

RESOLUTION NO. R-2011-1237

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/PDD/R-2009-03943
(CONTROL NO. 1975-00060)
an Official Zoning Map Amendment to a Planned Development District
APPLICATION OF Ronald Kendall
BY Jon E Schmidt & Associates, AGENT
(Kendall Industrial)

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 ZV/ABN/PDD/R-2009-03943 was presented to the Board of County Commissioners at a public hearing conducted on August 29, 2011; 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 ZV/ABN/PDD/R-2009-03943, the application of Ronald Kendall, by Jon E Schmidt & Associates, agent, for an Official Zoning Map Amendment to a Planned Development District to allow a rezoning from the Light Industrial (IL) and the Agricultural Residential (AR) Zoning Districts to the Multiple Use Planned Development (MUPD) 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 in EXHIBIT B, attached hereto and made a part hereof, was approved on August 29, 2011 subject to the conditions 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 Vana and, upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 29, 2011.

Filed with the Clerk of the Board of County Commissioners on September 9th, 2011

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:


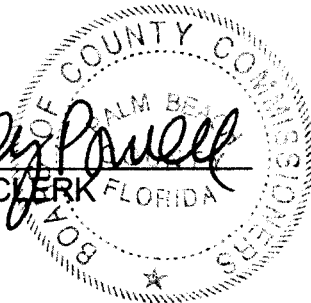

DEPUTY CLERK


EXHIBIT A

LEGAL DESCRIPTION

**Legal Description
Kendall Industrial
Palm Beach County (PBC) Development Review Officer (DRO) Submittal
Re-submittal 9: March 28, 2011**

The South 400 feet of the East 1/2 of Tract 36, Block 7, Palm Beach Farms Company Plat No. 3, according to the Plat thereof as recorded in Plat Book 2, Pages 45 through 54, of the Public Records of Palm Beach County Florida.

TOGETHER WITH:

The West 1/2 of Tract 36, Block 7, Palm Beach Farms Company Plat No. 3, according to the Plat thereof as recorded in Plat Book 2, Page 45 through 54, of the Public Records of Palm Beach County, Florida, LESS a parcel of land 200 feet running East to West by 217.8 feet running North to South in the Southwest corner of above described property (the "Property"),

TOGETHER WITH:

The West 200 feet of the South 217.8 feet of the West 1/2 of Tract 36, Block 7, of Palm Beach Farms Company Plat No. 3, according to the Plat thereof as recorded in Plat Book 2, Page 45, of the Public Records of Palm Beach County, Florida.

LESS:

The right of way described in that certain Right of Way Deed to Palm Beach County recorded in Deed Book 883 page 77 (the "Property"),

Said lands situate, lying and being in Palm Beach County, Florida.

Containing 11.439 acres, more or less.

EXHIBIT B
VICINITY SKETCH

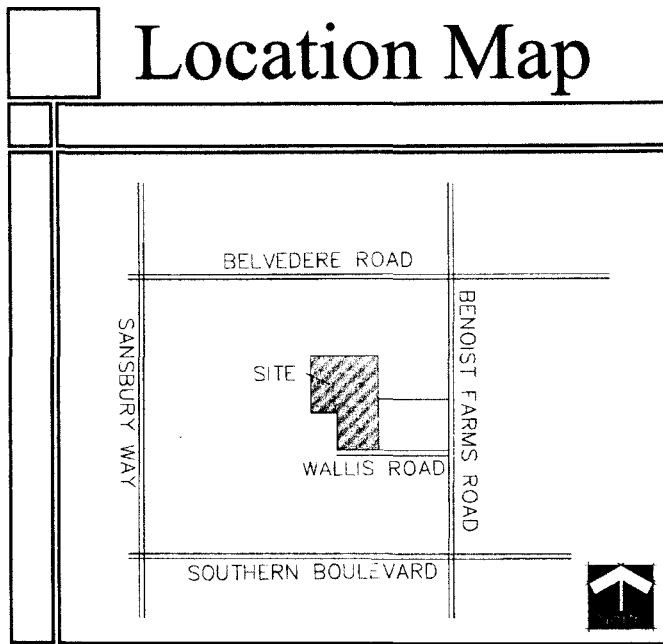


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.The preliminary site plan is dated June 13, 2011. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: 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 December 31, 2014. 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 Art. 2.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 80 feet of right of way for Benoist Farms Road prior to August 29, 2012, prior to issuance of the first building permit for additional building square footage or within 90 days notice from the County Engineer, whichever shall occur first. The West right-of-way line must conform to the "Map of Benoist Farms Road - SR. 80 to Belvedere Road, Project No. 90107 - Drawing No. S-3-91-218" on file in the office of the County Engineer. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments, unless otherwise approved by the County Engineer. 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. (DATE/BLDG PERMIT/ONGOING: MONITORING - Eng)

3.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 30 feet from the centerline on 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 for additional building square footage. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances, unless otherwise approved by the County Engineer. 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 as determined by the County Engineer, additional right of way for 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)

4. Prior to August 29, 2012, prior to the issuance of the first building permit for additional building square footage or within 90 days notice from the County Engineer, whichever shall occur first, the property owner shall provide a temporary roadway construction easement to Palm Beach County along Benoist Farms Road. This roadway construction easement shall also contain an isosceles trapezoid connecting the corner clips across this property owners entrance on Benoist Farms Road. 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. (DATE/BLDG PERMIT/ONGOING: MONITORING-Eng)

5. The property owner shall construct:

- Wallis Road from the project's western driveway to Benoist Farms Road to include 2- 12 foot paved travel lanes, including the provision for onsite drainage facilities as required, and

- Benoist Farms Road as a continuous 3-lane section from Southern Blvd. to Wallis Road, including paved tapers.

This construction should 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 for this construction shall be obtained prior to the issuance of the first building permit for Phase 2. (BLDG PERMIT: MONITORING-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy for Phase 2. (CO: MONITORING-Eng)

6. Prior to issuance of the first building permit for additional building square footage, 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)

7. The property owner shall relocate the existing utility poles on the west side of the eastern most driveway within Wallis Road right of way to comply with clear zone requirements prior to issuance of the first building permit or prior to dedication of right of way for Wallis Road, whichever shall occur first. (BLDG PERMIT/ONGOING: MONITORING - Eng)

LANDSCAPE – GENERAL

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 fifty (50) percent of all new and replacement trees to be planted in the landscape buffers shall meet the following minimum standards at installation:

a. Tree height: fourteen (14) feet
(DRO 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.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)

LANDSCAPE – PERIMETER

5.In addition to the ULDC requirements, landscaping and buffering along Wallis Road and Benoist Farms Road shall be upgraded to include:

a. one (1) palm for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters.
(DRO: LANDSCAPE - Zoning)

PALM TRAN

1.Prior to Plat Recordation, 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 is required. (PLAT:ENG -Palm Tran)

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)