

RESOLUTION NO. R-2010- 0671

RESOLUTION APPROVING ZONING APPLICATION Z-2009-04545
(CONTROL NO. 2007-00236)
an Official Zoning Map Amendment
APPLICATION OF Tidal Wave Development Corp
BY Urban Design Kilday Studios, AGENT
(Tidal Wave Central)

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

WHEREAS, Zoning Application Z-2009-04545 was presented to the Board of County Commissioners at a public hearing conducted on April 22, 2010; 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, 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 the request; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.1.B.

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-2009-04545, the application of Tidal Wave Development Corp, by Urban Design Kilday Studios, agent, for an Official Zoning Map Amendment to allow a rezoning from the Multiple Use Planned Development (MUPD) Zoning District to the Light Industrial (IL) Zoning District with a Conditional Overlay Zone (COZ) 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 in EXHIBIT B, attached hereto and made a part hereof, was approved on April 22, 2010 subject to the conditions 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 Vana and, upon being put to a vote, the vote was as follows:

Commissioner Burt Aaronson, Chair - Aye
Commissioner Karen T. Marcus, Vice Chair - Aye
Commissioner Jeff Koons - Aye
Commissioner Shelley Vana - Aye
Commissioner Steven L. Abrams - Aye
Commissioner Jess R. Santamaria - Aye
Commissioner Priscilla A. Taylor - Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on April 22, 2010.

Filed with the Clerk of the Board of County Commissioners on April 28, 2010.

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

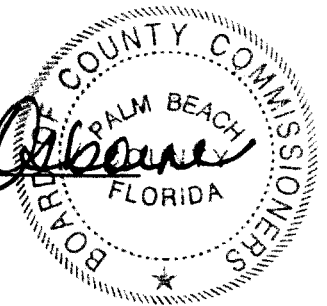


EXHIBIT A

LEGAL DESCRIPTION

Parcel 1:

The East 216 feet of the West 328 feet of the North 450 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

TOGETHER WITH

Parcel 2:

The North 450 feet of the East 332 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, together with: The East 21 feet of the South 210 feet of said Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 3:

The North 360 feet of the West Quarter of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plot thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, subject to' and together with a 35 foot ingress and egress easement described as follows: The East 35 feet of the South 300 feet of the West Quarter of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 4:

The East one-half (E 1/2) of the West one-half (W 1/2) of Tract 54, Block 5, The Palm Beach Farms Co, Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 5:

The North 263 feet of the South 395.94 feet of the East one-half of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 11469, Page 33, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 6:

The South 131.98 feet of the South 395.94 feet of the East one-half of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in Warranty Deeds recorded in O.R. Book 7639, Page 1367 and O.R. Book 9971, Page 555, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 7:

The South 300 feet of the West Quarter of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 8:

The East 332 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Page 45, Public Records of Palm Beach County, Florida. LESS the West 103 feet of the South 210 feet; also LESS the East 21 feet of the South 210 feet; and also LESS the North 450 feet thereof. also LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 9:

The South 210 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the West 119 feet thereof and LESS and EXCEPT the East 437 feet thereof, also LESS and EXCEPT the property contained in Warranty Deed recorded in O.R. Book 15233, page 1563, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 10:

The West 104 feet of the South 210 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS and EXCEPT the property contained in the Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 11:

The South 65 feet of the North 450 feet of the West 112 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 14:

The South 210 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, LESS the West 223 feet thereof and LESS the East 333 feet thereof, more particularly described as follows:

Beginning at the Southeast corner of said Tract 53; thence run West along the South line of said Tract 53, 333 feet to a POINT OF BEGINNING; thence North a distance of 210 feet; thence West a distance of 104 feet; thence South a distance of 210 feet; thence East a distance of 104 feet to the POINT OF BEGINNING.

ALSO TOGETHER WITH

Parcel 15:

The South 210 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, LESS the West 327 feet thereof and LESS the East 229 feet thereof, more particularly described as follows:

Beginning at the Southeast corner of said Tract 53; thence run West along the South line of said Tract 53, 229 feet to a POINT OF BEGINNING; thence North a distance of 210 feet; thence West a distance of 104 feet; thence South a distance of 210 feet; thence East a distance of 104 feet to the POINT OF BEGINNING.

ALSO TOGETHER WITH

Parcel 17:

The East 15 feet of the West 119 feet of the South 210 feet of Tract 53, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, LESS and EXCEPTING the property contained in Warranty Deed recorded in O.R. Book 15233, Page 1563, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH

Parcel 18:

The North 264 feet of the East one-half of Tract 54, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, LESS the Easterly 25 feet thereof, being those portions conveyed to Palm Beach County in Right-of-way Warranty Deeds recorded in O.R. Book 7639, Page 1694 and O.R. Book 9320, Page 1796, Public Records of Palm Beach County, Florida.

Containing: 793,859 square feet, more or less (18.22 Acres, more or less) as surveyed

EXHIBIT B
VICINITY SKETCH

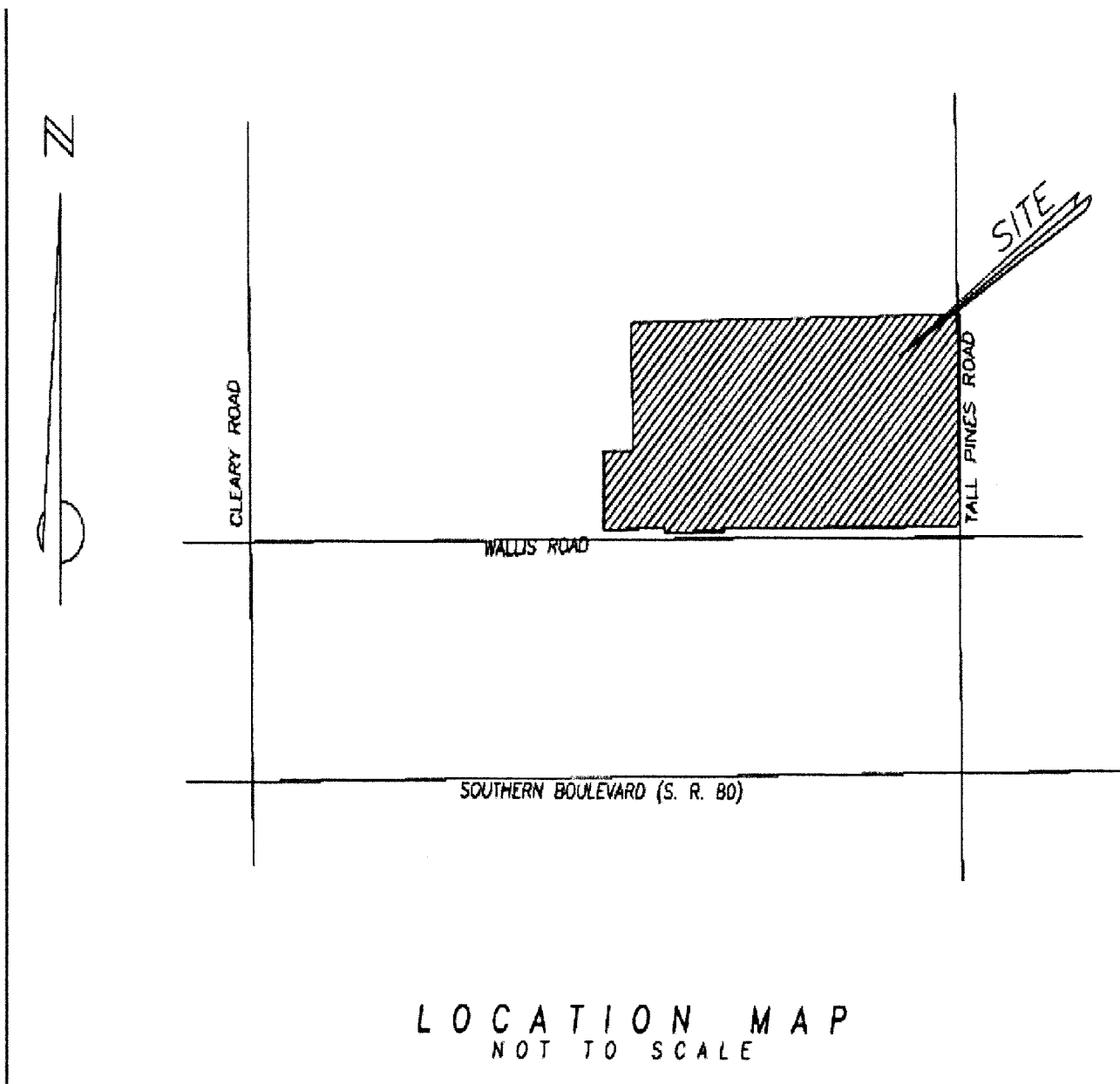


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. By June 19, 2010, the applicant shall apply for applicable use approvals for the site in accordance with the ULDC. (DATE: Monitoring: Zoning/Code Enforcement)

2. By June 19, 2010, the applicant shall apply for building permits or provide the Zoning Division approvals of building permits for the conversion of the SFR's (Buildings 1,2,3,4 and 5) from residential to non-residential uses.

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 December 31, 2015. 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 provide by warranty deed submitted to Palm Beach County Land Development Division for:

- i. 40 feet of right of way from centerline of Wallis Road
- ii. 40 feet of right of way from centerline of Tall Pines Road [Note: COMPLETED]
- iii. 25 foot corner clip at the intersection of Wallis Road and Tall Pines Road,

All prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. 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. 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 as determined by the County Engineer additional right of way for Expanded Intersections and corner clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the property owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT: MONITORING-Eng)

3. The Property owner shall construct

- Wallis Road from the project's west property line to Tall Pines Road, as approved by the County Engineer. The construction shall include a 5 foot pedestrian sidewalk along the north side of the road

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. The Property owner shall, as determined by the County Engineer, either:

- i. Construct separate turn lanes (exclusive right and shared through/left, or as approved by

the County Engineer) on the west approach of Wallis Road/Jog Road intersection. 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. OR

ii. Fund 49 percent of the cost of signal installation if warranted as determined by the County Engineer at the Wallis Rd/Jog Rd intersection. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and required utility relocation and right of way or easement acquisition.

a. Prior to the issuance of the first building permit, the Property Owner shall either obtain permits required from Palm Beach County for the turn lane construction OR provide to the Traffic Division an acceptable surety for 49 percent of the cost of signal installation in an amount as determined by the Director of Traffic Division. (BLDG PERMIT: MONITORING-Eng)

b. If required, construction of the turn lane shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

c. If the signal surety is required, in order to be relieved from the signal condition above and have surety returned for the traffic signal work, 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 Wallis Rd/Jog Rd 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)

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

HEALTH

1. The property owners and operators of facilities generating industrial, hazardous, or toxic wastes shall not deposit or cause to be deposited any such wastes 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)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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 (CO); 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 Unified Land Development Code (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 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 condition of approval. (ONGOING: MONITORING - Zoning)