

RESOLUTION NO. R-2002- 0846

RESOLUTION APPROVING ZONING PETITION Z/COZ2001-060
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF ANNA S. COTTRELL & ASSOCIATES
BY ANNA S. COTTRELL, AICP, AGENT
(BSC PROPERTY/LAKE WORTH ROAD)

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 hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition Z/COZ2001-060 was presented to the Board of County Commissioners at a public hearing conducted on May 23, 2002; 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 made the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan, contingent upon the approval of Small Scale Development Amendment No. 02-SCA 78 COM 1;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) with approved conditions 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;
5. This official zoning map amendment (rezoning) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20, as amended; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) 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 Petition Z/COZ2001-060, the petition of Anna S. Cottrell & Associates by Anna S. Cottrell, AICP, agent, for an Official Zoning Map Amendment rezoning from Neighborhood Commercial and Multi-Family Residential to General Commercial with a CONDITIONAL OVERLAY ZONE 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 May 23, 2002, subject to the conditions of the CONDITIONAL OVERLAY ZONE (COZ) described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

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

Warren H. Newell, Chairman	-	Aye
Carol A. Roberts, Vice Chair	-	Absent
Karen T. Marcus	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Absent
Tony Masilotti	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that this resolution shall not become effective until Small Scale Development Amendment No. 02-SCA 78 COM 1 (BSC PROPERTY) is effective.

Filed with the Clerk of the Board of County Commissioners on 10 day of June, 2002.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *[Signature]* **4**
COUNTY ATTORNEY

BY: *[Signature]*
DEPUTY CLERK

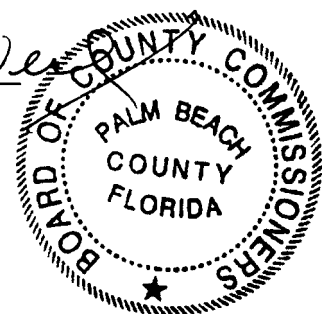


EXHIBIT A
LEGAL DESCRIPTION

THE EAST 167.50 FEET OF LOT A, LESS THE NORTH 35 FEET THEREOF, THE EAST 167.50 FEET OF LOT B AND ALL OF LOTS C, D, AND E, BLOCK 4, **THE PALM BEACH FARMS CO. PLAT NO. 7** OF SECTION 30, TOWNSHIP 44 SOUTH, RANGE 43 EAST (30/44/43), PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 72, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING: 162,460 SQUARE FEET OR 3.730 ACRES MORE OR LESS (GROSS)

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

NOTES: THE NORTH LINE OF SECTION 30/44/43, A.K.A. LAKE WORTH ROAD IS ASSUMED TO BEAR 88 DEGREES 04 MINUTES '19 SECONDS EAST AND ALL OTHER BEARINGS RELATIVE THERETO.

EXHIBIT B
VICINITY SKETCH

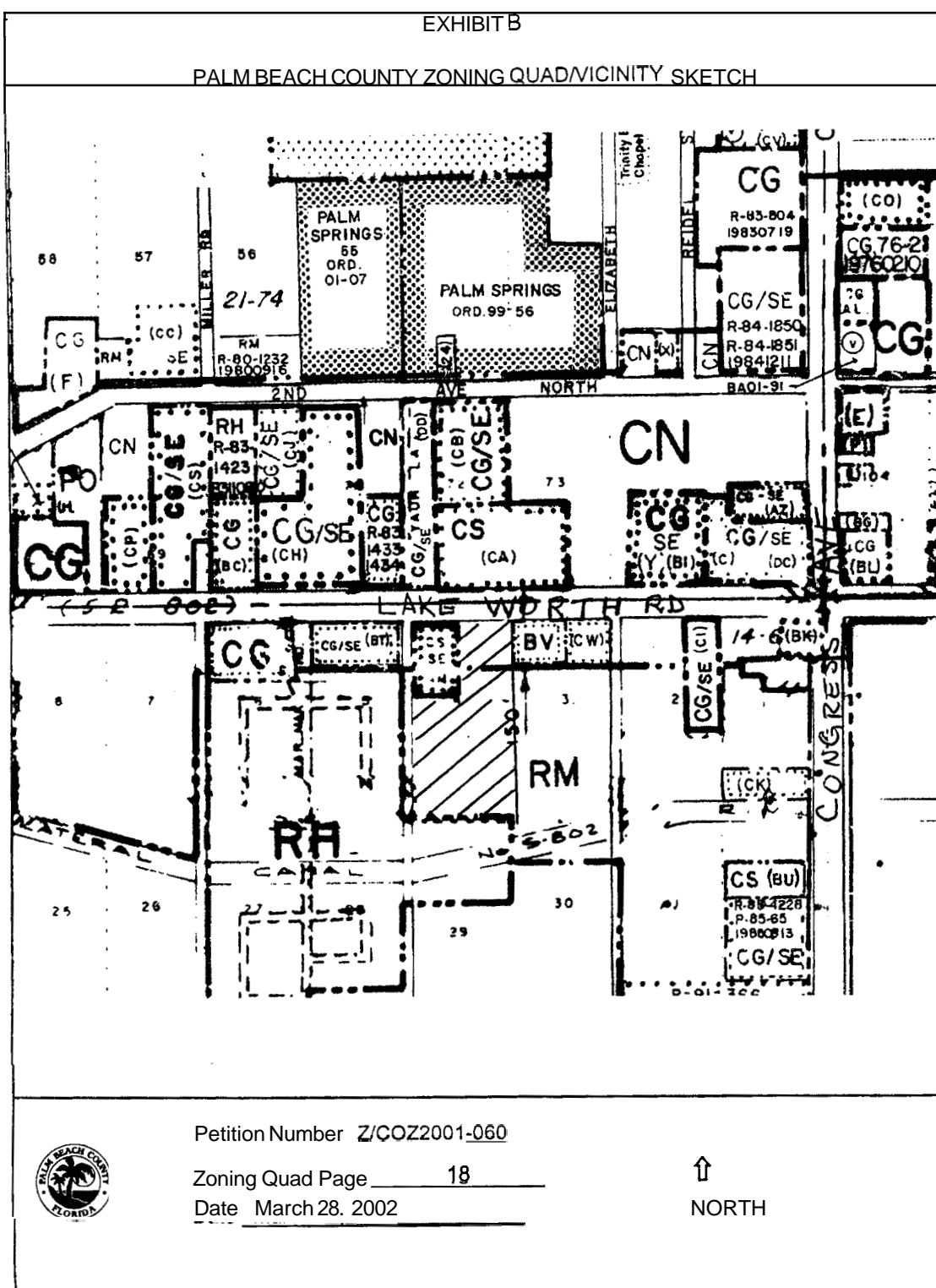


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated May 13, 2002. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING – Zoning)

B. BUILDING AND SITE DESIGN

1. Prior to Development Review Committee (DRC) approval, the site plan shall be revised to combine the dumpster and loading zone areas adjacent to the south side of the proposed retail building. (DRC: ZONING – Zoning)

C. LANDSCAPING – STANDARD

1. Fifty-percent of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet;
 - b. Trunk diameter: 3.5 inches measured at 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 3.5 feet in length; and
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)
2. All palms required to be planted on site 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. (CO: LANDSCAPE - Zoning)
3. All shrub or hedge material shall be planted in continuous masses, and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and
 - d. this condition does not apply to five (5) foot wide compatibility buffers. (CO: LANDSCAPE – Zoning)
4. All trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE – Zoning)
5. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE – Zoning)

D. LANDSCAPING – INTERIOR

1. Landscaped divider medians shall be provided between all rows of abutting parking. The minimum width of this median shall be ten (10) feet excluding curb. Landscaping within the divider median shall be upgraded to include the following:
 - a. One (1) tree for each thirty (30) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center; and
 - b. One (1) medium shrub for each two (2) linear feet of divider median, planted twenty-four (24) inches on center, to be installed at a minimum height of twenty-four (24) inches. (DRC/CO: ZONING/LANDSCAPE – Zoning)

2. Foundation planting or grade level planters shall be upgraded along the north side of the retail/medical facility and the west side of the medical office building to consist of the following:
 - a. The minimum width of the required landscape areas shall be eight (8) feet;
 - b. The length of the required landscaped areas shall be no less than 50% of the total length of the specified side of the structure; and,
 - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC/CO: ZONING/LANDSCAPE – Zoning)

E. ENGINEERING

1. Prior to the issuance of a Building Permit the Property Owner shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. (BLDG PERMIT: MONITORING – Eng)

2. LANDSCAPE WITHIN MEDIAN OF STATE ROADS
 - A. Prior to the issuance of a Building Permit for either the medical office or general retail buildings, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of Lake Worth Road to consist of:
 - a) concrete median cut-outs;
 - b) median landscaping

This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the latest revision to the Palm Beach County Engineering and Public Works Department Streetscape Standards. The property owner shall also be responsible for supplementing any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: ENGINEERING – Eng)

- B. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of a Certificate of Occupancy. (CO: MONITORING – Eng)
 - C. If the Developer does not enter into an agreement with Palm Beach County to assume the maintenance responsibility, then appropriate propertyowner's documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING – Eng)
3. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
- A) Building Permits for more than 22,700 square feet of Medical Office and 3,250 square feet of General Retail (or the equivalent of 1057 trips cumulative per day) shall not be issued until construction commences for the widening of Congress Avenue from Lake Worth Road to Melaleuca Lane as a six lane median divided section. (BLDG PERMIT: MONITORING – Eng)

F. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING LAKE WORTH ROAD FRONTAGE)

- 1. Landscaping along the north property line abutting Lake Worth Road shall be upgraded to include:
 - a. A minimum twenty (20) foot wide right-of-way buffer strip. No easement encroachment or width reduction shall be permitted;
 - b. One (1) canopy tree for each thirty (30) linear feet of property line;
 - c. One (1) palm or pine for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters;
 - d. One (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches;
 - e. One (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches; and
 - f. One (1) large shrub for each six (6) linear feet of property line, to be installed at a minimum height of thirty (30) inches. (CO: LANDSCAPE – Zoning)

G. LANDSCAPING ALONG THE SOUTH, EAST AND SOUTH 392 FEET OF THE WEST PROPERTY LINES

- 1. Landscaping along the south, east and south 392 feet of the west property lines shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide right-of-way buffer strip. No easement encroachment or width reduction shall be permitted;
 - b. One (1) canopy tree for each twenty (20) linear feet of property line;
 - c. One (1) palm or pine for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters;

- d. One (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches; and
- e. One (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches. (CO: LANDSCAPE – Zoning)

H. HEALTH

- 1. Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENF)
- 2. Any toxic or hazardous waste, which may be generated at this site, shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH/CODE ENFORCEMENT)
- 3. The owner, occupant or tenant of this facility shall participate in an oil-recycling program, which ensures proper re-use or disposal of any waste oil. (ONGOING: HEALTH/CODE ENFORCEMENT)

I. LIGHTING

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF – Zoning)
- 2. All outdoor, freestanding lighting fixtures shall not exceed twenty five (25) feet in height measured from finished grade to highest point. (CO: BLDG – Zoning)
- 3. All outdoor lighting in the area of the medical office building shall be extinguished no later than 10:00 p.m. excluding security lighting only. (ONGOING: CODE ENF – Zoning)
- 4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF – Zoning)

J. PARKING

- 1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site. (ONGOING: CODE ENF – Zoning)

K. PLANNING

- 1. Prior to the issuance of the certificate of occupancy, the petitioner shall pave the property to the edge of the eastern property line at the locations shown on the site plan that read “potential future pedestrian connection” and “potential future vehicular connection.” (CO: MONITORING – Planning)

L. SIGNAGE

- 1. Freestanding signage shall be limited as follows:
 - a. Maximum number of signs; one (1) for the overall site; and
 - b. Location: within fifty (50) feet of the Lake Worth Road entrance. Distance shall be measured from the centerline of the access drive. (CO: BLDG – Zoning)

2. Wall signs shall be limited as follows:
 - a. North and west sides of building fronting on Lake Worth Road with lettering limited to eighteen (18) inches in height; and
 - b. North side of building located on southern portion of site with lettering limited to twenty-four (24) inches in height. (CO: BLDG – Zoning)

M. 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 Section 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING – Zoning)