

RESOLUTION NO. R-2007- 0220

RESOLUTION APPROVING ZONING APPLICATION CA2006-503
(CONTROL NO. 2003-039)
CLASS A CONDITIONAL USE
APPLICATION OF FOUR BROTHERS RECYCLING, INC.
BY URBAN LAND CONSULTING, AGENT
(FOUR BROTHERS RECYCLING)

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 Board of County Commissioners, pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), as amended, is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional 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 CA2006-503 was presented to the Board of County Commissioners at a public hearing conducted on February 22, 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 recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (MONITORING) 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 Class A Conditional Use is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use;
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Class A Conditional Use also meets applicable local land development regulations;
3. This Class A Conditional 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;
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands;
5. This Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.

6. This Class A Conditional 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.
7. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Class A Conditional 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.
9. The applicant has demonstrated sufficient justification that there are changed circumstances that require the Class A Conditional Use.

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 CA2006-503, the application of Four Brothers Recycling, by Urban Land Consulting, agent, for a Class A Conditional Use to allow a salvage or junk yard in the General Industrial 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 February 22, 2007, subject to the conditions of approval 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 Marcus 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 February 22, 2007.

Filed with the Clerk of the Board of County Commissioners on 22nd day of February, 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

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

PARCEL A

THE NORTH ½ OF TRACT 25, BLOCK 7, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, EXCEPTION THEREFROM THE EAST 73 FEET WHICH WAS CONVEYED TO THE COUNTY OF PALM BEACH FOR ROAD PURPOSES BY DEED RECORDED IN DEED BOOK 884, PAGE 144; AND IN OFFICIAL RECORD BOOK 3023, PAGE 1754 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; AND EXCEPTING THEREFROM THE NORTH 74.76 FEET PER ORB 6495, PAGE 761 AND CHANCERY CASE NUMBER 407 PER ORB 6495, PAGE 1545 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA.

AND

PARCEL B

THE SOUTH ½ OF TRACT 25, LESS THE WEST 264 FEET AND LESS THE EAST 80 FEET THEREOF, BLOCK 7, THE PALM BEACH FARMS CO., PLAT NO. 3, 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 2, PAGE 45; SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

AND

PARCEL C

PALM BEACH FARMS CO., PLAT NO. 3, WEST 264 FEET OF THE SOUTH ½ OF TRACT 25, BLOCK 7 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA.

AND

PARCEL D

A PARCEL OF LAND IN TRACT 36, BLOCK 7, PALM BEACH FARMS COMPANY PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGE 45, PALM BEACH COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBES AS FOLLOWS:

THE NORTH 260 FEET OF THE EAST ONE-HALF OF TRACT 36, BLOCK 7, PALM BEACH FARMS COMPANY, PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PALM BEACH COUNTY, FLORIDA, LESS THE EAST 66 FEET THEREOF.

EXHIBIT B
VICINITY SKETCH

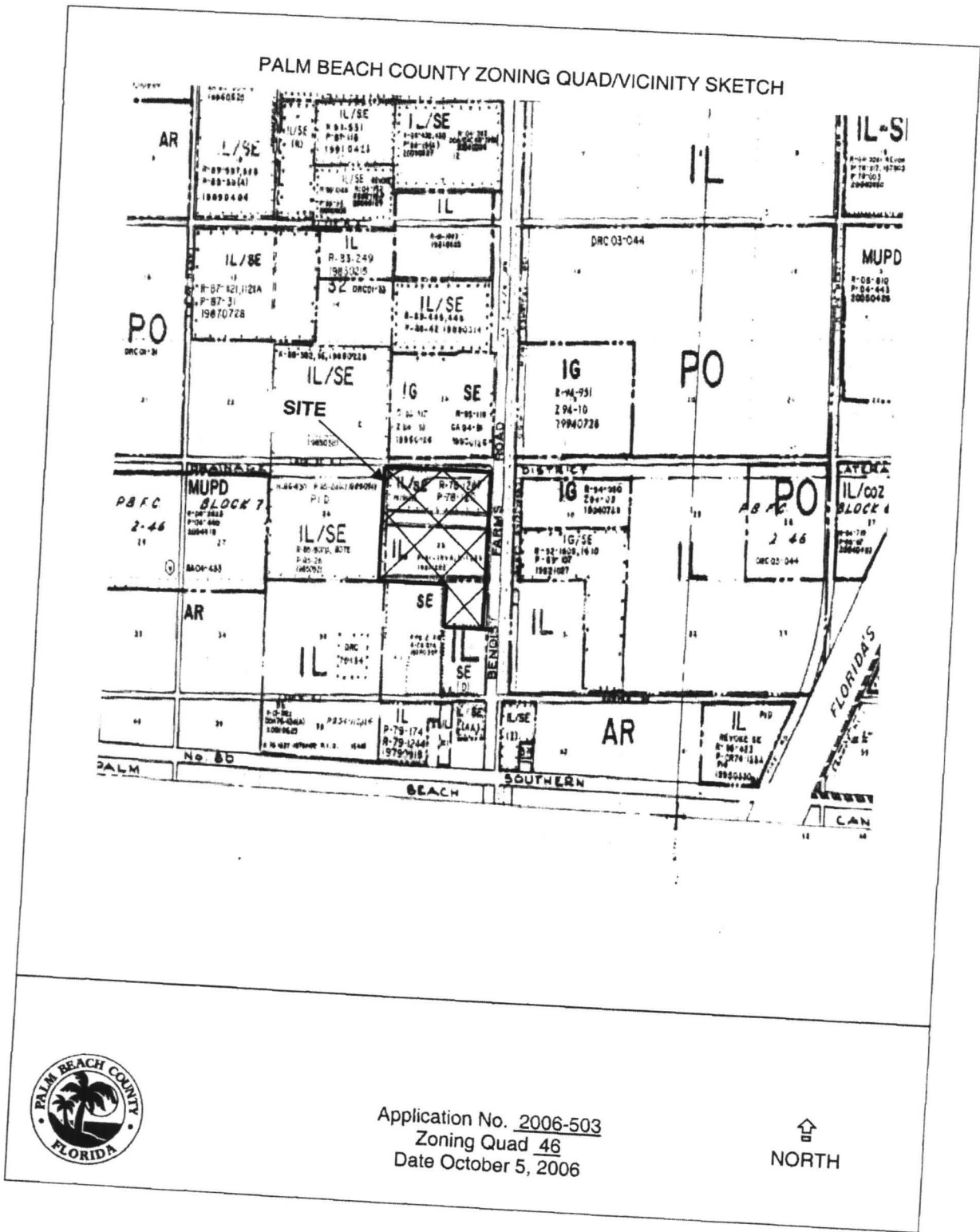


EXHIBIT C

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 December 18, 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)

ENGINEERING

1. Prior to December 3, 2007, the property owner shall provide a temporary roadway construction easement along Benoist Farms Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (DATE:MONITORING-Eng)

2. CONVEYANCE RIGHT OF RIGHT OF WAY - BENOIST FARMS ROAD

The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for Benoist Farms Road 80 feet west of the ultimate west right of line of the LWDD E-2 Canal.

All right of way deed(s) and associated documents shall be provided and approved prior to December 3, 2007 .

Right of way conveyance shall be along the entire frontage and shall be free of all encroachments and encumbrances. 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. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of 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. 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 provisions for Expanded Intersection Details and "Corner Clips." The Property Owner shall not record these required deeds or related documents. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (DATE/BLDG. PERMIT: MONITORING-Eng)

3. Prior to issuance of a Building Permit, the Property Owner shall combine the subject property into one legal lot of record 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)

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

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative 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. Prior to the issuance of the Certificate of Occupancy (CO) for the project, the property owner/petitioner shall replace all dead, missing plant materials on the entire subject property. (CO: LANDSCAPE Zoning)
3. All canopy trees to be planted in the east 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)

PALM TRAN

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: ENG-Monitoring)

SIGNS

1. Freestanding signs fronting on Benoist Farms Road shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point six (6) feet;
 - b. maximum sign face area per side - sixty (60) square feet;
 - c. maximum number of signs - two (2);
 - d. style - monument style only; and

- e. signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS

1. Transportation of vehicles from one area to another within the subject site shall be prohibited along Benoist Farms Road. (ONGOING: CODE ENF-Zoning)
2. Prior to final approval by the Development Review Officer (DRO), the site plan shall be redesigned to include an internal circulation route for the transportation of vehicles processed by the facility. Transportation of vehicles being processed shall only be allowed along the internal circulation route within the subject site. (DRO: ZONING Zoning)
3. When this facility is not open, the parking areas shall be locked and gated. (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:
 - 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.

Departmental administrative actions made pursuant to this condition may be appealed as 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)