

RESOLUTION NO. R-2007- 2132

RESOLUTION APPROVING RECOMMENDATION OF
STATUS REPORT NO. CR 2005-595
TO APPROVE A ZONING MAP AMENDMENT
FOR PROPERTY PREVIOUSLY REZONED BY
RESOLUTION NO. R-2006-1550
CONTROL NO. 2005-595 (APPLICATION NO. 2005-1718)
THE APPLICATION OF GULFSTREAM LAND INVESTMENT CORP.

WHEREAS, the Board of County Commissioners, as the governing body, 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, systematic monitoring and review of approved zoning actions help implement the goals and objectives of the Comprehensive Plan; and

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

WHEREAS, pursuant to Article 2.E., Status Report CR 2005-595 was presented to the Board of County Commissioners of Palm Beach County at public hearings conducted on October 25, 2007, and November 29, 2007; and

WHEREAS, the Board of County Commissioners has reviewed Status Report CR 2005-595 and considered testimony, and the recommendations of the various county review agencies; and

WHEREAS, Article 2.E. of the Palm Beach County Land Development Code authorizes the Board of County Commissioners to approve a zoning map amendment; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. Condition number E.5. of Resolution No. R-2006-1550 required the posting of performance surety by February 23, 2007.
2. The property owners subsequently applied for and received a six-month time extension until August 23, 2007.
3. Unified Land Development Code Article 2.E.2.D.9.a. permits a maximum of 12 months from the date the development order was approved to comply with this type of condition.
4. The development order, Resolution No. R-2006-1550, was approved on August 23, 2006.
5. More than one year has elapsed since the approval of the development order.
6. Required surety was not posted.
7. Unified Land Development Code Article 2.E.2.D.9.c. now requires this property to be rezoned to the lowest zoning district consistent with the property's future land use designation.

8. The future land use designation is Low Residential 2.
9. The lowest zoning district for the Low Residential land use designation is RT-Residential Transitional.
10. The property owners did not comply with time certain conditions E.6., E.8., and E.10. by their deadlines.

WHEREAS, Section 5.3 of the 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 the recommendation of Status Report No. CR 2005-595, to approve a zoning map amendment to the RT-Residential Transitional zoning district for property previously rezoned by the approval of the petition of Gulfstream Land Investment Corp., Petition No. 2005-595 (application #2005-1718), confirmed by the adoption of Resolution R-2006-1550, which approved a rezoning to the Planned Unit Development Zoning District, on property legally described as THE NORTH 400 FEET OF TRACTS 21 AND 22, ALL OF TRACTS 23 AND 24, AND THE NORTH ONE-HALF OF TRACT 25 LESS THE WEST 29 FEET THEREOF, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF ON FILE IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

ROMFH

THE SOUTH 520 FEET OF EAST ONE-HALF (E ½) OF TRACT 27, AND THE SOUTH 520 FEET OF TRACT 28, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO. 3, 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 2, PAGE 48

LESS:

THE WEST 125.65 FEET OF THE SOUTH 520.00 FEET OF THE EAST ONE-HALF (E ½) OF TRACT 27, BLOCK 28, ACCORDING TO THE PALM BEACH FARMS COMPANY PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGE 48, IN AND FOR THE PUBLIC RECORDS OF PALM BEACH COUNTRY, FLORIDA.

TOGETHER WITH:

TLH-BOS(BERNARD)

PARCEL ONE:

THE SOUTH 260 FEET OF TRACT 21; THE SOUTH 260 FEET OF THE EAST ½ OF TRACT 22; THE NORTH 140 FEET OF THE EAST ½ OF TRACT 27; AND THE NORTH 140 FEET OF TRACT 28, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL TWO:

ALL OF THE WEST ½ OF TRACT 22, LESS THE NORTH 400 FEET THEREOF, IN BLOCK 28, PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE MAP OR PLAT

THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

MUSTO

PARCEL 1:

THE WEST 125.65 FEET OF THE SOUTH 520.00 FEET OF THE EAST ONE-HALF (E ½) OF TRACT 27, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

THE WEST ONE-HALF (W ½) OF TRACT 27, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS PURPOSES OVER, ALONG, UPON AND ACROSS THE FOLLOWING DESCRIBED LAND SITUATE IN PALM BEACH COUNTY, FLORIDA, TOWIT:

THE WEST 30.00 FEET OF THE EAST 70.00 FEET OF TRACT 5, LESS THE NORTH 27 FEET THEREOF, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

FISCHER

THE EAST ONE-HALF (E ½) OF TRACT 26, BLOCK 28, PALM BEACH 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, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE.

TOGETHER WITH:

SHIREY

THE WEST HALF (W ½) OF TRACT 26, BLOCK 28, PALM BEACH FARMS COMPANY 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. TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY: THE NORTH 20 FEET OF THE SOUTH 45 FEET OF THE EAST 35 FEET OF TRACT 26, BLOCK 28, PALM BEACH FARMS COMPANY PLAT NO. 3 AND THE WEST 20 FEET OF THE EAST 35 FEET OF THE SOUTH 45 FEET OF TRACT 26, BLOCK 28, PALM BEACH FARMS COMPANY PLAT NO. 3 AND THE SOUTH 20 FEET OF THE EAST HALF (E ½) OF TRACT 26, BLOCK 28, PALM BEACH FARMS COMPANY PLAT NO. 3, LESS AND EXCEPTING THEREFROM THE EAST 35 FEET THEREOF. SUBJECT TO: AN EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THE SOUTH 20 FEET OF THE WEST HALF (W ½) OF TRACT 26, BLOCK 28, PALM BEACH FARMS COMPANY, PLAT NO. 3, being

located on the east side of Lyons Road, approximately 1/4 mile south of Lake Worth Road, is approved.

Commissioner McCarty moved for 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	-Absent
JOHN F. KOONS, VICE CHAIR	-Aye
KAREN T. MARCUS	-Aye
ROBERT J. KANJIAN	-Aye
MARY MCCARTY	-Aye
BURT AARONSON	-Aye
JESS R. SANTAMARIA	-Aye

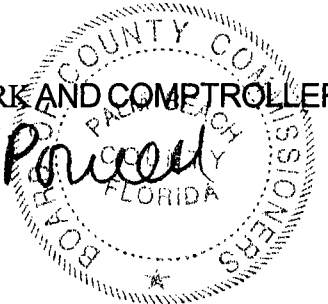
The Chair thereupon declared the resolution was duly passed and adopted this 29th day of November, 2007.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

SHARON R. BOCK, CLERK AND COMPTROLLER
BY: 
DEPUTY CLERK



Filed with the Clerk of the Board of County Commissioners on the 29th day of November, 2007.

PALM BEACH COUNTY

STATUS REPORT CR 2005-595
(For Zoning Control # 2005-595 (2005-1718))

Staff Recommendation

Staff recommends approval on first reading of a resolution to rezone from the Residential Planned Unit Development (PUD) Zoning District to the RT-Residential Transitional Zoning District. This recommendation is based on the following:

1. Condition number E.5. of Resolution No. R-2006-1550 required the posting of performance surety by February 23, 2007.
2. The property owners subsequently applied for and received a six-month time extension until August 23, 2007.
3. Unified Land Development Code Article 2.E.2.D.9.a. permits a maximum of 12 months from the date the development order was approved to comply with this type of condition.
4. The development order, Resolution No. R-2006-1550, was approved on August 23, 2006.
5. More than one year has elapsed since the approval of the development order.
6. Required surety was not posted.
7. Unified Land Development Code Article 2.E.2.D.9.c. now requires this property to be rezoned to the lowest zoning district consistent with the property's future land use designation.
8. The future land use designation is Low Residential 2.
9. The lowest zoning district for the Low Residential land use designation is RT-Residential Transitional.
10. The property owners did not comply with time certain conditions E.6., E.8., and E.10. by their deadlines.

Development Approval and Conditions Being Reviewed: Zoning Control No. 2005-595 (application 2005-1718) was approved by the adoption of Resolution R-2006-1550 on August 23, 2006. The resolution rezoned property to Planned Unit Development zoning district. The zoning action is now being reviewed pursuant to Article 2.E., "Monitoring," of the Palm Beach County Unified Land Development Code, for failure to comply with the following conditions of approval:

- E.5. Acceptable surety shall be provided to the County Engineer for the design; right of way acquisition; and the Construction Engineering and Inspection Costs as well as the construction for the offsite road improvements as outlined in: - right turn lane identified in E1a, - all of E1b, and - all of E1c This surety shall be posted with the Office of the Land Development Division on or before February 23, 2007. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Developer's Engineer. At any time during the duration of the surety the County Engineer shall have the authority to determine that sufficient progress has not been made for any and all required work. In the event such a determination is made Palm Beach County shall have the right to request funds be drawn for the surety (surety drawn) and Palm Beach County may then complete all required work. (TPS) (DATE: MONITORING-Eng)
- E.6. Prior to August 1, 2007, the property owner shall provide to Palm Beach County Land Development Division by road right of way warranty deed for Lyons Road 50 feet from centerline. Right of way shall be free of all encumbrances and encroachments. 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 further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of 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 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. The Property Owner shall not record these required deeds or related documents. After final acceptance, Palm Beach County or the Florida Department

of Transportation shall record all appropriate deeds and documents. (DATE: MONITORING-Eng)

- E.8. Prior to August 1, 2007 the property owner shall provide a temporary roadway construction easement along Lyons Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. 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 easements and documents. (DATE: MONITORING-Eng)
- E.10. On or before August 1, 2007 the property owner shall provide to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Lyons Road along the property frontage; and a maximum 800 feet of these adjacent roadway(s). The County Engineer shall determine the limits of this additional 800 feet of drainage. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20-foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wing-wall or other structures as required by and approved by the County Engineer. The County Engineer shall approve elevation and location of the entire drainage system. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County, which at its discretion may use this fill material. 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 easements and documents. (DATE: MONITORING-Eng)

Property Description: The property is approximately 76.58 acres and is on the east of Lyons Road, approximately 1/4 mile south of Lake Worth Road.

Property Owners: Lyons Road LW LLC, TLH BOS Corporation, Daniel J. Shirey, Lieghann Fischer, Elisabeth & Jules M. Romfh, Michael A. and Rita A. Musto,

Required Action: Article 2.E "Monitoring," of the Unified Land Development Code requires that the Board of County Commissioners take one or more of the following actions: 1) grant a time extension of up to two years; 2) rezone the property and/or revoke the special exception/conditional use; 3) impose entitlement density/intensity; 4) add or modify conditions of approval, 5) permit the property owner to file a petition to add or modify conditions of approval; 6) direct staff to cite the property owner for Code violation; and/or 7) deny or revoke a building permit, issue a stop work order, deny a Certificate of Occupancy, revoke any concurrency, deny or revoke any permit or approval.

REVIEW FACTORS

Consistency with Land Use Plan and Unified Land Development Code

The Land Use Plan category for the property is Low Residential 2. The current approval is consistent with the Low Residential 2 land use designation of the Palm Beach County Comprehensive Plan. It is not consistent with the Unified Land Development Code for the following reasons:

1. Article 2.E.2.D.9.a. allows a maximum of one six-month time extension to comply with a

condition of approval requiring the posting of performance security pursuant to Article 12.C.2. A six-month time extension expired on August 23, 2007. The condition was not satisfied by this date.

2. Article 12.E.1.A. requires the submission of a new traffic impact study which documents compliance with the Countywide Traffic Performance Standards in order to receive any time extension. No traffic impact study has been submitted.
3. The ULDC now requires a Planned Unit Development to provide workforce housing. The PUD was approved prior to this becoming a requirement.

Because the ULDC does not allow the approval of an additional time extension for condition number E.5., staff has recommended the approval of a development order to rezone the property to the RT-Residential Transitional Zoning District, the only district consistent with the LR-2 future land use designation.

This project was approved for 152 dwelling units.

Performance Standards

No traffic impact study was submitted to document compliance with Countywide Traffic Performance Standards.

Supplemental

Condition number E.5. required the posting of surety as required by ULDC Article 12.C.2. and Article 2.F.3.D.6.b.1).

The property owners applied for and received a six-month time extension until August 23, 2007. Unified Land Development Code Article 2.E.2.D.9.a. permits a maximum of 12 months from the date the development order was approved (approved on August 23, 2006) to comply with this type of condition. The surety was not posted prior the expiration of the time extension.

Article 2.E.2.D.9.c. requires a rezoning of this property to the lowest zoning district consistent with the property's future land use designation if there has been a previous six month time extension for the condition. This is the RT-Residential Transitional District.

A staff initiated rezoning of parcels that exceed ten acres requires the publication of two legal advertisements and two written notifications sent to the property owners 30 days prior to each of two public hearings. Since the ULDC requires a rezoning, staff has advertised the status report and the first public hearing for October 25, 2007, and will advertise the second public hearing for November 29, 2007.

The property owners have not complied with any time certain conditions of approval.

October 2007