

RESOLUTION NO. R-2007-1442

RESOLUTION APPROVING ZONING APPLICATION Z2006-1818
(CONTROL NO. 2003-020)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
APPLICATION OF
OK VENTURES, LLC AND STUART LEDIS, AGENT
(LEDIS REZONING)

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 Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application Z2006-1818 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 recommendation of the Zoning Commission; 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, contingent upon the approval of Small Scale Land Use Amendment SCA 2007-004.
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. The applicant has demonstrated that there are sufficient changed conditions or circumstances that require an amendment.
5. 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.
6. This official zoning map amendment (rezoning) will result in a logical, orderly and timely development pattern.
7. This official zoning map amendment (rezoning) complies with Article 2.F (CONCURRENCY) of the Palm Beach County Unified Land Development Code.

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 Z2006-1818 the application of Ok Ventures, LLC and Stuart Ledis by Greenberg Traurig, PA, agent, for an OFFICIAL ZONING MAP AMENDMENT (REZONING) from the Single Family Residential Zoning District to the Community Commercial Zoning District 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 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 Santamaria 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	-	Aye
District 3 Robert Kajian	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that this resolution shall not become effective until Small Scale Development Amendment SCA 2007-004 (BELVEDERE/JOG COMMERCIAL SW a.k.a. LEDIS REZONING) is effective.

Filed with the Clerk of the Board of County Commissioners on 11th day of September 2007.

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

00-42-43-27-05-005-0051

THE WEST ½ OF THE EAST ½ OF TRACT 5, BLOCK 5, PALM BEACH FARMS COMPANY PLAT NO. 3, WHICH LIES SOUTH OF THE PALM BEACH CANAL, AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

together with-

00-42-43-27-05-005-0052

ALL OF THE EAST ¼ OF TRACT 5, BLOCK 5, LYING WEST OF THE JOG ROAD RIGHT OF WAY, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

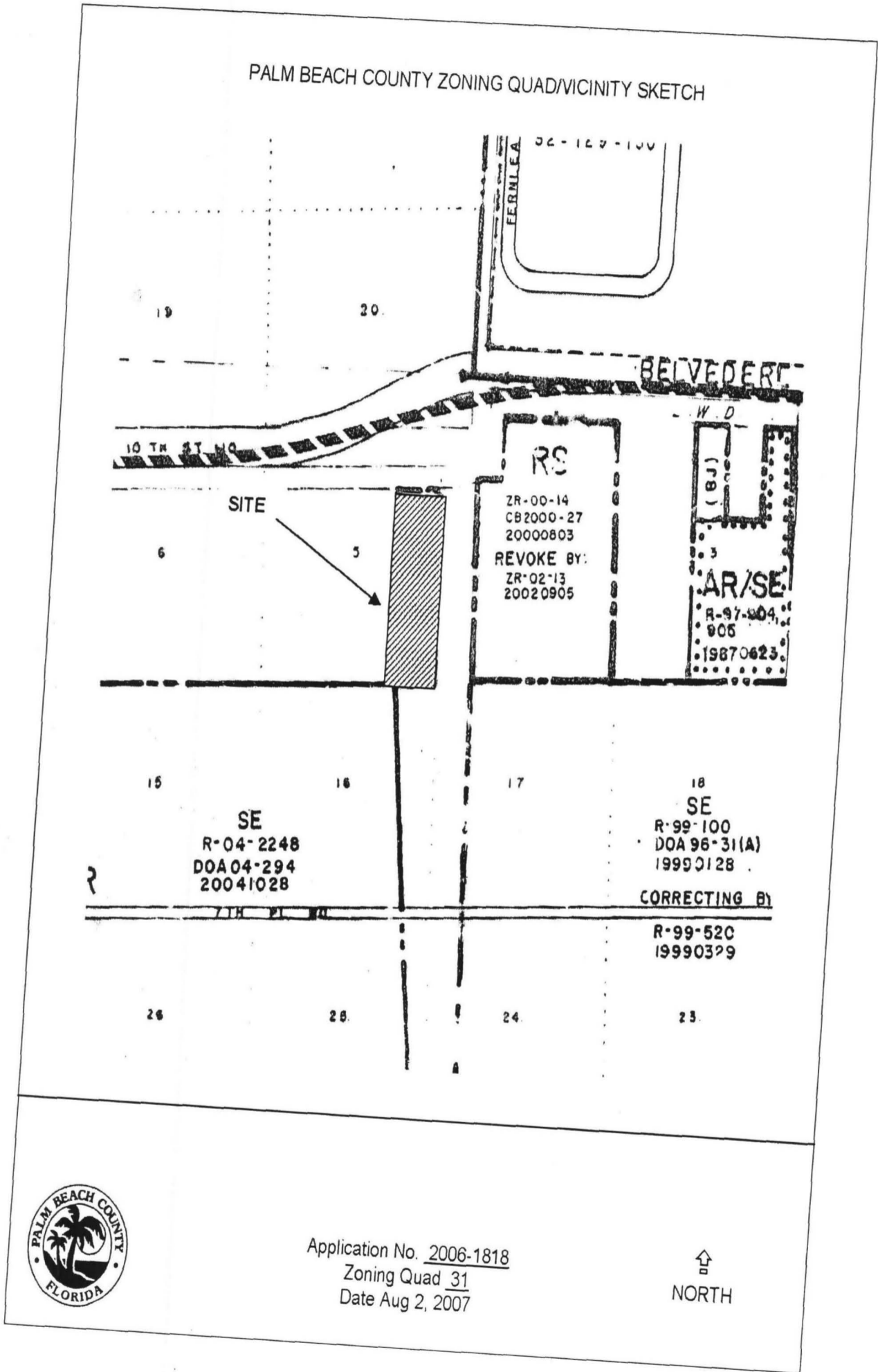


EXHIBIT C
CONDITIONS OF APPROVAL
REZONING

ALL PETITIONS

1. Development of the site is limited to the uses approved by the Board of County Commissioners. The approved preliminary site plan is dated May 14, 2007. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the retail building shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)
2. The maximum height for the retail structure including air conditioning, mechanical equipment and satellite dishes shall not exceed twenty-six (26) feet. All heights shall be measured from finished grade to highest point. (DRO: ARCH REVIEW - Zoning)

DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within forty (40) feet of the south and east property lines and shall be confined to the areas designated on the site plan. (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 January 1, 2011. 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. Prior to the issuance of a building permit the property owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane north approach on Belvedere Road at the project's north entrance. This right-of-way shall be a minimum of 280 feet in storage length, fifteen feet in width and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate as determined by the County Engineer. 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 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)

3. The Property owner shall construct a right turn lane north approach on Belvedere Road at the project's north entrance.
 - A) 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.
 - B) Permits required by Palm Beach County for this construction 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)
4. Landscape Within the Median of Belvedere Road
 - A. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Belvedere Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the Countys 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: CODE ENF-Eng)
 - B. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)
 - C. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)
 - D. At Property Owners 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: CODE ENF -Eng)
 - 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 beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Belvedere Road. 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: CODE ENF - Eng)

LANDSCAPE - STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. A minimum of sixty-five (65%) 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)
6. LANDSCAPING ALONG THE SOUTH AND WEST PROPERTY LINES (ABUTTING VACANT AND VACANT CIVIC PARCELS) In addition to code requirements, landscaping and buffer width along the south and west property lines shall be upgraded to include:
 - a. a minimum fifteen foot (15) wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. a six (6) foot high opaque concrete block wall. Height of the wall shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
 - c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
 - d. an opening or gate to allow a pedestrian connection to the south property shall be permitted subject to Planning Division approval. (BLDG PERMIT: LANDSCAPE - Zoning)

7. Prior to approval by the Development Review Officer (DRO), the plans shall be amended to indicate special planting treatment on both sides of the Jog Road access points and on the northeast and southeast corners of the site. Planting shall consist of the following:
 - a. a minimum of three (3) Royal Palms, Canary Palms, Phoenix Palms, Medjool Palms, or other specimen palm that is acceptable to the Landscape Section along each side of the access point(s); and/or,
 - b. a minimum of three (3) flowering trees along each side of the access points;
 - c. appropriate shrub or hedge materials on both sides of the access points; and,
 - d. similar and compatible landscape treatment on the northeast and southeast corners of the site. (DRO: LANDSCAPE - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to Platting, the owner shall convey to the District either by warranty or easement deed, the North 55 feet of Tract 5, Block 5, less lands owned by the District for the required right-of-way for the L-3 Canal. (PLAT: MONITORING-LWDD)

SIGNS

1. Freestanding signs fronting on Jog Road shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. maximum sign face area per side - one hundred (100) square feet;
 - c. maximum number of signs - one (1); and,
 - d. style - monument style only. (BLDG PERMIT: BLDG - Zoning)

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: MONITORING-Utilities)

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 a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)