS AN EASEMENT, SUBJECT, HOWEVER TO THE EASEMENT RIGHTS OF FLORIDA POWER AND LIGHT COMPANY.

SUBJECT TO RESTRICTIONS, RESERVATIONS, EASEMENTS AND COVENANTS OF RECORD, IF ANY, TO THE EXTENT THAT SAME ARE VALID AND ENFORCEABLE.

CONTAINING 10.05 ACRES, MORE OR LESS.

Preserve Area 3:

BEGINNING AT THE NORTHWEST CORNER OF TRACT 124, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.89°03'02"E., ALONG THE NORTH LINE OF SAID TRACT 124, A DISTANCE OF 134.17 FEET; THENCE S.1°05'56"E., A DISTANCE OF 670.39 FEET TO A POINT ON A LINE 110.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT124; THENCE S.89°24'45"W., ALONG SAID PARALLEL LINE, A DISTANCE OF 132.96 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 124; THENCE N.1°12'10"W., ALONG SAID WEST LINE, A DISTANCE OF 669.56 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.05 ACRES MORE OR LESS

Preserve Area 4:

THE NORTH HALF (N.1/2) OF THE SOUTHEAST QUARTER (S.E.1/4) OF THE SOUTHEAST QUARTER (S.E.1/4) OF THE NORTHEAST QUARTER (N.E.1/4) OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY FLORIDA. SUBJECT TO AN EASEMENT FOR INGRESS AND EGRESS OVER THE NORTH 30 FEET OF THE AFOREDESCRIBED PARCEL. TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER THE NORTH 50 FEET OF THE SOUTH HALF (S.1/2) OF THE NORTH HALF (N.1/2) OF SECTION 13, TOWNSHIP 45 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, AND A NON EXCLUSIVE RIGHT OF INGRESS AND EGRESS OVER THE PROPERTY OF WHICH FLORIDA POWER AND LIGHT COMPANY PRESENTLY HOLD AN EASEMENT; SUBJECT HOWEVER, TO THE EASEMENT RIGHTS OF FLORIDA POWER AND LIGHT COMPANY. TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS OVER THE NORTH 30 FEET OF THE EAST THREE QUARTERS (E.3/4) OF THE SOUTH HALF (S.1/2) OF THE SOUTH HALF (S.1/2) OF THE NORTHEAST QUARTER (N.E.1/4) OF SAID SECTION 14.

CONTAINING 5.01 ACRES MORE OR LESS.

Description of Proposed Lyons Road Right of Way:

THE EAST 95.0 FEET OF TRACTS 97 AND 128, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING WITH 1320.0 FEET OF THE NORTH LINE OF SAID TRACT 97.

CONTAINING 2.88 ACRES, MORE OR LESS.

Description of Proposed West Atlantic Avenue Right of Way:

THAT PORTION OF TRACTS 124, 125, 126 AND 127, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA DESCRIBED AS FOLLOWS:

COMMENCING TO THE SOUTHWEST CORNER OF SAID TRACT 124; THENCE N.1°12'10"W., ALONG THE WEST LINE OF SAID TRACT 124, A DISTANCE OF 40.0 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE N.1°12'10"W., ALONG SAID WEST LINE, A DISTANCE OF 70.00 FEET TO A POINT ON A LINE 110.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 124; THENCE N.89°24'45"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 614.83 FEET; THENCE N.1°07'46"W., A DISTANCE OF 13.10 FEET TO A POINT ON A LINE 1320.0 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF TRACTS 98, 99 AND 100, BLOCK 18, OF SAID PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 1; THENCE N.88°55'36"E., ALONG SAID PARALLEL LINE A DISTANCE OF 691.63 FEET TO A POINT ON THE EAST LINE OF SAID TRACT 127; THENCE S.1°06'52"E., ALONG SAID EAST LINE, A DISTANCE OF 47.96 FEET TO A POINT ON A LINE 81.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 127; THENCE S.89°24'45"W., ALONG SAID PARALLEL LINE, A DISTANCE OF 326.63 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 127; THENCE S.1°07'46"E., ALONG SAID WEST LINE, A DISTANCE OF 41.00 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124, 125 AND 126; THENCE S.89°24'45"W., ALONG SAID PARALLEL LINE, A DISTANCE OF 979.76 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THAT PORTION OF TRACT 128, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA DESCRIBED AS FOLLOWS:

COMMENCING TO THE SOUTHEAST CORNER OF SAID TRACT 128; THENCE N.1°05'56"W., ALONG THE EAST LINE OF SAID TRACT 128, A DISTANCE OF 40.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.1°05'56"W., ALONG SAID EAST LINE A DISTANCE OF 94.32 FEET TO A POINT ON A LINE 1320.0 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF TRACT 97, BLOCK 18 OF SAID PALM BEACH FARMS COMPANY PLAT NO. 1; THENCE S.88°55'36"W. ALONG SAID PARALLEL LINE, A DISTANCE OF 131.53 FEET TO A POINT ON A LINE 210.0 FEET WEST OF AND PARALLEL TO THE WEST LINE OF SAID TRACT 128; THENCE S.1°06'52"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 91.86 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 128; THENCE N.90°00'00"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 131.53 FEET TO THE POINT OF BEGINNING.

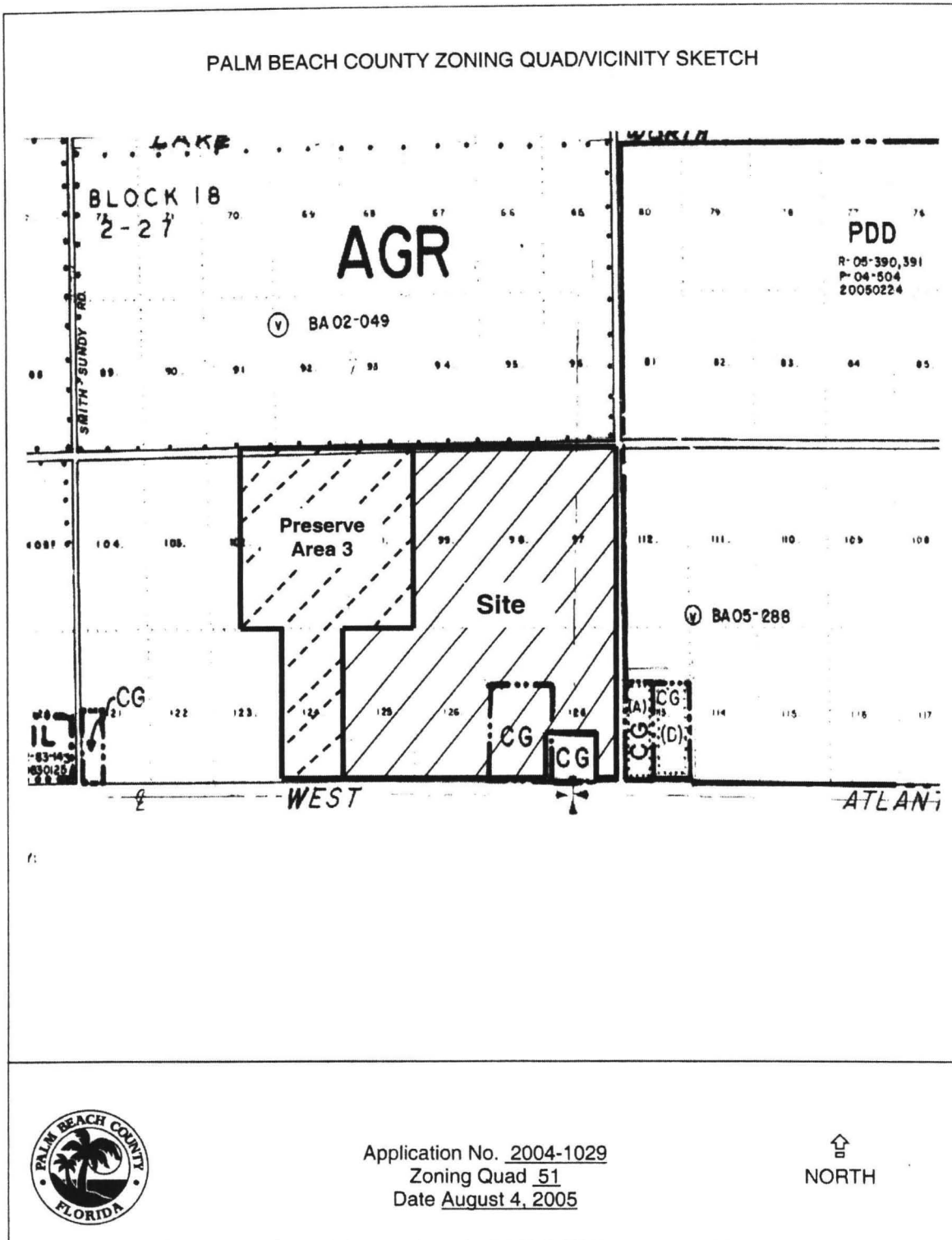
TOTAL RIGHT OF WAY AREA CONTAINING 2.33 ACRES, MORE OR LESS.

Description of Proposed 100 Foot Rural Parkway:

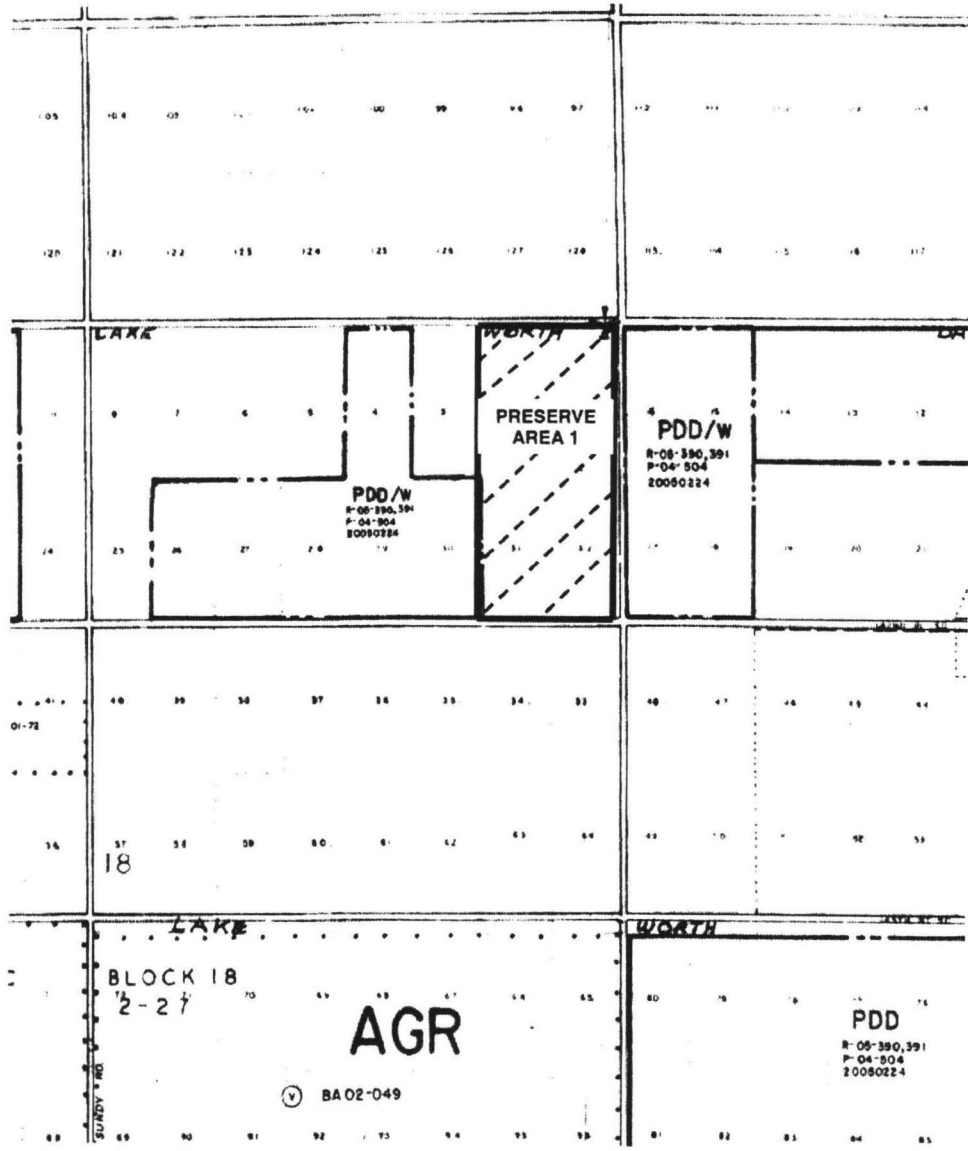
THE WEST 100.0 FEET OF THE EAST 195.0 OF TRACT 97 AND THE WEST 100.0 FEET OF THE EAST 195.0 FEET OF TRACT 128 LESS THAT PORTION LYING WITHIN THE SOUTH 240.0 FEET OF THE WEST 210.0 FEET OF SAID TRACT 128, AND LESS THAT PORTION OF SAID TRACT 128 LYING SOUTH OF A LINE 1320.0 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID TRACT 97, ALL BEING IN BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 2.87 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



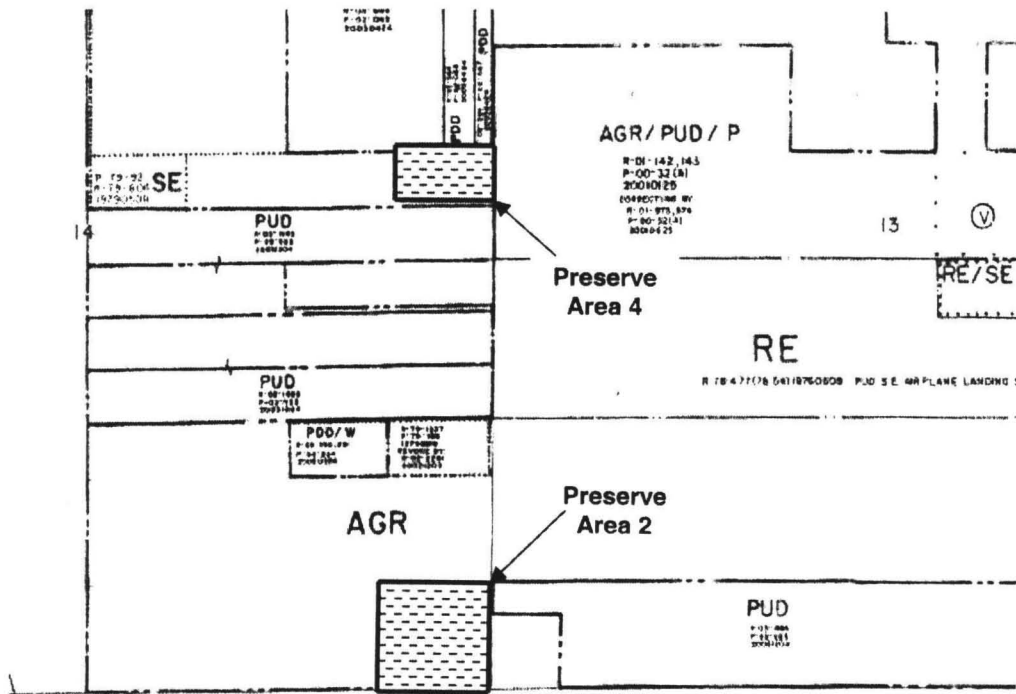
PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2004-1029
 Zoning Quad 51
 Date August 4, 2005



PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2004-1029
 Zoning Quad 64
 Date August 4, 2005

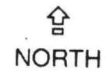


EXHIBIT C-1

CONDITIONS OF APPROVAL

USE LIMITATIONS

1. One (1) single tenant occupying more than 25,000 square feet shall be permitted within each of the following buildings only, as indicated on the site plan dated June 21, 2005:
 - a. Building A;
 - b. Building B;
 - c. Building H;
 - d. Building I; and,
 - e. an indoor entertainment tenant occupying more than 25,000 square feet within Building B or H shall be considered the approved single tenant exceeding 25,000 square feet for that building. (ONGOING: CODE ENF - Zoning)

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:
 1. 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
 2. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 3. 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
 4. Referral to code enforcement; and/or
 5. 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)