

RESOLUTION NO. R-2008- 1146

RESOLUTION APPROVING ZONING APPLICATION CA-2008-444
(CONTROL NO. 2005-00394)
CLASS A CONDITIONAL USE
APPLICATION OF PALM BEACH AGGREGATES INC
BY CARLTON FIELDS, P.A., AGENT
(LAZY F)

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 CA-2008-444 was presented to the Board of County Commissioners at a public hearing conducted on June 30, 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 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 CA-2008-444, the application of Palm Beach Aggregates Inc, by Carlton Fields, P.A., agent, for a Class A Conditional Use to allow bona fide agricultural in the AR 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 June 30, 2008, 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 Robert Kanjian and, upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on June 30, 2008.


Filed with the Clerk of the Board of County Commissioners on 7th day of July, 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

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER
BY: 
DEPUTY CLERK




EXHIBIT A

LEGAL DESCRIPTION

PARCEL 2:

THAT PART OF THE SOUTH 360 FEET OF SECTION 21, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA; LESS THE NORTH 240 FEET OF THE SOUTH 360 FEET OF SAID SECTION 21; ALSO THE NORTH 50 FEET OF THE SOUTH 120 FEET OF THE EAST 220 FEET OF SAID SECTION 21.

TOGETHER WITH:

PARCEL 3:

THAT PART OF THE SOUTH 360 FEET OF THE WEST 780 FEET OF SECTION 22, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA; LESS THE NORTH 290 FEET OF THE SOUTH 360 FEET OF THE WEST 780 FEET OF SAID SECTION 22.

ALSO TOGETHER WITH:

PARCEL 4:

THAT PART OF THE WEST 780 FEET OF SECTION 27, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA.

ALSO TOGETHER WITH:

PARCEL 5:

ALL OF SECTION 28, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA.

ALSO TOGETHER WITH:

PARCEL 8:

ALL OF SECTION 33, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA, LYING NORTH OF STATE ROAD 80 RIGHT-OF-WAY.

ALSO TOGETHER WITH:

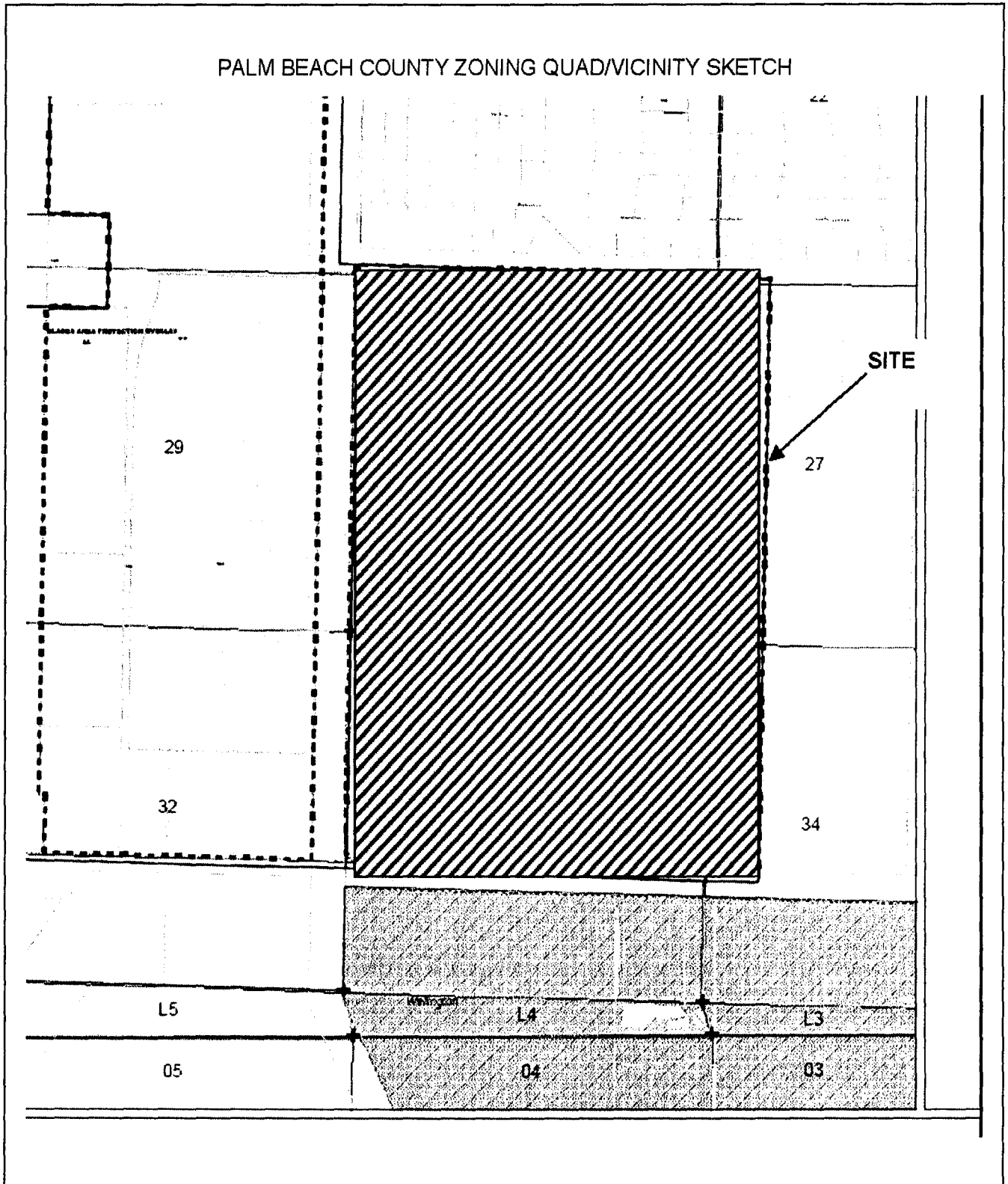
PARCEL 9:

THAT PART OF THE WEST 780 FEET OF SECTION 34, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA, LYING NORTH OF STATE ROAD 80 RIGHT-OF-WAY.

LESS AND EXCEPTING FROM PARCELS 2, 5 AND 8, THAT PORTION WHICH LIES WITHIN THAT STRIP OF LAND WHICH LIES 46.00 FEET EAST OF, AS MEASURED AT RIGHT ANGLES TO, THE EASTERLY RIGHT-OF-WAY LINE OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT L-8 CANAL AS PER THE RIGHT-OF-WAY MAP FOR SAID L-8 CANAL, DWG "L-8-1", AND DATED MAY 8, 1950, AND PROVIDED TO THIS OFFICE BY THE SOUTH FLORIDA WATER MANAGEMENT DEPARTMENT OF SURVEY.

TOTAL SITE ACREAGE = 1209.96 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



Application No. 2008-444
Zoning Quad 107
Date June 5, 2008



EXHIBIT C

CONDITIONS OF APPROVAL

ANNEXATION-RESTRICTIVE COVENANT

1. The property owned by the applicant or affiliated entities within the area covered by the GAPO shall not voluntarily annex into a municipality, sign annexation petitions or otherwise consent to annexation in accordance with restrictive covenant ORB 17900, page 257-270. (ONGOING: Planning- County Attorney)

ENGINEERING

1. The Property owner shall construct:
 - left turn lane west approach on SR 80 at the projects east entrance on SR 80
 - right turn lane east approach on SR 80 at the projects east and west entrances on SR 80

This construction may be phased concurrent with the paving and drainage improvements for the site as outlined below. 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. Building permits for no more than 706 acres of Wholesale Nursery (equivalent of 315 PM peak Hour trips) shall not be issued until all left and right turn lanes above have been constructed. (CO: 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 Okeechobee Boulevard 200 feet of right of way on an alignment approved by the County Engineer.

All right of way deed(s) and associated documents shall be provided within 90 days of determination of need for the right of way by the County Engineer that the right of way is required. 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. (ONGOING: ENG- Eng)

3. The property owner shall provide a temporary roadway construction easement along Okeechobee Boulevard to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. All easements and associated documents shall be provided within 90 days of determination by the County Engineer that this easement is required.

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 (ONGOING: ENG- Eng)

4. The property owner shall provide to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Okeechobee Boulevard along the property frontage; and a maximum 800 feet of these adjacent roadway(s). All easements and associated documents shall be provided within 90 days of determination by the County Engineer that this easement is required. The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall.

The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. 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 (ONGOING: ENG- Eng)

5. The property Owner shall fund the cost of signal installation, if warranted, as determined by the County Engineer and FDOT at Project Entrance (full median opening) and Southern Blvd. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and ROW or easement acquisition.

- a. Building Permits for no more than 347 Acres shall be issued until the developer provides acceptable surety in the form of cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of Traffic Division. (BLDG PERMIT: MONITORING Eng)

- b. In order to be relieved from this requirement and to have the surety posted for the traffic signal at the Project Entrance Southern Blvd returned, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the above intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the surety to construct the traffic signal or release the surety. (ONGOING: ENGINEERING Eng)

6. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No building permits for the site shall be issued after December 31, 2013. A time extension for this condition may be approved by the County Engineer based on an approved Traffic Study which complies with the mandatory Traffic Performance Standards in place at the time of the request. (DATE: MONITORING – Eng)

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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, 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 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)

This resolution will become effective when filed with the Clerk of the Board of County Commissioners.