

RESOLUTION NO. R-2007-0080

RESOLUTION APPROVING ZONING APPLICATION Z/COZ2006-952
(CONTROL NO. 2005-631)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
APPLICATION OF ANDREA AND JOSEPH RICHARDEL
BY LAND DESIGN SOUTH, INC., AGENT
(COBBLESTONE SQUARE)

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 applications 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 Z/COZ2006-952 was presented to the Board of County Commissioners at a public hearing conducted on January 25, 2007; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant 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 stated purpose, intent and requirements of the Palm Beach County Unified Land Development Code. The rezoning request is also consistent with the requirements of all other applicable local land development regulations;
3. This official zoning map amendment (rezoning) is compatible and generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. The applicant has demonstrated that there are sufficient changed conditions or circumstances that require an amendment;
5. This official zoning map amendment (rezoning) 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;
6. This official zoning map amendment (rezoning) will result in a logical, orderly and timely development pattern; and,
7. This official zoning map amendment (rezoning) complies with Article 2.F (CONCURRENCY - Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) 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/COZ2006-952 the application of Andrea and Joseph Richardel, by Land Design South, Inc., agent, for an Official Zoning Map Amendment from the Neighborhood Commercial Zoning District and the Multi-family Residential 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 January 25, 2007, 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 Koons and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	- Aye
John F. Koons, Vice Chair	- Aye
Karen T. Marcus	- Aye
Warren H. Newell	- Aye
Mary McCarty	- Aye
Burt Aaronson	- Aye
Jess R. Santamaria	- Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 25, 2007.

Filed with the Clerk of the Board of County Commissioners on 25th day of January, 2007

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

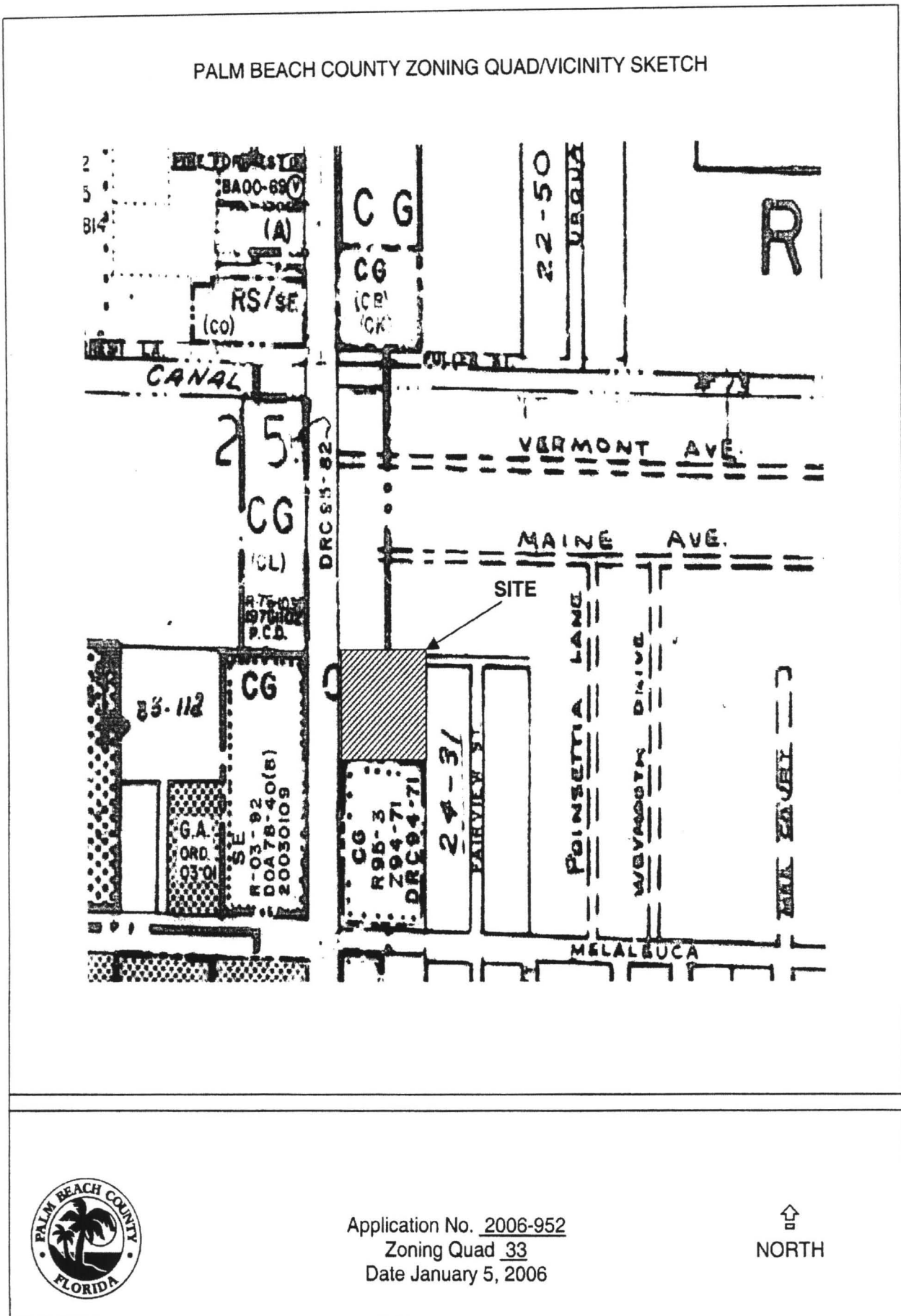
LEGAL DESCRIPTION

THE NORTH TWO-FIFTHS OF THE WEST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 25, TOWNSHIP 44 SOUTH, RANGE 42 EAST, LESS THE WEST THE 40 FEET THEREOF, AND LESS THE FOLLOWING:

COMMENCE AT THE CENTER OF SAID SECTION 25; THENCE SOUTH $1^{\circ} 27'02''$ WEST ALONG THE NORTH-SOUTH ONE-QUARTER SECTION LINE, A DISTANCE OF 9.42.10 FEET; THENCE SOUTH $88^{\circ} 32'58''$ EAST AS MEASURED AT RIGHT ANGLES TO SAID NORTH-SOUTH ONE-QUARTER SECTION LINE, A DISTANCE OF 40.00 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL AS RECORDED IN DEED BOOK 885, PAGE 13, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTH $1^{\circ} 27'02''$ EAST ALONG SAID EXISTING EASTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL, A DISTANCE OF 268.88 FEET; THENCE SOUTH $87^{\circ} 02'33''$ EAST, DEPARTING SAID EXISTING RIGHT-OF-WAY LINE OF MILITARY TRAIL, A DISTANCE OF 12.91 FEET TO A POINT ON A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 2337.83 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH $88^{\circ} 01'32''$ EAST; THENCE SOUTHERLY 147.82 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $3^{\circ} 37'22''$ TO A POINT OF REVERSE CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 2245.83 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH $84^{\circ} 24'09''$ WEST; THENCE SOUTHERLY 121.04 FEET, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $3^{\circ} 05'17''$; THENCE NORTH $87^{\circ} 1'31''$ WEST, A DISTANCE OF 1.38 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

VICINITY SKETCH



Application No. 2006-952
Zoning Quad 33
Date January 5, 2006



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Site Plan is dated November 9, 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. (DRO: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the structures shall be submitted simultaneously with the Site Plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO:ARCH REVIEW – Zoning)

DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within thirty-five (35) feet of the north or east property line and shall be confined to the areas designated on the site plan. (DRO: ZONING - Zoning)

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 January 1, 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. Landscape Within the Median of Military Trail
 - A. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Military Trail . 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 the Property Owner provides payment for maintenance as set forth in Paragraph d below.
 - B. 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)
 - C. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

- D. At 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.
- E. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, 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 Military Trail. 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.

LANDSCAPE - STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. A minimum of seventy-five (75%) 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. 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)

LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

4. In addition to code requirements, proposed landscaping along the north property line shall be upgraded to include:
 - a. a six (6) foot high black, vinyl chain link fence. Height of the fence shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section;
 - 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; and,
 - c. a six (6) foot high hedge to be installed along the exterior side of the fence. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

5. In addition to code requirements, landscaping along the east property line shall be upgraded to include:
 - a. a six (6) foot high opaque concrete panel wall. Height of the wall shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property. 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)

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. All outdoor, freestanding lighting fixtures shall be setback thirty (30) feet from the north and east property line. (BLDG PERMIT: BLDG - Zoning)
3. The lighting conditions above shall not apply to proposed low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

PARKING

1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on the property, except within designated loading and delivery areas. (ONGOING: CODE ENF - Zoning)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the subject property to the parcel to north at the location indicated on the certified site plan, dated November 9, 2006, in a form acceptable to the County Attorney. The location may be adjusted subject to approval by the Planning Division. (DRO: CO ATTY - Planning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the subject property to the parcel to south at the location indicated on the certified site plan, dated November 9, 2006, in a form acceptable to the County Attorney. The location may be adjusted subject to approval by the Planning Division. (DRO: CO ATTY - Planning)
3. Prior to the issuance of the certificate of occupancy (CO) or certificate of completion (CC), whichever shall occur first, the property owner shall pave the future connection to the edge of the southern property line. A pedestrian connection shall also be required to the greatest extent possible and to include designation of pedestrian cross walks in the drive isle. (CO/CC: MONITORING - Planning)
4. The property owner shall pave the future connection to the edge of the northern property line at the time a similar cross access connection is provided on the property to the north subject to the cross access easement and approval of the Planning Director. A pedestrian connection shall also be required to the greatest extent possible and to include designation of pedestrian cross walks in the drive isle. (ONGOING: CODE ENF - Planning)

SIGNS

1. Freestanding signs fronting on Military Trail shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. maximum sign face area per side - one hundred (100) square feet;
 - c. maximum number of signs - one (1);
 - d. style - monument style only; and,
 - e. signs shall be limited to identification of project name and tenants only. (BLDG PERMIT: BLDG - Zoning)

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.

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:

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)