

RESOLUTION NO. R-2013- 0117

RESOLUTION APPROVING ZONING APPLICATION PDD-2012-01257
(CONTROL NO. 2008-00297)
an Official Zoning Map Amendment to a Planned Development District
APPLICATION OF Jules Romfh, AL Lake Worth LLC, Lyons Road LW LLC,
Elizabeth Romfh
BY Land Design South, Inc., Atlantic Land Management, AGENT
(Gulfstream PUD)

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 PDD-2012-01257 was presented to the Board of County Commissioners at a public hearing conducted on January 24, 2013; 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 PDD-2012-01257, the application of Jules Romfh, AL Lake Worth LLC, Lyons Road LW LLC, Elizabeth Romfh, by Land Design South, Inc., Atlantic Land Management, agent, for an Official Zoning Map Amendment to a Planned Development District to allow a rezoning from the Residential Transitional (RT) Zoning District to the Planned Unit Development (PUD) 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 in EXHIBIT B, attached hereto and made a part hereof, was approved on January 24, 2013 subject to the conditions described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Taylor moved for the approval of the Resolution.

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

Commissioner Steven L. Abrams, Mayor	-	Aye
Commissioner Priscilla A. Taylor, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 24, 2013.

Filed with the Clerk of the Board of County Commissioners on January 31st, 2013

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:

PARCEL 1:

THE NORTH 400 FEET OF TRACTS 21 AND 22, ALL OF TRACTS 23 AND 24 AND THE NORTH ONE-HALF OF TRACT 25, LESS THE WEST 29 FEET OF TRACT 25, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF ON FILE IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

THE SOUTH 260 FEET OF TRACT 21; THE SOUTH 260 FEET OF THE EAST ONE-HALF OF TRACT 22; THE NORTH 140 FEET OF THE EAST ONE-HALF OF TRACT 27 AND THE NORTH 140 FEET OF TRACT 28, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

AND ALSO

ALL OF THE WEST ONE-HALF OF TRACT 22, LESS THE NORTH 400 FEET THEREOF, IN BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 3:

THE SOUTH 520 FEET OF THE EAST ONE-HALF (E1/2) OF TRACT 27 AND THE SOUTH 520 FEET OF TRACT 28, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS:

THE WEST 125.65 FEET OF THE SOUTH 520 FEET OF THE EAST ONE-HALF (E1/2) OF TRACT 27, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 2,537,269 SQUARE FEET/58.2477 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

PCN #'s

00-42-43-27-05-028-0211
00-42-43-27-05-028-0212
00-42-43-27-05-028-0223
00-42-43-27-05-028-0230
00-42-43-24-05-028-0240
00-42-43-24-05-028-0252
00-42-43-24-05-028-0271

EXHIBIT B
VICINITY SKETCH

LOCATION MAP

N.T.S.

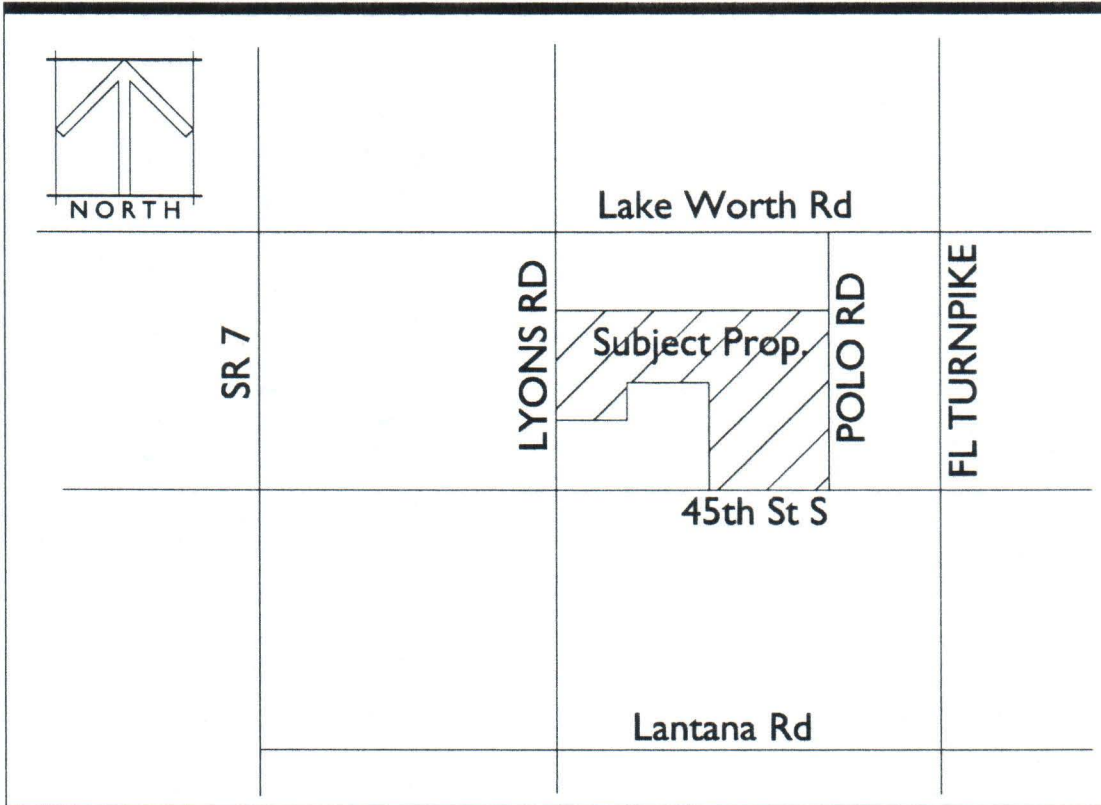


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Prior to Final Approval by the Development Review Officer, the Property Owner shall modify the Master and Subdivision Plans dated August 9, 2012 to incorporate the following:

- preservation of the +/-1.82-acre wetland and the addition of a 25-foot wide wetland Landscape buffer along the north perimeter of the Wetland Area; and,
- a minimum fifteen (15) foot wide Right-of-Way buffer along the south property line where it abuts the LWDD L-13 Canal Right-of-Way. (DRO: ZONING- Zoning)

2. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer (DRO) as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - 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, 2017. 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 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:

- 50 feet, measured from centerline of the proposed right of way for Lyons Road, and
- 40 feet, measured from centerline of the proposed right of way for Polo Road on an alignment adopted by the Board of County Commissioners.
- A minimum of 12 feet over a length of 330 feet, inclusive of a 50 foot taper, for a right turn lane on the south approach of Lyons Road at the project's entrance (unless a contract has been awarded to widen Lyons Road to 4 lanes along the project frontage).

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. 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. 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/ONGOING: MONITORING-Eng)

3. The Property Owner shall construct:

i) a left turn lane north approach on Lyons Road at the project entrance road, and
ii) a right turn lane south approach on Lyons Road at the project entrance road (unless a contract has been awarded to widen Lyons Road to 4 lanes along the project frontage). 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. Prior to issuance of the first building permit, the property owner shall provide to Palm Beach County sufficient public 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 Lyons Road and Polo Road along the property frontage; and a maximum of an additional 800 feet of these adjacent roadway(s). 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 water quality, water quantity and, when necessary, compensating storage capacity within this project's system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and 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. Specifically, one lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. 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. (BLDG PERMIT: MONITORING-Eng)

5. Prior to final DRO approval of the master plan, the property owner must identify locations where either vertical (speed table, etc.) or horizontal (traffic island, etc.) traffic calming measures will be provided mid-block for all internal road segments that exceed 830 feet between intersections. (DRO:ENGINEERING-Eng)

6. Prior to final DRO approval of the master plan, the property owner must identify 40 feet measured from centerline of the proposed right of way for Polo Road along the project's entire frontage on an alignment adopted by the Board of County Commissioners. (DRO:ENGINEERING-Eng)

7. Prior to final DRO approval of the master plan, the property owner shall abandon, and relocate as necessary, the existing 30 foot ingress and egress easement that generally bisects the property as well as the utility easement on the east side of the property. (DRO: ENGINEERING - Eng)

8. The property owner shall provide for alternative access to be utilized if access from 45th

Street South is no longer available for the adjacent parcels with Parcel Control Numbers 00424327050280261, 00424327050280272 and 00424327050280273. Alternative access shall be provided to parcel with Parcel Control Number 00424327050280262, only if the authorities having jurisdiction permit a wetland impact for the access. These alternative accesses shall accommodate a single family home or an equestrian use on each parcel and minimize conflict with the existing offsite wetland and be shown on the Final Master Plan prior to DRO approval. (ONGOING/DRO: ENGINEERING - Eng)

9. The property owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The property owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the first subdivision plan by the DRO. (DRO: ENGINEERING-Eng)

b. Any required drainage easements shall be dedicated in conjunction with the subdivision plat. (PLAT: ENGINEERING-Eng)

ENVIRONMENTAL

1. The wetland area located along the southern property line shall be preserved consistent with South Florida Water Management District (SFWMD) and U.S. Army Corp of Engineers (ACOE) permit requirements. (DRO:ERM-ERM)

2. The wetland preserve area shall be maintained free of exotic vegetation, consistent with the upland preserve maintenance requirements pursuant to ULDC Article 14.C. (ONGOING: ERM-ERM)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE PROPERTY LINES ABUTTING EXISTING AGRICULTURAL (EQUESTRIAN) USES

1. In addition to the Code requirements, landscaping and buffer width along the property lines abutting existing agricultural (equestrian) uses shall be upgraded to include:

a. a minimum twenty (20) foot wide Type 3 Incompatibility buffer with a six (6) foot high wall; and,

b. canopy trees planted at twenty (20) feet on-center with a minimum height of fourteen (14) feet at time of installation. (DRO: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE PROPERTY LINES ABUTTING THE WETLAND AREA

2. At time of submittal for Final Approval by the Development Review Officer, the Property Owner shall submit an Alternative Landscape Plan (ALP) for review and approval. The purpose of the ALP is to allow the incompatibility buffer, which must also indicate a six (6) foot high wall unless a Type II Variance is obtained to eliminate the wall, to be relocated adjacent to the north perimeter of the Wetland Area for the preservation of the Wetland Area. (DRO: LANDSCAPE - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to platting the owner shall convey to Lake Worth Drainage District (LWDD) either by warranty deed or exclusive easement deed the South 5 feet of Tracts 27 and 28, Block 28, PBF3, PB 2, PG 45 for the L-13 Canal. LWDD will provide and record the conveyance document. (PLAT: ENG-LWDD)

2. Prior to platting LWDD will require the extinguishment of the area of the FPL Easement recorded in ORB 7792, PG 1457 and the Southern Bell Easement recorded in ORB 1169, PG 543, which overlaps the 5 foot easement to be conveyed to LWDD. This will need to be finalized prior to LWDD accepting said easement. PLAT: ENG-LWDD

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)

PLANNED DEVELOPMENT

1.The Property Owner shall include in Homeowners' documents as well as written sales brochures, sales contracts and related plans a disclosure statement identifying and notifying of the existence of agricultural uses in the vicinity of the development. The Property Owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building Department beginning on January 24, 2014 and shall continue on an annual basis until all units within the development have been sold or the Property Owner relinquishes control to the Homeowners Association. (DATE: MONITORING - Zoning)

PLANNING

1.Per Land Use Amendment, LGA 2009-007 Lake Worth / Lyons Residential, adopted via Ordinance 2009-029, the site shall be subject to the following:

a. Residential density on the subject site shall be limited to a maximum of five (5) dwelling units per acre, with no density increases permitted above five (5) dwelling units per acre on site.

b.Any dwelling units directly adjacent to Cedar Creek Ranch, shall be single-family and/or Zero Lot Line units and shall be separated from Cedar Creek Ranch by a thirty (30) foot landscape buffer or Right-of-Way.

c. The subject site shall provide vehicular and pedestrian connections with the 37.8 acre Lake Worth Commercial site (Ordinance 2008-048).

d. A minimum of 15 percent of the total dwelling units shall be provided as Workforce Housing units pursuant to the Workforce Housing Program in the Unified Land Development Code. (ONGOING-PLANNING-Planning)

SCHOOL BOARD

1.Prior to the issuance of the first Certificate of Occupancy, the 10-foot X 15-foot school bus shelter shall be constructed by the Property Owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter shall be the responsibility of the residential property owner. (CO: MONITORING - School Board)

2.The Property Owner shall post a notice of annual boundary school assignments for students from this development. A sign 11-inches X 17-inches shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD-School Board)

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: ZONING- 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; the 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 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 of Approval; 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: ZONING- Zoning)