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RESOLUTION NO. R-2008-0687

RESOLUTION APPROVING ZONING APPLICATION Z-2007-1380  
(CONTROL NO. 1991-027)  
OFFICIAL ZONING MAP AMENDMENT (REZONING)  
WITH A CONDITIONAL OVERLAY ZONE (COZ)  
APPLICATION OF ATLANTIS RESERVE  
BY LAND DESIGN SOUTH, INC., AGENT  
(ATLANTIS RESERVE)

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 Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application Z-2007-1380 was presented to the Board of County Commissioners at a public hearing conducted on April 24, 2008; 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, 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 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 is consistent with applicable Neighborhood Plans.

8. 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-2007-1380 the application of Atlantis Reserve by Land Design South, Inc., agent, for an Official Zoning Map Amendment from the General Commercial (CG) Zoning District to the Community Commercial (CC) 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 April 24, 2008, 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 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	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Jess R. Santamaria	-	

The Chairperson thereupon declared that the resolution was duly passed and adopted on April 24, 2008.

Filed with the Clerk of the Board of County Commissioners on 16th day of May, 2008.

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

**PARCEL 1:**

From the Southeast corner of the Southwest quarter of Section 36, Township 44 South, Range 42 East, run North along the East line of said quarter section a distance of 1573.33 feet; thence run Westerly at an angle of 89 Degrees 50'17" from the last preceding course, measured from North to West, a distance of 50.00 feet to a **POINT OF BEGINNING**.

From the **POINT OF BEGINNING** run Westerly on a prolongation of the last preceding course a distance of 212.50 feet; thence Northerly on a line parallel to the East line of said quarter section a distance of 190.470 feet; thence Easterly on a line which forms an angle of 90 Degrees 13'18" with the East line of said quarter section measured from West to South, a distance of 212.50 feet; thence Southerly on a line parallel to the East line of said quarter section a distance of 190.250 feet to the **POINT OF BEGINNING**. **LESS** the East 3.00 feet of said Tract and **LESS AND EXCEPT** the following described land known as Parcel 221 contained in instruments recorded in Official Record Book 6048, Page 1155 and Official Record Book 6981, Page 1785.

A portion of the Southwest one-quarter (SW ¼) of Section 36, Township 44 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

**COMMENCE** at the South one-quarter (S ¼) of said Section 36; thence North 1 Degree 47'03" East, along the North-South one-quarter (N-S ¼) Section line of said 36, a distance of 1573.66 feet; thence North 88 Degrees 12'57" West as measured at right angles to said North-South one-quarter (N-S ¼) line of Section 36, a distance of 53.00 feet to a point on the existing Westerly right-of-way line of Military Trail, as recorded in Official Record Book 3735, Page 701, said point also being the **POINT OF BEGINNING**; thence North 88 Degrees 02'55" West, a distance of 14.00 feet; thence North 1 Degree 47'03" East, parallel with and 14.00 feet West of said existing Westerly right-of-way line of Military Trail, a distance of 190.34 feet; thence South 87 Degrees 59'23" East, a distance of 14.00 feet, to a point on said existing Westerly right-of-way of Military Trail; thence South 1 Degree 47'03" West, along said existing Westerly right-of-way line of Military Trail, a distance of 190.32 feet to the **POINT OF BEGINNING**.

**PARCEL 2:**

Lot 3, **PINE RIDGE ESTATES**, an unrecorded subdivision, more particularly described as follows:

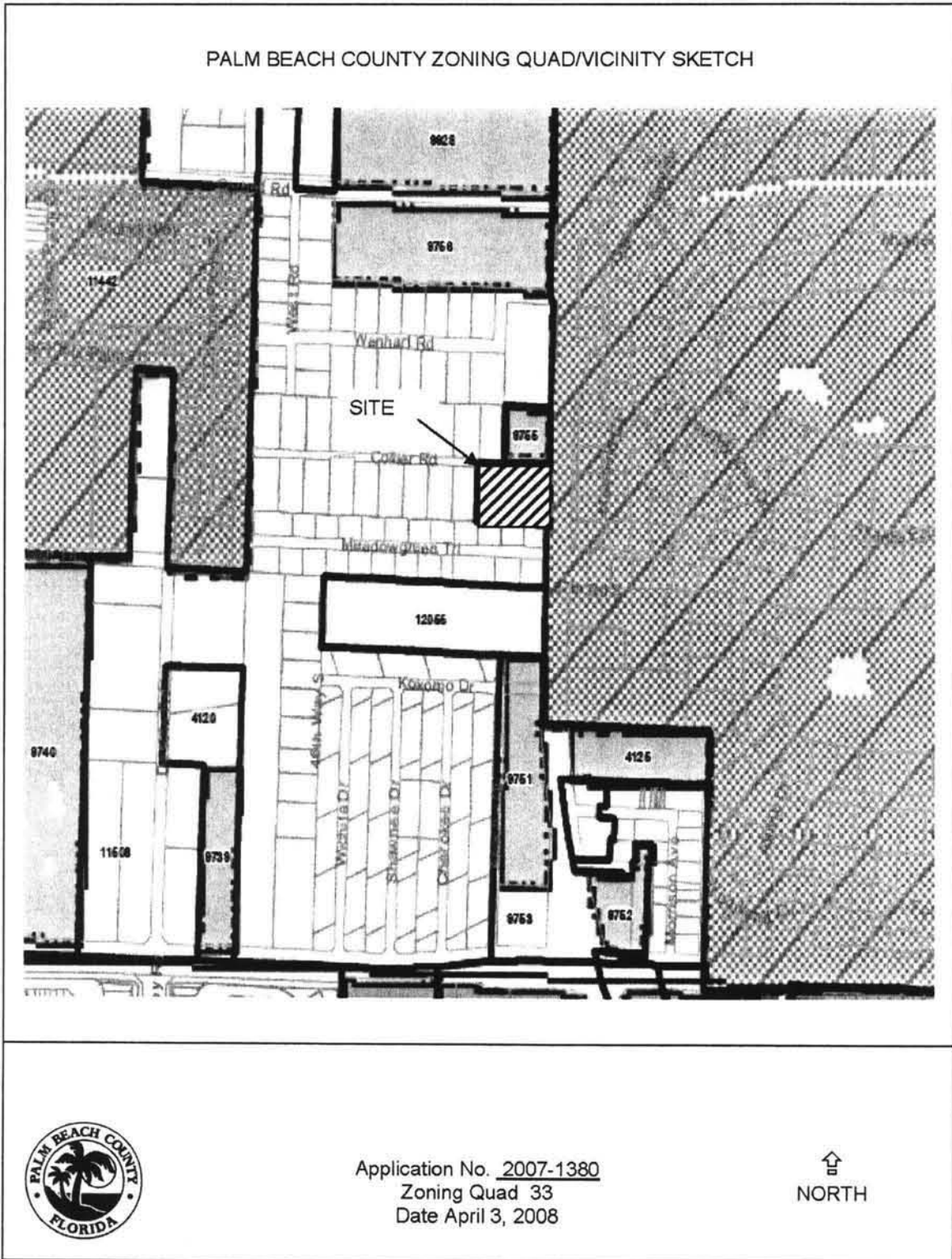
The East 106.0 feet of the following described parcel:

From the Southeast corner of the Southwest quarter of Section 36, Township 44 South, Range 42 East, run North along the East line of said quarter section a distance of 1573.22 feet; thence run Westerly at an angle of 90 Degrees 09'43" measured from South to a West a distance of 50.00 feet to a point; thence running Westerly on a prolongation of the last preceding course, a distance of 530.50 feet to a **POINT OF BEGINNING** of the lands herein described thence Northerly on a line parallel to the East line of said quarter section, a distance of 190.80 feet; thence Easterly on a line which forms an angle of 89 Degrees 46'42" measured from South to East, a distance of 318 feet; thence Southerly on a line parallel to the East line of said quarter section, a distance of 190.47 feet; thence West on a line parallel to the next to the last course, a distance of 318 feet to the **POINT OF BEGINNING**, **LESS** the West 106 feet thereof.

**TOGETHER WITH** right of ingress and egress over a 30 foot strip of land running West from Military Trail, more particularly described as follows:

**BEGINNING** at the Southeast corner of the Southwest quarter of Section 36, Township 44 South, Range 42 East; thence North along the quarter of section line a distance of 1793.426 feet to a point in the center of Military Trail; thence West on a angle of 90 Degrees 13'18" from South to West a distance of 50 feet to the **POINT OF BEGINNING**; thence continue West on the last course a distance of 1292.71 feet to a point; thence South on an angle of 89 Degrees 37'15" from East to South a distance of 30 feet to a point; thence East on an angle of 90 Degrees 02'45" from North to East a distance of 1292.79 feet to a point; thence North on an angle 89 Degrees 46'42" from West to North a distance of 30 feet to the **POINT OF BEGINNING**.

EXHIBIT B  
VICINITY SKETCH





## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Development of the site is limited to the site design as approved by the Board of County Commissioners. The certified site plan is dated February 15, 2008. 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. All voluntary commitments contained in Resolution R-91-1475, are hereby revoked. (ONGOING: MONITORING - Zoning)

#### ARCHITECTURAL REVIEW

1. The exterior elevations of all buildings shall combine the gutters and downspouts into the architectural design of the building. Painting the gutters shall not constitute compliance. (BLDG: BUILDING -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 25, 2011. 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. CORRIDOR CONVEYANCE OF ROAD RIGHT OF WAY

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 Collier Road 25 feet from centerline. All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of a Building Permit.

Right of way conveyance 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. 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. (BLDG. PERMIT: MONITORING-Eng)

3. The Property owner shall construct a 4 foot concrete pathway along the south side of Collier Road from the proposed north/south pedestrian pathway into the site, east to Military Trail. 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.

A) Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)

B) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

4. 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. (ONGOING: MONITORING-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 Owners 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: MONITORING-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 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. (ONGOING: MONITORING-Eng)

5. Prior to issuance of a Building Permit, the Property Owner shall plat 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)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE WEST AND SOUTH PROPERTY LINE

1. In addition to the proposed landscaping and code requirements, landscaping and or buffer width on the west and south property lines shall be upgraded to include:

a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;

- 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 - LANDSCAPING-LANDSCAPING ALONG THE NORTH PROPERTY LINE

1. Landscaping along the north property line, adjacent to Collier Road shall be site planned, installed, and maintained in accordance with the ROW buffer plan prepared by Land Design South dated November 27, 2007 and approved by the Zoning Commission on January 4, 2008. (BLDG PERMIT: ZONING –Landscape)

#### ZONING - LANDSCAPING-LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. The existing 6' concrete wall shall not be removed and shall be incorporated into the required incompatibility buffer. Both the interior and exterior sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure. (BLDG PERMIT: LANDSCAPE – Zoning)

#### LANDSCAPE – STANDARD

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. A minimum of sixty-five (65) percent of all canopy trees required 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: 3.5 inches measured at 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 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, unless otherwise indicate herein:
  - 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)
4. A group of three (3) or more palm trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)
5. Field adjustment of wall and plant material location may be permitted to provide pedestrian sidewalks and bike paths, and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - 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 a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)