

RESOLUTION NO. R-2009- 0721

RESOLUTION APPROVING ZONING APPLICATION Z/CA-2007-01608
(CONTROL NO. 2005-00514)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
APPLICATION OF MCLAREN CONST CO INC
BY GARY M. BRANDENBERG AND ASSOCIATES, AGENT
(RACETRAC HAVERHILL)

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 petitions relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), have been satisfied; and

WHEREAS, Zoning Application Z/CA-2007-01608 was presented to the Board of County Commissioners at a public hearing conducted on April 23, 2009; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner 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 and 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.
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) 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/CA-2007-01608, the application of McLaren Const Co Inc, by Gary M. Brandenburg and Associates, agent, for an OFFICIAL ZONING MAP AMENDMENT (REZONING) with a WITH A CONDITIONAL OVERLAY ZONE (COZ) from the RM Zoning District to the CG Zoning District 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 23, 2009.

Commissioner Burt Aaronson moved for the approval of the Resolution.

The motion was seconded by Commissioner Vana and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on April 23, 2009.

Filed with the Clerk of the Board of County Commissioners on May 14, 2009.

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

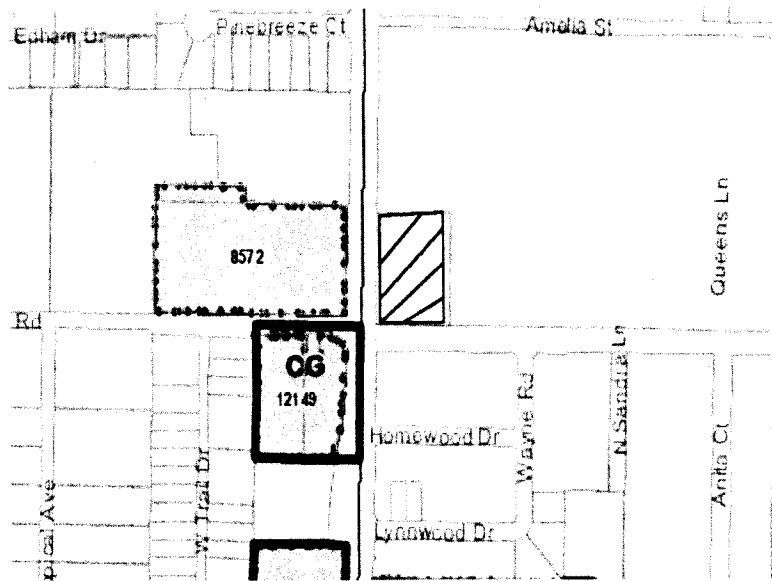
LEGAL DESCRIPTION

Legal Description:

THE SOUTH ½ OF THE SOUTHWEST ¼ OF THE NORTHWEST ¼ OF THE SOUTHWEST ¼, LESS THE EAST 386 FEET THEREOF, IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGIN AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF HAVERHILL ROAD AS SHOWN ON PALM BEACH COUNTY RIGHT OF WAY MAP DRAWING NO. 3-66-007 (SAID POINT BEING 50 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SECTION 36) AND THE NORTH RIGHT OF WAY LINE OF WALLIS ROAD AS SHOWN ON SAID PALM BEACH COUNTY RIGHT OF WAY MAP (SAID POINT BEING 33 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF THE NORTHWEST ¼ OF THE SOUTHWEST ¼ OF SAID 36); THENCE NORTH 01°22'29" EAST, ALONG THE SAID EAST RIGHT OF WAY LINE OF HAVERHILL ROAD, A DISTANCE OF 301.32 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF THE NORTHWEST ¼ OF THE SOUTHWEST ¼ OF SAID 36; THENCE SOUTH 88°41'40" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 233.37 FEET TO A POINT ON THE WEST LINE OF THE EAST 386 FEET OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF THE NORTHWEST ¼ OF THE SOUTHWEST ¼ OF SAID 36; THENCE SOUTH 01°24'27" WEST, ALONG SAID WEST LINE, A DISTANCE OF 301.25 FEET TO A POINT ON SAID NORTH RIGHT OF WAY LINE OF WALLIS ROAD; THENCE NORTH 88°42'38" WEST, ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 233.20 FEET TO THE POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2007-1608
Zoning Quad 31



EXHIBIT C

CONDITIONS OF APPROVAL

ENGINEERING

1. Prior to final site plan approval, the property owner shall provide to Palm Beach County Land Development a copy of the easement approved by the Airport for the 50 foot area shown as Parcel 2 along the east property line. (DRO:ENGINEERING-Eng)

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

a. No Building Permits shall be issued until construction commences for an exclusive east approach right turn lane on Belvedere Rd at the intersection of Haverhill Rd, unless the County Engineer agrees to accept payment for this improvement pursuant to Article 12.B.2.F.1 or the Property Owner enters into a proportionate fair-share agreement with Palm Beach County for this improvement pursuant to Article 12.Q. (BLDG PERMIT: MONITORING-Eng)

b. No building permits for the site shall be issued after December 31, 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.E of the Unified Land Development Code. (DATE: MONITORING Eng)

3. If the property owner constructs the right turn lane as outlined in Condition No. 2.a and does not make a payment for this improvement pursuant to Article 12.B.2.F.1 or the Property Owner enters into a proportionate fair-share agreement with Palm Beach County, the property owner shall pay for all costs associated with the construction. 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 and construction commenced 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. Unless the County Engineer agrees to accept payment for the required offsite improvement as outlined in Condition No. 2.a pursuant to Article 12.B.2.F.1 or the Property Owner enters into a proportionate fair-share agreement with Palm Beach County for this improvement pursuant to Article 12.Q., acceptable surety shall be posted with the Office of the Land Development Division within 6 months of the Development Order. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Property Owner's Engineer and approved by the Engineering Department. (TPS - Maximum 6 month time extension) (DATE: MONITORING - Eng)

5. In the case that additional right of way or a temporary construction easement is required for the offsite improvement as outlined in Condition No. 2.a, the property owner shall enter into an agreement with Palm Beach County Right of Way Acquisition Section for the property owner to fund the acquisition costs for right of way or easement required. Final alignment for the right of way shall be subject to approval by the County Engineer. Funding shall include Palm Beach County staff and attorney costs. The agreement shall be finalized prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

6. 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 40 feet, measured from centerline of the proposed right of way of Wallis Road. All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit. Right of way conveyance shall be along the entire frontage and shall be free and clear 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, including a topographic survey. The Grantor must further warrant 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 County 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. Right of way conveyances shall include where appropriate additional right of way for Expanded Intersections 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. (BLDG PERMIT: MONITORING-Eng)

7. Prior to issuance of the first building permit the property owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

8. Prior to final site plan approval by the DRO, the site plan shall be revised to show the additional right of way dedication for Wallis Road. (DRO:ENGINEERING-Eng)

ZONING - LANDSCAPING

1. Prior to the final approval by the Development Review Officer (DRO), the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan 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 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. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:

- 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 palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)

5. 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)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE ENTIRE PROPERTY

BOUNDARIES

6. In addition to code requirements, landscaping along the entire property boundaries shall be upgraded to include:

- 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)

PLANNING

1. The easternmost 50 feet of the subject site, which has the commercial high with cross-hatching (CHX) FLUA designation, shall be limited to the uses of water retention, and/or landscaping. (ONGOING: PLANNING - Planning)

2. The maximum intensity of the subject site shall be limited to 24,600 square feet. (ONGOING : PLANNING-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 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. (ONGOING: MONITORING-Zoning)