

RESOLUTION NO. R-2006- 0012

RESOLUTION APPROVING ZONING APPLICATION Z2005-985
(CONTROL NO. 1986-013)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
APPLICATION OF GCR ASSOCIATES LTD PARTNERSHIP
BY MILLER LAND PLANNING CONSULTANTS, INC., AGENT
(SARDINIA)

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), as amended, have been satisfied; and

WHEREAS, Zoning Application Z2005-985 was presented to the Board of County Commissioners at a public hearing conducted on January 5, 2006; 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 Z2005-985 the application of GCR Associates Ltd Partnership by Miller Land Planning Consultants, Inc., agent, for an Official Zoning Map Amendment from the Specialized Commercial Zoning District to the Multifamily Residential Zoning District with a CONDITIONAL OVERLAY ZONE (COZ) 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 January 5, 2006, subject to the conditions of the CONDITIONAL OVERLAY ZONE (COZ) described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Greene moved for the approval of the Resolution.

The motion was seconded by Commissioner Aaronson 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	-	Absent
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye

The Chairman thereupon declared that the resolution was duly passed and adopted on January 5, 2006.

Filed with the Clerk of the Board of County Commissioners on 5th day of January, 2006.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

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

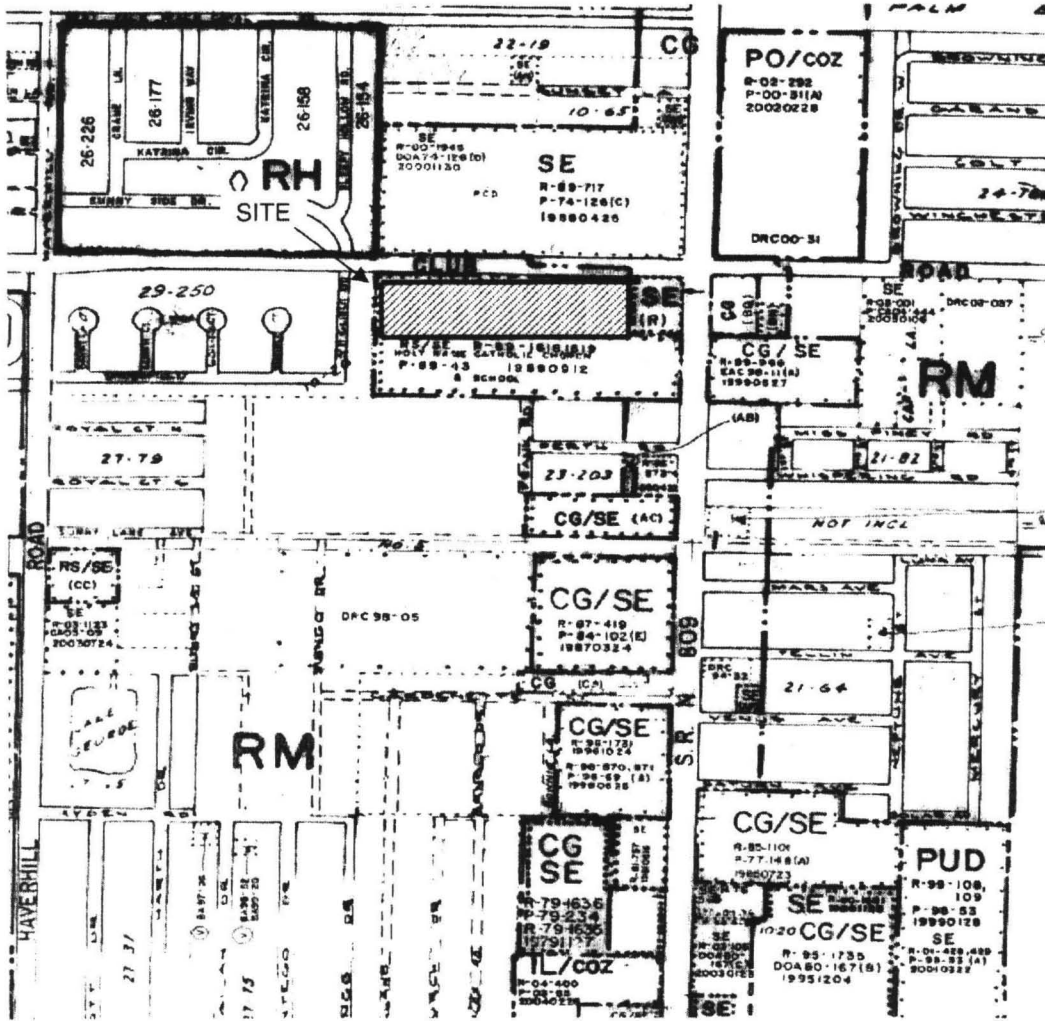
The north 1/2 of Lot 3, Block 2, PALM BEACH PLANTATIONS, a subdivision of Section 1, Township 44 South, Range 42 East, Palm Beach County, Florida, according to the map or plat thereof as recorded in Plat Book 10, Page 20, Public Records of Palm Beach County, Florida; being the same property as described in O.R. Book 16, Page 649, Public Records of Palm Beach County, Florida; subject to a 7 1/2 foot drainage easement granted to Palm Beach County along the west property line;

LESS 40 feet right-of-way for Gun Club Road; and

LESS the easterly 303 feet

EXHIBIT B
VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2005-985
Zoning Quad 32
Date December 1, 2005



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated September 27, 2005. 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. (DRO: ZONING - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after January 5, 2009. 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 or prior to November 4, 2006 whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for an expanded intersection at Military Trail and Gun Club Road as shown on the accompanying site plan for the rezoning approval. This additional right of way shall be free of all encumbrances and encroachments and shall include corner clips where appropriate as determined by the County Engineer. 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. (BLDG PERMIT/DATE: MONITORING-Eng)
3. The Property owner shall modify the pavement markings on Gun Club Road at the project entrance road to provide for a left turn lane east approach.
 - a. Modifications to the pavement markings 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.
 - b. Permits required by Palm Beach County for the modifications to the pavement markings shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
 - c. Modifications of the pavement markings shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. No grade changes, or the toe

of proposed grade changes, shall occur within the dripline of existing native vegetation depicted to remain. (ONGOING:ERM - ERM)

ZONING - LANDSCAPE STANDARDS

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:
 - 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 palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING - LANDSCAPING ALONG ALL PROPERTY LINES

1. In addition to the proposed landscaping and buffering program and code requirements, buffer along all the property lines shall be upgraded to include:
 - a. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

MASS TRANSIT

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN - Palm Tran)
2. Prior to Plat Recordation or issuance of the first Building Permit, whichever shall first occur, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (PLAT/BLDG PERMIT: MONITORING - Palm Tran)

PARKS

1. Per U.L.D.C Article 5.D.2.G.2.b., No more than 24 residential building permits shall be issued for this development until the required improved recreation area has been constructed in its entirety and opened for use by the development's homeowners. (BLDG PERMIT: MONITORING - Parks)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), if additional units are requested through the County's TDR Program, the property owner shall record in the public records of Palm Beach County a restrictive covenant, in a form acceptable to the Palm Beach County Attorney, which includes the following:
 - a. Guarantees the attainability of 30% of the requested TDR units (the number of units calculated shall be rounded up to the nearest dwelling unit) for a period of ten years (ownership) twenty years (rental) to moderate income (>80% - 120% median income) households, with the unit sales prices determined by Palm Beach County's Housing and Community Development Department; and
 - b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits; (DRO: COUNTY ATTY- Planning)
2. The property owner shall include in sales documents as well as written brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying future residents of this development, that the project has a minimum of 30% of the requested TDR units earmarked as attainable housing units and any residents wishing to reside in a unit that has been earmarked as an attainable housing unit shall qualify for eligibility. Every deed of sale for each of the attainable units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of ten years (ownership) twenty years (rental). The property owner is responsible for disclosure of the location of these attainable units prior to the sale of any units. On an annual basis, beginning January 1, 2007, the property owner/homeowner association shall submit an annual report to the Planning Division documenting compliance with the Attainable Housing declaration of restrictive covenants, the sales document disclosure, and the deed of sale restriction. (DATE: MONITORING - Planning)

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 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 the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner 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: MONITORING - School Board)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD – PBCWUD)

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)