

RESOLUTION NO. R-2007- 1429

RESOLUTION APPROVING ZONING APPLICATION PDD2006-1554
(CONTROL NUMBER 2006-503)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
APPLICATION OF IN THE PINES, INC.
BY MILLER LAND PLANNING, AGENT
(IN THE PINES NORTH)

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, and the Palm Beach County Unified Land Development Code, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application PDD2006-1554 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 2007; 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 recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring) 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 official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan.
2. This official zoning map amendment (rezoning) is consistent with the stated purpose and intent and requirements of the Palm Beach County Unified Land Development Code. The rezoning request is also consistent with the requirements of all other applicable local land development regulations.
3. This official zoning map amendment (rezoning) is compatible and 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) 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) will result in a logical, orderly and timely development pattern.
6. This official zoning map amendment is consistent with applicable Neighborhood Plans.

7. This official zoning map amendment (rezoning) complies with Article 2.F (Concurrency) of the Palm Beach County Unified Land Development Code.
8. The applicant has demonstrated that there are sufficient changed conditions or circumstances that require an amendment.

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 PDD2006-1554, the application of In The Pines, Inc., by Miller Land Planning, agent, for an Official Zoning Map Amendment to a Planned Development District from the Agricultural Residential Zoning District to the Residential Planned Unit Development 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 August 23, 2007, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Addie L. Greene, Chairperson	-	Aye
John F. Koons, Vice Chair	-	Aye
Karen T. Marcus	-	Absent
District 3 Robert Kanjian	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 23, 2007.

Filed with the Clerk of the Board of County Commissioners on 11th day of September.

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

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

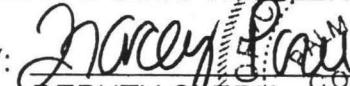
BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

TRACT 116, BLOCK 64, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGE 45 THROUGH 54, INCLUSIVE, LESS AND EXCEPT THE SOUTH 75 FEET THEREOF CONVEYED TO THE LAKE WORTH DRAINAGE DISTRICT IN OFFICIAL RECORD BOOK 2178, PAGE 1376.

AND

THAT PART OF TRACT 117, BLOCK 64, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE WEST RIGHT OF WAY LINE IN HAGEN RANCH ROAD.

AND

THAT PORTION OF THE 30 FOOT ROAD RIGHT OF WAY LYING EAST OF AND ADJACENT TO SAID TRACT 116 AND BOUNDED AS FOLLOWS: ON THE NORTH BY THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID TRACT 116, ON THE SOUTH BY THE EASTERLY PROJECTION OF A LINE 75 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 116, ON THE EAST BY THE WEST RIGHT OF WAY LINE OF HAGEN RANCH ROAD AND BY THE WEST LINE OF SAID TRACT 117 AND ON THE WEST BY THE EAST LINE OF SAID TRACT 116.

EXHIBIT B
VICINITY SKETCH

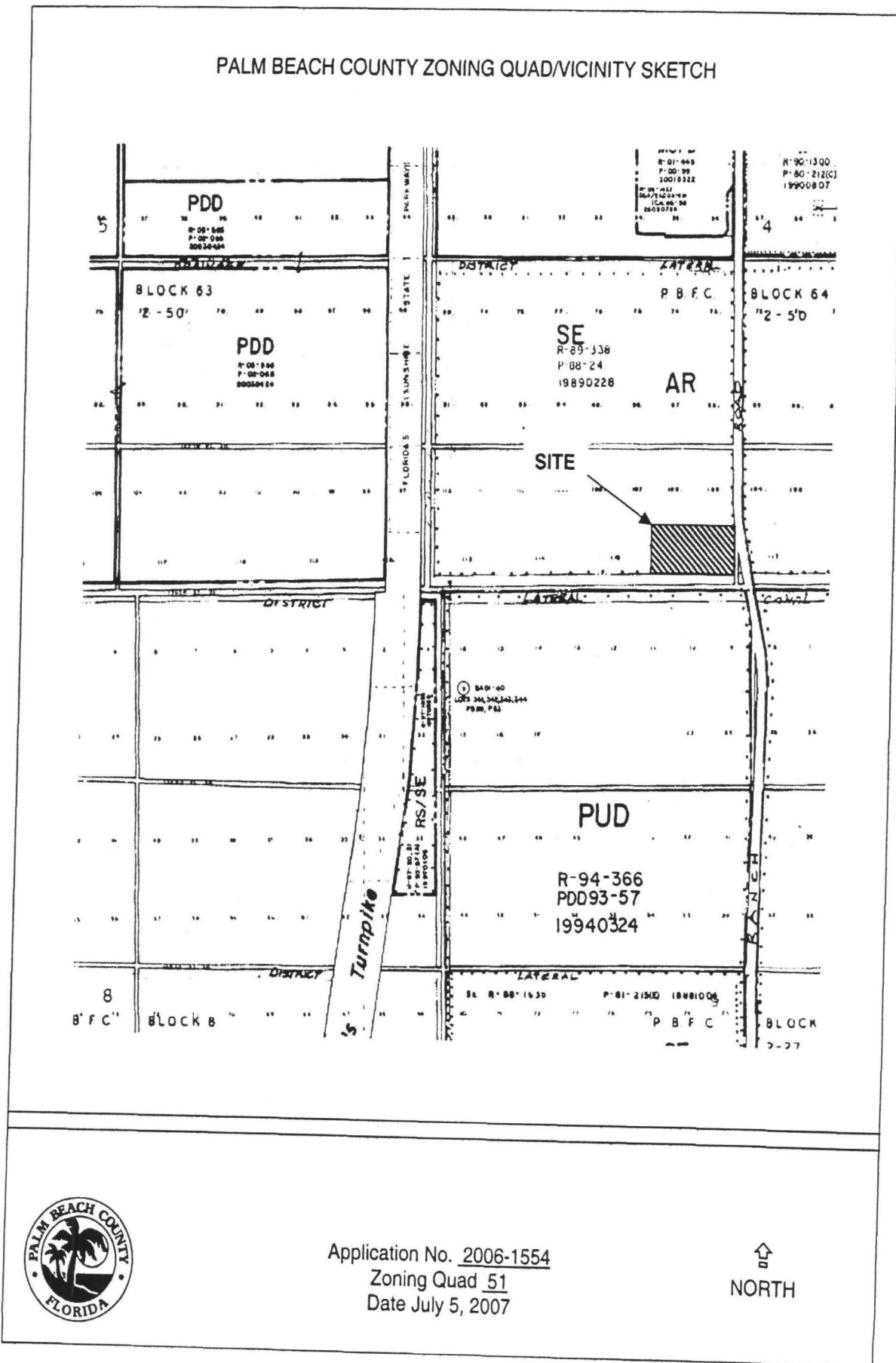


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses approved by the Board of County Commissioners. The approved master plan is dated April 16, 2007. 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. (DRO: ZONING - Zoning)
2. Prior to approval by the Development Review Officer (DRO), the site plan shall be revised to indicate all the existing drainage and utility easements. Location of all proposed structures or landscape buffers which conflict with the location of a utility easement shall be adjusted or relocated. (DRO/BLDG PERMIT: ZONING/BLDG - 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 July 26, 2010. 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. The Property owner shall restripe the existing 2 way left turn pavement markings to provide for a left turn lane south approach on Hagen Ranch Road at the project's entrance road.
 - A) Revisions to the pavement markings shall be concurrent with the paving and drainage improvements for the site.
 - B) Permits required by Palm Beach County for the pavement markings revisions shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
 - C) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

HEALTH

1. Prior to final approval by the Development Review Officer (DRO), the property owner shall submit the results of a pre-demolition asbestos containing materials (ACM) survey of the structures on the site to the Palm Beach County Health Department. (DRO: HEALTH - Health)
2. The property owner shall not develop any area of the site that is identified as contaminated or potentially contaminated as determined through environmental site assessment performed by a qualified professional, unless the property owner is in receipt of written comments from the Florida Department of Environmental Protection (FDEP) approving the assessment and any required rehabilitation of the site. (ONGOING: CODE ENF- Health)

3. Prior to the issuance of the first certificate of occupancy (CO), the property owner shall provide proof that all septic tanks and wells on the site have been properly abandoned. (CO: HEALTH - Health)

ZONING - LANDSCAPING-STANDARDS

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 the conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. A minimum of seventy-five (75) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
 - a. tree height: Fourteen (14) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (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 three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (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. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)
5. 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)

ZONING - LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF HAGEN RANCH ROAD) AND WEST PROPERTY LINES (ABUTTING WASTE WATER TREATMENT PLANT)

6. In addition to the code requirements, landscaping along the east and west property lines shall be upgraded to include:
 - a. one (1) palm tree for each for each twenty (20) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

PALM TRAN

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)

2. Prior 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. (BLDG PERMIT:MONITORING-Palm Tran/Eng)

PLANNED UNIT DEVELOPMENT

1. Prior to recordation of the first plat, all property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:
 - a. Formation of a single master property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.
 - b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents.
 - c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: ENG/ COUNTY ATTY - Zoning)
2. Prior to final site plan approval by the Development Review Officer (DRO), the site plan and regulating plans shall be amended to show decorative pavement, including but not limited to, stamped concrete or precast concrete pavers within the following areas, and with the following minimum dimensions:
 - a. two thousand (2,000) square feet at the main access area off Hagen Ranch Road; and,
 - b. one thousand (1,000) square feet in three (3) other areas along the internal access tract. (DRO: ZONING - Zoning)

SCHOOL BOARD

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 -School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 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(s) shall be the responsibility of the residential property owner. (CO:MONITORING-School Board)

UTILITIES

1. If any relocation/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING:PBCWUD - PBCWUD)
2. The property owner and/or his agent shall disclose to any potential purchaser or occupant that the property is located adjacent to a regional wastewater treatment facility and that the operation of said wastewater treatment plant may generate noise and unpleasant odor. (ONGOING:PBCWUD - PBCWUD)

WORKFORCE HOUSING

1. Prior to final 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 includes the following:
 - a. Guarantees the attainability of a minimum of thirteen (13) units for a period of twenty-five years (recurring). All thirteen (13) units are to be distributed in the low category with the unit sales/rental prices determined by Palm Beach County's Housing and Community Development Department; and
 - b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRO: COUNTY ATTY - Planning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall include a notation in, Master Plans, related Site Plans, and plat that shall indicate that a minimum of thirteen (13) units have been designated as workforce housing units. Every deed of sale for each of the workforce units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of twenty-five (25) years (recurring). Any person or family wishing to reside in a unit that has been designated as a workforce unit shall qualify for eligibility. (DRO: PLANNING - Planning)
3. On an annual basis, beginning July 28, 2008, the property owner, and/or the master homeowners association for the development shall submit an annual report to the Planning Division and HCD documenting compliance with the Workforce Housing declaration of restrictive covenants, and the deed of sale restriction. (DATE/ONGOING: MONITORING - Planning/HCD)

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.

Departmental administrative actions made pursuant to this condition may be appealed as 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 Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)