

4. H. 26.6

RESOLUTION NO. R-2007-2147

RESOLUTION APPROVING ZONING APPLICATION CA2006-022  
(CONTROL NO. 2006-010)  
CLASS A CONDITIONAL USE  
APPLICATION OF COLONIAL LAKES LLC  
BY KIM GLAS-CASTRO, AGENT  
(COLONIAL LAKES)

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 Process) 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 CA2006-022 was presented to the Board of County Commissioners at a public hearing conducted on November 29, 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. 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.
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, 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.
6. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Class A Conditional Use, with conditions as adopted, is consistent with applicable Neighborhood Plans.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would 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 CA2006-022, the application of Colonial Lakes LLC, by Kim Glas-Castro, agent, for a Class A Conditional Use to allow the Transfer of Development Rights for 35 Units and to designate the subject property as the receiving area in the Multi-family Residential 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 November 29, 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 McCarty and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	-	Absent
Jeff Koons, Vice Chair	-	Aye
Karen T. Marcus	-	Aye
Robert J. Kanjian	-	Absent
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on November 29, 2007.

Filed with the Clerk of the Board of County Commissioners on November 29th, 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

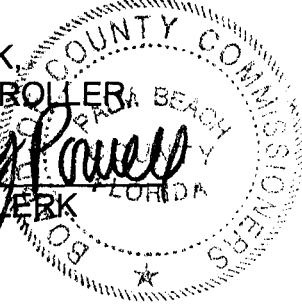


EXHIBIT A  
LEGAL DESCRIPTION

PARCEL NO. 1:

The North 150 feet of the South 1050 feet of the East 220 feet of the West ½ of the East ½ of the Northeast ¼ of the Northeast ¼ of Section 26, Township 44 South, Range 42 East, Palm Beach County, Florida.

PARCEL NO. 2:

The South 200 feet of the West ½ of the East ½ of the Northeast ¼ of the Northeast ¼ of Section 26, Township 44 South, Range 42 East, Palm Beach County, Florida.

PARCEL NO. 3:

The West ½ of the East ½ of the Northeast ¼ of the Northeast ¼ of Section 26, Township 44 South, Range 42 East, Palm Beach County, Florida.

LESS the North 76 feet thereof.

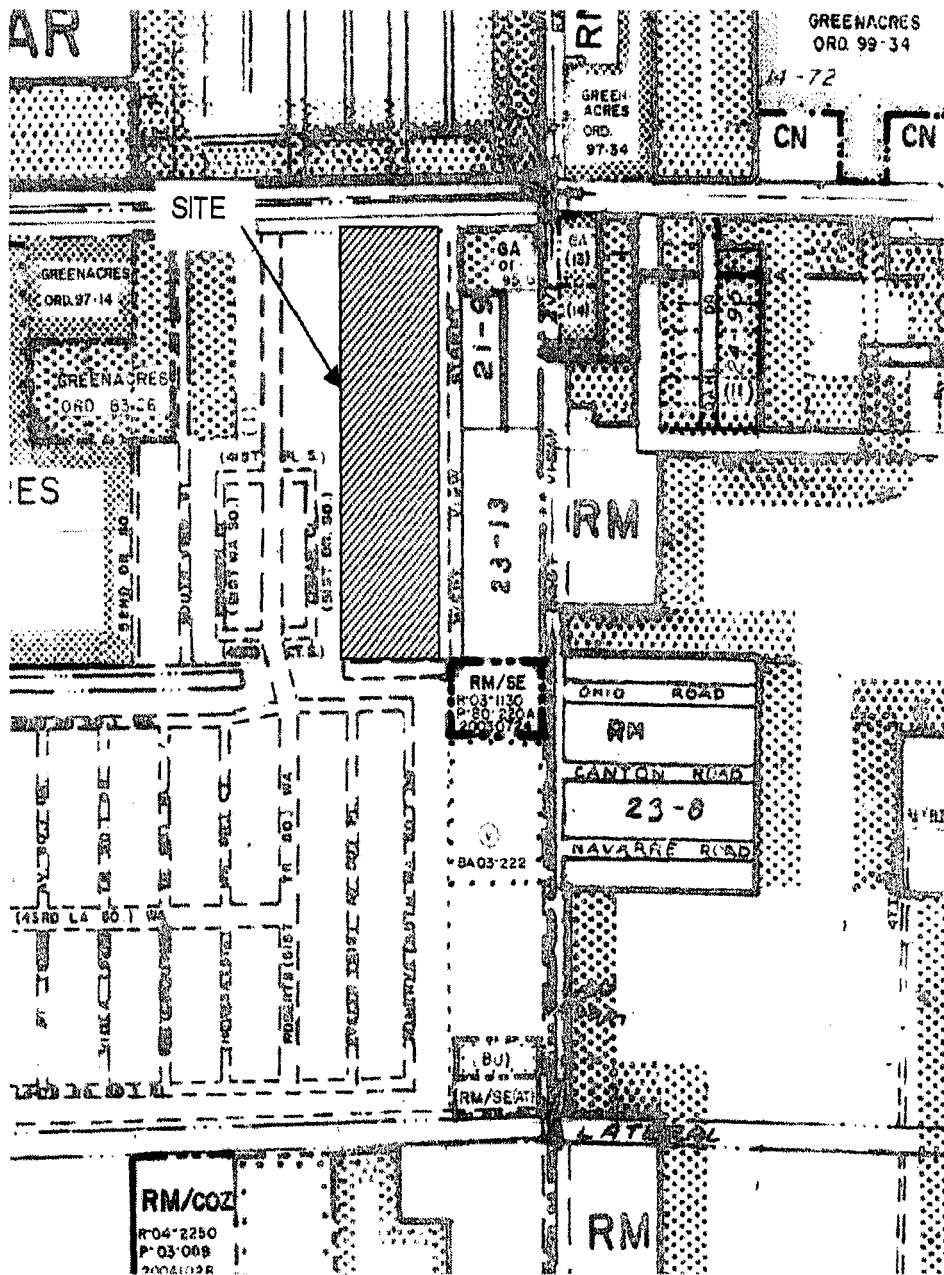
LESS the South 200 feet thereof.

LESS the north 150 feet of the South 1050 feet of the East 220 feet thereof.

Containing 428,805 Square feet, 9.84 Acres

EXHIBIT B  
VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2006-022  
Zoning Quad 33  
Date August 2, 2007



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Development of the site is limited to the uses approved by the Board of County Commissioners. The approved site plan is dated September 27, 2007. 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)
2. At time of submittal for final Development Review Officer (DRO) approval, the site plan shall be revised to indicate a maximum building height of 34 feet. (DRO: ZONING - Zoning)

#### SITE DESIGN

1. Prior to final approval by the Development Review Officer (DRO), the property owner shall revise the site layout to reflect the following:
  - a. Provide traffic calming components (decorative paving treatment) within the access/parking tracts;
  - b. Provide Traffic calming components at the access point at Lake Worth Road. (speed bumps). (DRO: ZONING-Zoning)

#### ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all buildings 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)

#### ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:
  - a. No Building Permits for the site may be issued after April 26, 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)
2. The Property owner shall construct:
  - a. a directional median opening on Lake Worth Road at Walker Avenue/Project Entrance Road subject to the approval of the Florida Department of Transportation
  - b. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

- c. Permits required by the Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
  - d. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
3. Landscape Within the Median of Lake Worth Road
- a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Lake Worth Road. 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. (ONGOING:ENG-Eng)
  - 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. (ONGOING:ENG-Eng)
  - 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 beautification 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 Lake Worth Road. 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. (ONGOING:ENG-Eng)
4. Security gates within the project entrance from Lake Worth Road shall not be permitted. (ONGOING:ENG-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)
2. A Preserve Management Plan and form of recordation such as Conservation Easement, Restrictive Covenant or Plat, shall be approved by ERM and recorded by the applicant prior to final site plan approval. (DRO:ERM-ERM)
3. An upland preserve set-aside equal to or greater than 0.27 acres of the native upland vegetation shall remain as depicted on the site plan. (DRO:ERM-ERM)
4. A preserve management plan shall be approved by ERM prior to DRO site plan approval. The preserve management plan must include all preserve areas within the development. A Conservation Easement, or other instrument approved by ERM shall be required for all preserve areas prior to approval of the Preserve Management Plan. (DRO: ERM-ERM)

## HEALTH

1. Prior to the issuance of a building permit, the property owner must submit results of asbestos containing materials (ACM) survey to the Palm Beach County Health Department. (BLDG PERMIT: MONITORING Health)

## ZONING - LANDSCAPING-STANDARDS

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 sixty (60) 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)
4. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)



5. Decorative pavers or stamped concrete shall be provided along the internal driveway in areas where shown on the site plan dated March 9, 2007. (DRO: ZONING-Zoning)
6. In addition to the code requirements, landscaping in the interior shall be upgraded to include the following:
  - a. additional landscaping including but not limited to a six foot hedge shall be provided along the entry and in the area located between Dry Retention Area – B and Building #1. The hedge shall screen the parking area from public view;
  - b. interior planting is to be distributed equally throughout the development; and
  - c. maximum or 100% foundation planting shall be provided around each building in a manner acceptable to the Landscaping section. (DRO:ZONING -Zoning)
7. Foundation planting shall be provided along each side of the building and include the following:
  - a. the width shall be a minimum of five (5) feet.
  - b. required trees or palms shall be installed at varying heights ranging from twelve (12) to sixteen (16) feet.
  - c. shrubs installed at a minimum height of 36 inches.
  - d. foundation planting shall include appropriate ground cover in a manner acceptable to the Landscaping Section. (DRO:ZONING - Zoning)

#### ZONING - LANDSCAPING ALONG THE PERIMETER PROPERTY LINES

8. In addition to the code requirements, landscaping along the perimeter property lines shall be upgraded to include the following:
  - 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 issuance of the first Building Permit, 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. (DRO: PALM TRAN-Palm Tran)

#### 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. 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. (ONGOING:SCHOOL BOARD –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)

### WORKFORCE HOUSING

1. Prior to final approval by the Development Review Officer (DRO), 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 a minimum of 59 designated workforce housing (WFH) dwelling units for a period 25 years, recurring. Forty-two of the units are to be distributed equally between the low, moderate 1, moderate 2, and middle income categories. Seventeen of the units do not have to be distributed equally among the four categories but may be distributed between at least two categories. The unit sales prices are to be determined by Palm Beach County's Housing and Community Development Department (HCD); 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. Prior to final approval by the Development Review Officer (DRO), the property owner shall include a notation in, Master Plans, related Site Plans, and plat that shall indicate that a minimum of 59 units for the overall project have been designated as workforce housing units. Every deed of sale for each of the workforce units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of 25 years, recurring. Any person or family wishing to reside in a unit that has been designated as a workforce unit shall qualify for eligibility. On an annual basis, beginning May 1, 2008, the property owner, and/or the master homeowners association for the development shall submit an annual report to the Planning Division and HCD documenting compliance with the Workforce Housing declaration of restrictive covenants, and the deed of sale restriction. (DRO/DATE/ONGOING: PLANNING/MONITORING - Planning)

## 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 voluntary commitments 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 voluntary commitments; 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 the 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 Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any voluntary commitment 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 15<sup>th</sup> Judicial Circuit. (ONGOING: MONITORING - Zoning)