

RESOLUTION NO. R-2006- 1547

RESOLUTION APPROVING ZONING APPLICATION Z/COZ2005-383
(CONTROL NO. 2003-040)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
APPLICATION OF TURTLE COVE LLC
BY MILLER LAND PLANNING, AGENT
(TURTLE COVE PROFESSIONAL)

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 Z2005-383 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 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; contingent upon the approval of Small Scale Development Amendment No. SCA 2006-00024.
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 Z2005-383 the application of Turtle Cove LLC by Miller Land Planning, agent, for an Official Zoning Map Amendment from the Agricultural Residential Zoning District to the Commercial High Office 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 August 23, 2006, subject to the conditions of the CONDITIONAL OVERLAY ZONE described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus 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:

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

The Chairman thereupon declared that the resolution was duly passed and adopted on August 23, 2006 and shall be effective upon the effective date of Scale Development Amendment No. SCA 2006-00024.

Filed with the Clerk of the Board of County Commissioners on 12th day of September, 2006.

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

(PARCEL 1)

THE NORTH HALF OF LOT 3, LESS THE WEST 263.32 FEET, AND THE SOUTH 340.75 FEET THEREOF, BEING A PART OF THE NW QUARTER OF SECTION 12, AND INCLUDED IN THE AMENDED PLAT OF SECTION , TWP. 45 S, R. 42 E, AS RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS THE NORTH 53.00 FEET THEREOF.

TOGETHER WITH (PARCEL 2)

THE EAST 109 FEET OF THE WEST 263.32 FEET (LESS THE SOUTH 340.75 FEET) OF THE NORTH HALF OF TRACT 3 IN THE NW QUARTER OF THE AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 9 AT PAGE 74. LESS THE NORTH 53.00 FEET THEREOF.

TOGETHER WITH (PARCEL 3)

THE NORTH 56.77 FEET OF THE SOUTH 340.75 FEET OF THE NORTH ONE HALF OF THE WEST ONE HALF OF THE NORTHEAST ONE QUARTER OF THE NORTHWEST ONE QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, BEING ONE HALF ACRE, MORE OR LESS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 2.023 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

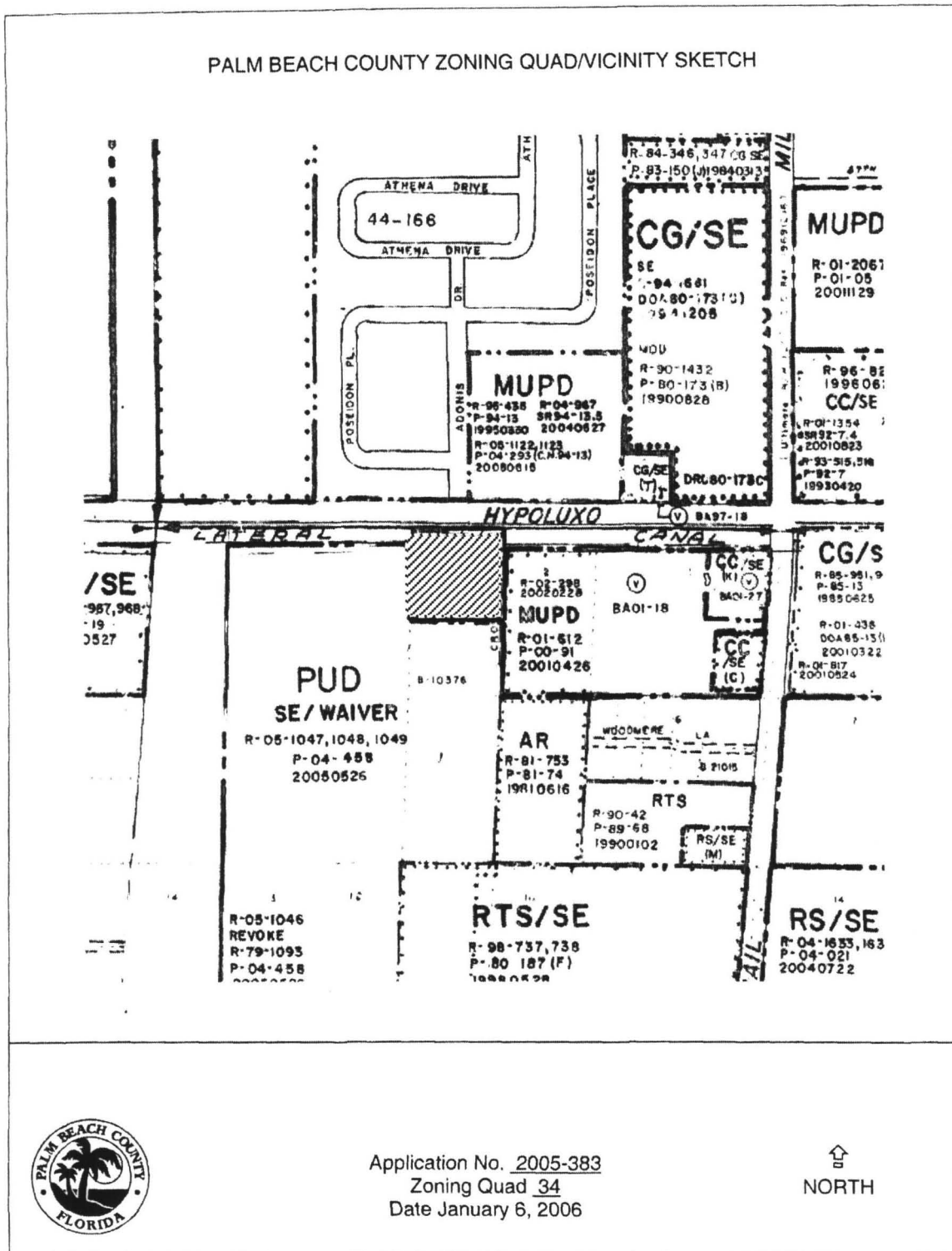


EXHIBIT C

CONDITIONS OF APPROVAL

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 June 19, 2006. 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 Zoning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall revise the regulating plan to reflect all requirements as shown on the site plan and conditioned herein and to meet ULDC requirements. (DRO: ZONING-Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final DRO approval of the site plan, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Article 5.C. of the ULDC. Development shall be consistent with the approved architectural elevations and the certified DRO site plan. (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:
 - a) Building Permits for more than 15200 square feet of gross leasable vet office floor area (maximum 51 PM Peak Hour Trips) shall not be issued until contract has been awarded for the construction of Hypoluxo Road as a 6 lane facility from Military Trail to Jog Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)
 - b) No Building Permits for the site may be issued after December 31, 2010. 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)

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)

HEALTH

1. Property 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)

ZONING - LANDSCAPING-STANDARDS

1. Prior to the issuance of the first building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all the landscape conditions as contained herein. (BLDG PERMT:LANDSCAPE-Zoning)
2. Fifty (50) percent of canopy trees to be planted in the landscape buffers shall be native and 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)
3. 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. (CO: LANDSCAPE Zoning)

4. LANDSCAPING ALONG THE NORTH PROPERTY LINE (HYPOLUXO ROAD FRONTAGE)

In addition to the proposed code requirements, landscaping along the north property line, frontage of Hypoluxo Road, shall be upgraded to include:

- a. one (1) palm or pine for each for each twenty (20) linear feet of the property line with a maximum spacing of thirty (30) feet between clusters. (BLDG PERMIT: LANDSCAPE-Zoning)

5. LANDSCAPING ALONG THE SOUTH AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

In addition to code requirements along the south and west property lines shall be upgraded to include:

- a. a six (6) foot high opaque concrete wall. Height of the wall shall be measured from the highest grade of the two adjoining properties. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure; and,
- b. 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)

ZONING - LANDSCAPE-INTERIOR

1. Prior to final approval by the Development Review Officer (DRO), a landscape focal point shall be located in the island in the center of the parking area and shall be designed to accommodate the following requirements:
 - a. the focal point shall consist of an architectural feature, including but not limited to a fountain, arcade, gazebo etc. Details of this focal point shall include elevations, dimensions and construction/decorative materials shall be submitted to the Architectural Review Section for review and approval; and,
 - b. focal points located to the east and west of the center median may remain as landscape focal points. The proposed plant materials shall be of specimen specie(s) and size(s) subject to the review and approval by the Landscape Section. (DRO: ARCH REVIEW- Zoning)

2. Prior to final approval by the Development Review Officer (DRO), the covered patio located between Buildings C and D shall be redesigned to accommodate the following requirements:
 - a. the proposed plant materials as required between Buildings C and D may be relocated elsewhere on the site subject to an Alternative Landscape Plan (ALP); and,
 - b. a minimum of two (2) benches shall be provided adjacent to the landscape focal point. Bench details, which include elevations, dimensions and construction/decorative materials, shall be submitted to the Architectural Review Section for review and approval. (DRO:LANDSCAPE Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
2. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)
3. All outdoor lighting shall be extinguished no later than 9:00 p.m. excluding security lighting only. (ONGOING: CODE ENF - Zoning)
4. All outdoor, freestanding lighting fixtures shall be setback a minimum twenty-five (25) feet from the south and west property line. (BLDG PERMIT: BLDG - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to platting the owner shall convey an easement for the South 12 feet of the North 92 feet for the West 154.35 feet (Parcel 4) of the referenced property for the new alignment for the L-18 Canal. (PLAT: ENG-LWDD)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be amended to reflect consistency with requirements of the Boynton Beach Turnpike Design Guidelines as stipulated in the letter from COWBRA dated October 18, 2005. (DRO:PLANNING-Planning)

2. At time of submittal for final approval by the Development Review Officer (DRO), architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval in accordance with Section 4 "Architectural Design Guidelines" of the Boynton Beach Turnpike Interchange Corridor - Design Guidelines and Standards Manual, dated March 10, 2003. (DRO:ARCH REVIEW-Zoning/Planning)
3. Prior to final approval by the Development Review Officer (DRO),, the site plan shall be amended to include a note at the southern portion of the site that shall read proposed pedestrian cross access to be paved to the property line." This pedestrian connection shall align with the approved pedestrian connection for the property to the south. (DRO:PLANNING-Planning)
4. Prior to the issuance of the Certificate of Occupancy or Certificate of Completion, whichever shall occur first, the property owner shall pave the pedestrian connection to the edge of the southern property line at the location shown on the site plan that reads proposed pedestrian cross access..." (CO: MONITORING - Planning)
5. Prior to final plat or plat waiver, the property owner shall record cross access easement(s) for the pedestrian cross access, from the subject property to the parcel to the south in a form acceptable to the County Attorney. (PLAT: Zoning/County-Atty-Planning)

SIGNS

1. Freestanding signs fronting on Hypoluxo Road shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - twelve (12) feet;
 - b. maximum sign face area per side - one hundred fifty (150) square feet;
 - c. maximum number of signs - one (1) for the overall site;
 - d. style - monument style only;
 - e. location - within fifty (50) feet of the entrance; and,
 - f. signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG - Zoning)
2. Wall signs lettering size shall be limited to eighteen (18) inches high. Wall signs shall be limited to identification of tenants only. (CO: BLDG 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:
 - 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)