

RESOLUTION NO. R-2024- 1036

RESOLUTION APPROVING ZONING APPLICATION PDD/DOA-2023-01002
(CONTROL NO. 2012-00424)
a Development Order Amendment
APPLICATION OF Bedner Farm, Inc.
BY JMorton Planning & Landscape Architecture, AGENT
(All Seasons Delray Beach)

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;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application PDD/DOA-2023-01002 was presented to the Board of County Commissioners at a public hearing conducted on August 22, 2024;

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;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Development Order Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC 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:

1. The foregoing recitals are true and correct and are incorporated herein.
2. Zoning Application PDD/DOA-2023-01002, the Application of Bedner Farm, Inc., by JMorton Planning & Landscape Architecture, Agent, for a Development Order Amendment to modify the previously approved Site Plan for a Class A Conditional Use for an Agricultural Marketplace to delete land (76.88 acres) reconfigure the Site Plan for the existing Agriculture Marketplace, and modify Conditions of Approval on the remaining 5 acres, on a parcel of land generally described as shown on the legal description 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 August 22, 2024, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Baxter moved for the approval of the Resolution.

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

Commissioner Maria Sachs, Mayor	-	Nay
Commissioner Maria G. Marino, Vice Mayor	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Michael A. Barnett	-	Aye
Commissioner Marci Woodward	-	Absent
Commissioner Sara Baxter	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on August 22, 2024.

Filed with the Clerk of the Board of County Commissioners on August 26, 2024.

This resolution shall not become effective unless or until the effective date of the Large Scale Land Use Amendment No. LGA-2024-003.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY:



COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOSEPH ABRUZZO
CLERK & COMPTROLLER

BY:



DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

ALL OF TRACT B, BEDNER OAKS, AS RECORDED IN PLAT BOOK 103, PAGES 91 AND 92 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

TOGETHER WITH

A PORTION OF TRACT A, OF SAID PLAT

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF SAID TRACT A, THENCE NORTH 89°26'45" EAST, ALONG THE NORTH LINE OF SAID TRACT A, A DISTANCE OF 525.26 FEET; THENCE SOUTH 00°58'36" EAST, ALONG THE EAST LINE OF SAID TRACT A, A DISTANCE OF 414.47 FEET; THENCE SOUTH 89°26'45" WEST, A DISTANCE OF 525.74 FEET; THENCE NORTH 00°54'39" WEST, ALONG THE WEST LINE OF SAID TRACT A, A DISTANCE OF 414.47 FEET TO THE POINT OF BEGINNING.

CONTAINING 72.88 ACRES MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

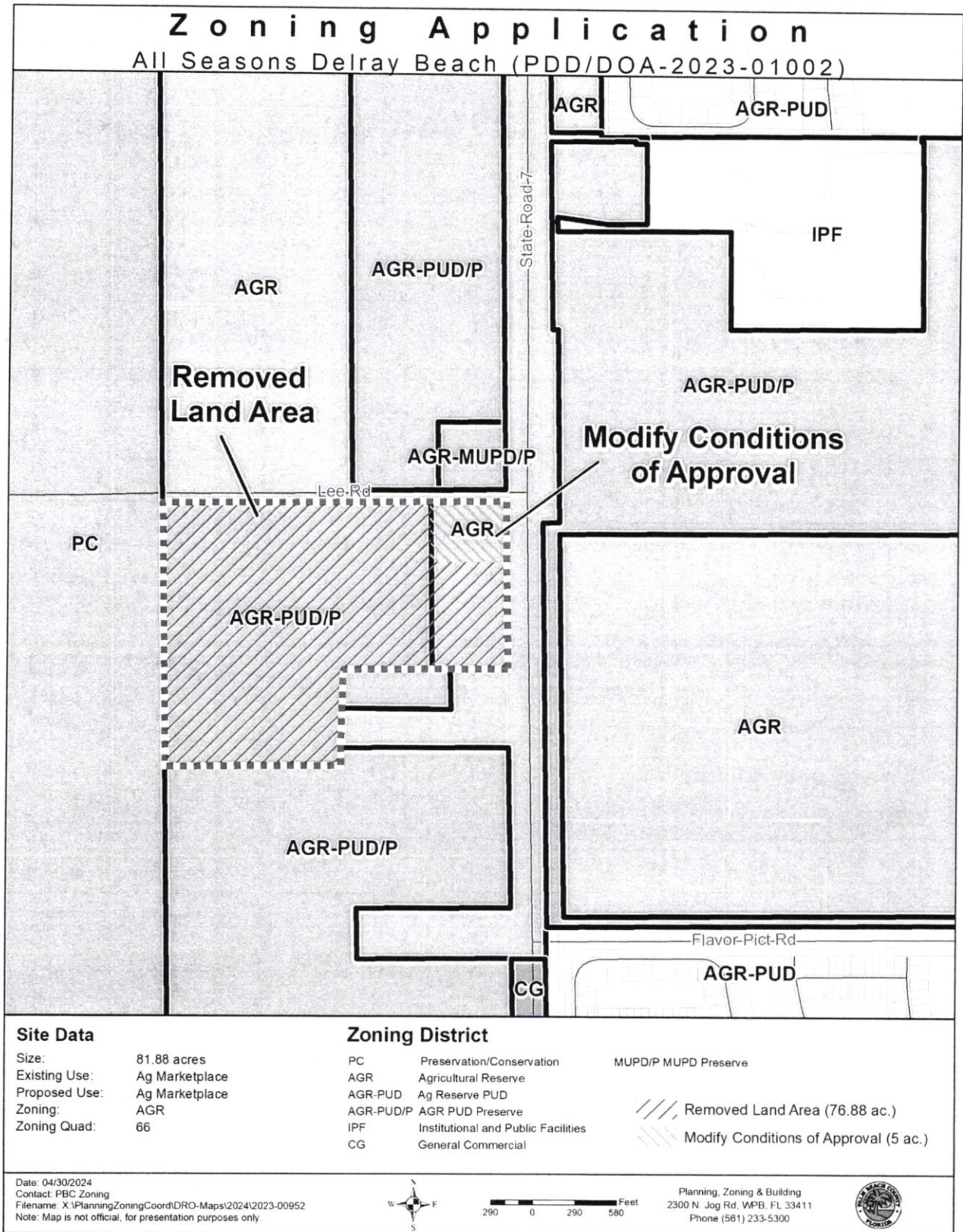


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment- previously approved Conditional Use for an Agriculture Marketplace

ALL PETITIONS-

1. Previous ALL PETITIONS Condition 1 of Resolution R-2013-644, Control No.2007-00357, which currently states:

The Preliminary Site Plan is dated February 22, 2013. 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 as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission.

Is hereby amended to read:

The approved Site Plan is dated June 13, 2024. 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 as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2013-0644 (Control 2007-00357), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)

ALL PETITIONS-UNITY OF CONTROL

3. Previous ALL PETITIONS Condition 1 of Resolution R-2013-644, Control No.2007-000357, which currently states:

Prior to final approval by the Development Review Officer (DRO), the Property Owner shall submit a recorded copy of a Unity of Control.

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the Property Owner shall submit an amended recorded Unity of Control for the Agriculture Marketplace. (DRO: 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 Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2013-644, Control No.2007-00357)

2. Previous ENGINEERING Condition 2 of Resolution R-2013-644, Control No.2007-00357, which currently states:

Landscape Within the Median of SR 7

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of SR 7 from Lee Road south a distance of 417 feet. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below. (ONGOING: ENGINEERING - Engineering)

b. Prior to the issuance of the first building permit, the necessary permit(s) for this landscaping and irrigation shall be applied for. (BLDGPM: MONITORING - Engineering)

c. Prior to the issuance of the first certificate of occupancy, all installation of the landscaping and

irrigation shall be completed. (CO: MONITORING - Engineering)

d. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING - Engineering)

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's foot frontage along SR7 from Lee Road south a distance of 417 feet. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: ENGINEERING - Engineering)

Is hereby deleted. [REASON: No longer applicable]

PALM TRAN

1. Previous PALM TRAN Condition 1 of Resolution R-2013-644, Control No.2007-00357, which currently states:

Prior to Issuance of the first Building Permit, 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 shall be required. (BLDGPM: MONITORING - Palm-Tran)

Is hereby deleted. [REASON: No longer required for this site.]

PARKING

1. Prior to an issuance of a Special Permit, the applicant shall demonstrate that sufficient parking spaces are indicated on the Final Site Plan for all participants and combination of activities. (ONGOING: CODE ENF - Zoning) (Previous PARKING Condition 1 of Resolution R-2013-644, Control No.2007-00357)

2. Prior to final approval of a Special Permit, the layout of the overflow parking spaces shall be installed in accordance to Code or the Property Owner shall seek a Type II Variance approval to deviate from Code requirements. (ONGOING: CODE ENF - Zoning) (Previous PARKING Condition 2 of Resolution R-2013-644, Control No.2007-00357)

USE LIMITATIONS-SPECIAL ACTIVITIES

1. Previous USE LIMITATIONS Condition 1 of Resolution R-2013-644, Control No.2007-00357, which currently states:

The maximum number of participants attending any special activities on the subject site

- a. shall not exceed Fifty (50) attendees; and
- b. shall be subject to a Special Permit for number of attendees exceeding a maximum of Fifty (50) people.

Is hereby deleted. [REASON: No longer required for this site.]

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; 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: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.