

RESOLUTION NO. R-2005-0386

RESOLUTION APPROVING ZONING PETITION CA/TDR2004-012  
(CONTROL NUMBER 2004012)  
CLASS A CONDITIONAL USE  
PETITION OF GULFSTREAM SQUARE LLC  
BY RUDEN MCCLOSKEY, AGENT, AGENT  
(GULFSTREAM SQUARE)

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 Board of County Commissioners, pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA/TDR2004-012 was presented to the Board of County Commissioners at a public hearing conducted on February 24, 2005; 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 recommendations of the Zoning Commission; and

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

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.
9. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2 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 CA/TDR2004-012, the petition of Gulfstream Square LLC, by Ruden McClosky, Agent, agent, for a Class A Conditional Use to allow the Transfer of Development Rights for 9 at a reduced price of \$5,000 per unit for a total of \$45,000, and designate this petition as the receiving area in the Residential Medium Density Zoning District, on a parcel of land legally described 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 February 24, 2005, subject to the conditions of approval described in EXHIBIT C and C1, attached hereto and made a part hereof.

Commissioner Aaronson 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:

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

The Chairman thereupon declared that the resolution was duly passed and adopted on February 24, 2005.


Filed with the Clerk of the Board of County Commissioners on 9 day of March, 2005.


APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY:   
COUNTY ATTORNEY

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:   
DEPUTY CLERK

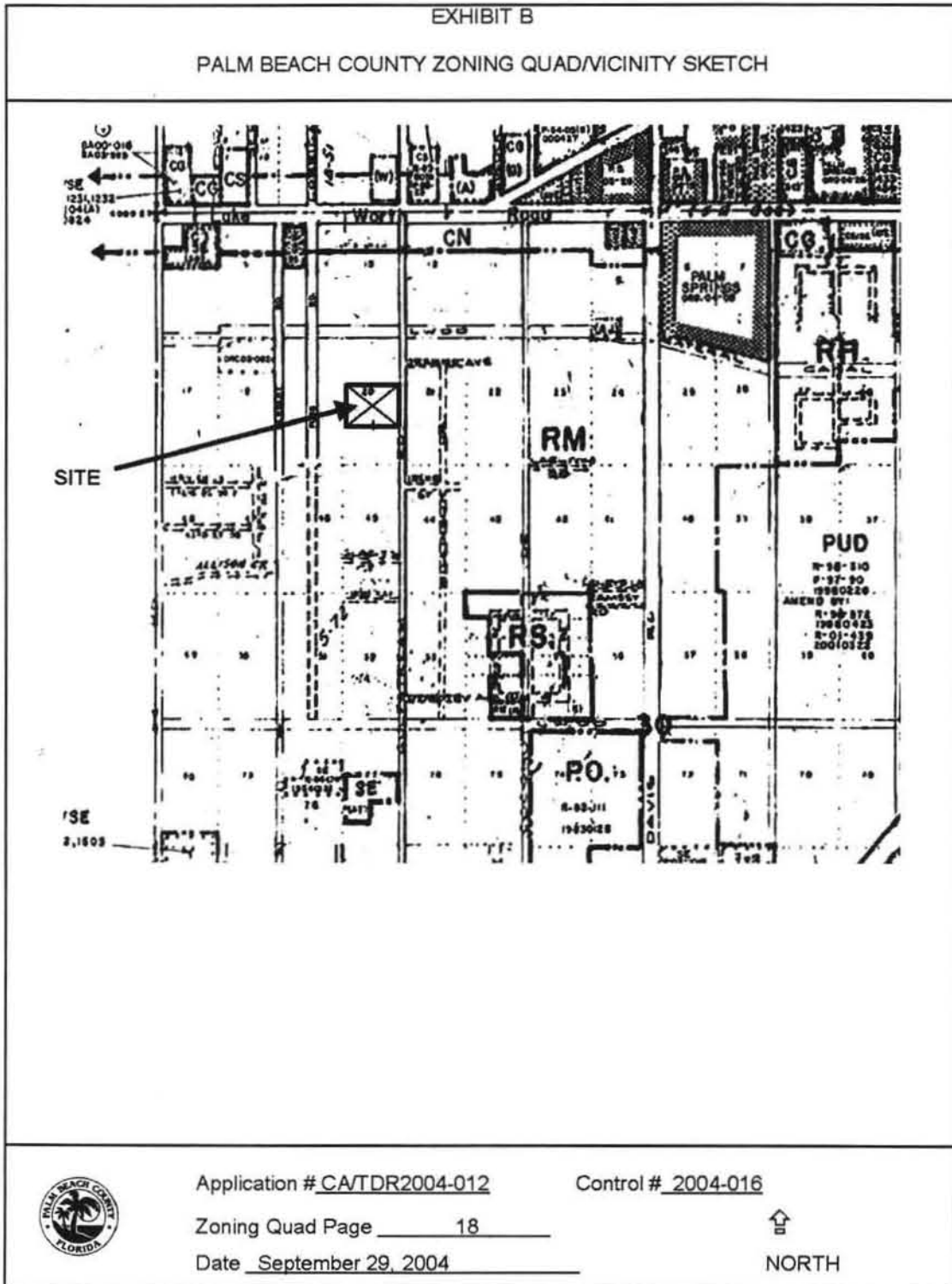


Petition CA/TDR2004-012  
Control No. 2004012  
Project No. 0909-000

EXHIBIT A  
LEGAL DESCRIPTION

THE SOUTH ONE-HALF OF THE FOLLOWING DESCRIBED PROPERTY:  
LOTS A TO E, INCLUSIVE, TRACT 20, THE PALM BEACH FARMS COMPANY PLAT  
NO. 7, A SUBDIVISION IN PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE  
PLAT THEREOF, AS RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT  
COURT, IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 5, PAGE  
72.

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 December 6, 2004. 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. LANDSCAPING - INTERIOR

1. Special planting treatment shall be provided on both sides of the northern and southern access points on Gulfstream Road. Planting shall consist of the following:
  - a. a minimum of three (3) Royal Palms or a species acceptable to the Landscape Section;
  - b. a minimum of three (3) flowering trees along the access drive; and
  - c. shrub or hedge materials. (BLDG. PERMIT: LANDSCAPE - Zoning)
2. All driveways, pedestrian crossings, sidewalks internal to the site, promenades and pathways around the playground/tot lots shall be paved with either stamped concrete and/or decorative paving blocks. Each of these areas shall have a minimum dimensions as shown on the site plan dated December 6, 2004.
  - a. prior to final site plan approval by the Development Review Officer (DRO), the property owner shall submit landscape details and cross sections of these areas to the Landscape Section and Planning Division for review and approval. (BLDG PERMIT: LANDSCAPE/PLANNING – Planning/Zoning)
3. Two covered pergolas shall be provided on the site, and in the locations as indicated on the site plan dated December 6, 2004. Each pergola shall include the following:
  - a. a pitched roof;
  - b. a minimum dimensions of six hundred and twenty-five (625) square feet;
  - c. shall be designed in a style and color scheme consistent with the principal structures of the project; and,
  - d. prior to final site plan approval by the Development Review Officer (DRO), the property owner shall submit architectural elevations/details of the pergola(s) to the Architectural Review Section and Planning Division for review and approval. (DRO:ARCH REVIEW/PLANNING-Zoning/Planning)

#### C. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. In addition to the ULDC landscaping requirements, landscaping along the south property line shall be upgraded to include:
  - a. a minimum fifteen (10) foot wide landscape buffer strip;
  - b. a six (6) foot high decorative aluminum fence;



- c. one (1) canopy tree planted for each twenty (20) linear feet of the property line, alternating on both sides of the fence;
- d. one (1) palm or slash pine tree for each twenty (20) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters, alternating on both sides of the fence, where applicable.
- e. Prior to final approval by the Development Review Officer (DRO) details on the Regulating Plan shall reflect requirements of this condition. (BLDG PERMIT/DRO: LANDSCAPE – Zoning)

D. LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF GULFSTREAM ROAD)

- 1. In addition to the ULDC landscaping requirements, landscaping along the east property line shall be upgraded to include:
  - a. a minimum of twenty (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
  - b. one (1) palm or slash pine tree for each twenty five (25) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

E. ENGINEERING

- 1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after October 28, 2007. 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. Corridor Conveyance of Right of Way – Gulfstream Road

The property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed for Gulfstream Road, 30 feet from centerline on or before, April 15, 2006, or prior to the issuance of a Building Permit which ever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The 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. The Grantor (Property owner) shall also agree to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee (Palm Beach 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 prior to dedication. 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 provisions for Expanded Intersection Details and "Corner Clips." (DATE/BLDG. PERMIT: MONITORING-Eng)

3. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Gulfstream Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG. PERMIT: MONITORING-Eng)
4. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING:ENG-Eng)
5. The property owner shall fund the cost of two (2) speed humps on Gulfstream Road if and when warranted as determined by the County Engineer. (ONGOING: ENG – Eng)

F. PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall record in the public records of Palm Beach County a restrictive covenant, in a form acceptable to the Palm Beach County Attorney, which indicates that the project will be an ownership project. (DRO: PLANNING/CTY ATTY – Planning)
2. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be revised to include:
  - a. street cross-section details of the sidewalk along the property's frontage on Gulfstream Road showing the following details.
    - 1). canopy trees planted at twenty-five (25) feet on center adjacent to the sidewalk; and,
    - 2). the sidewalk shall be paved with stamped concrete or decorative paving blocks at the access points, and a minimum dimensions of two hundred and fifty (250) square feet.
3. No gates shall be designed into the site, no additional walls shall be permitted on the site with the exception of a six (6) foot high privacy/security wall, which is shown on the certified site plan dated December 6, 2004, and no berms shall be installed in the buffer except berms required to meet drainage requirements. (DRO: LANDSCAPE/PLANNING - Planning)

G. LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
2. All outdoor, freestanding lighting fixtures shall be setback eighty (80) feet from the north, south, and west property lines. (CO: BLDG - Zoning)

H. SCHOOL

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" 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)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the property owner shall fund the construction of one offsite school bus shelter along Davis Road between Lake Worth Road and 45 Circle. The final location of the Bus Shelter shall be subject to the approval of the Palm Beach County School District and the Engineering Department. (CO: MONITORING- School Board/Eng)

I. SIGNS

1. Freestanding sign fronting on Gulfstream Road shall be limited as follows:
  - a. Maximum sign height - four (4) feet measured from the finished grade to the highest point;
  - b. Maximum sign width – ten (10) feet;
  - c. Maximum single face area per side - forty (40) square feet;
  - d. Maximum number of signs - one (1);
  - e. Monument style only, and shall be consistent with the architectural theme of the overall development, subject to review by the Architectural Review Section. (BLDG PERMIT: BLDG - Zoning)

J. 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 Article 2.E 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)

EXHIBIT C1  
TRANSFER OF DEVELOPMENT RIGHTS CONDITIONS

A. TRANSFER OF DEVELOPMENT RIGHTS

1. The site plan dated December 6, 2005, and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)
2. Prior to certification of the Site Plan by the Development Review Officer (DRO), a "Contract for Sale and Purchase of TDR's" shall be executed by the petitioner, in a manner and form approved by the Office of the County Attorney, and formally executed by the Chairman of the Board of County Commissioners. The Contract shall accommodate a maximum of 9 TDR units at a selling price of \$5,000.00 per unit. (DRO: COUNTY ATTORNEY - Zoning)
3. Prior to certification of the Site Plan by the Development Review Officer (DRO), two (2) recorded copies of the "Contract for Sale and Purchase of TDR's" shall be provided to the Palm Beach County Zoning Division. (DRO: ZONING - Zoning)
4. Prior to certification of the Site Plan by the Development Review Officer (DRO), monies representing 9 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRO: ZONING - Zoning)
5. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County. (BLDG PERMIT: MONITORING - Zoning)
6. Prior to the issuance of the first building permit, a deed conveying the applicable TDR units from the County TDR bank to the subject property, shall be executed and recorded in a manner and form approved by the Office of the County Attorney. (BLDG PERMIT: MONITORING - Zoning)
7. Any additional increase in density must be requested through the TDR program. (ONGOING: Zoning)

B. 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 Article 2.E 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)