

RESOLUTION NO. R-2009- 0508

RESOLUTION APPROVING ZONING APPLICATION W/PDD/R-2008-01902
(CONTROL NO. 2005-00454)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
Application of SRR Holdings LLC
By Miller Land Planning, Agent
(Carlyle Senior Housing)

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 W/PDD/R-2008-01902 was presented to the Board of County Commissioners at a public hearing conducted on March 30, 2009; 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 PDDW/PDD/R-2008-01902, the application of SRR Holdings LLC, by Miller Land Planning, agent, for an Official Zoning Map Amendment to a Planned Development District to allow a rezoning from Residential Transitional (RT) Zoning District to the Planned Unit Development (PUD) Zoning District in the PUD 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 March 30, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burt Aaronson moved for the approval of the Resolution.

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

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on March 30, 2009.

Filed with the Clerk of the Board of County Commissioners on June 9th, 2009.

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

PARCEL A:

Tracts 17 and 18, Block 35, The 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, Pages 45-54 inclusive, excepting therefrom the right of way for State Road No. 7 through Tract 17 and lying within 75.00 feet of Survey Baseline as shown in Road Plat Book 1, Page 40, Public Records of Palm Beach County, Florida;

LESS that part of said Tract 17 being more particularly described as follows:

BEGINNING at a point in the Westerly right of way line of State Road No. 7, said right of way line shown in Road Plat Book 1, Pages 35 to 41, Public Records of Palm Beach County, Florida, said point being the intersection of said right of way line and the South line of said Tract 17; thence South $87^{\circ}31'38''$ West, along said South line of Tract 17, a distance of 423.11 feet to a point in the West line of said Tract 17; thence North, parallel with the Westerly right of way line of said State Road No. 7, a distance of 563.25 feet to an intersection with a line 97.00 feet Southerly of and parallel with the North line of said Tract 17; thence North $87^{\circ}31'38''$ East, along said parallel line, a distance of 423.11 feet to a point in said Westerly right of way line; thence South along said Westerly right of way line, a distance of 563.25 feet to the **POINT OF BEGINNING**.

TOGETHER WITH:

PARCEL C:

A portion of Tract 17, Block 35, The 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, Pages 45-54, inclusive, being more particularly described as follows:

COMMENCING at the intersection of the Westerly right of way line of State Road No. 7, said right of way line shown in Road Plat Book 1, Pages 35 to 41, Public Records of Palm Beach County, Florida, with the South line of said Tract 17, bear North, along said Westerly right of way line, a distance of 310.29 feet to the **POINT OF BEGINNING**; thence South $87^{\circ}31'38''$ West along a line 310.00 feet North of and parallel with the South line of said Tract 17, a distance of 423.11 feet; thence North, parallel with the Westerly right of way line of said State Road No. 7, a distance of 56.71 feet; thence South $86^{\circ}01'00''$ East, a distance of 122.17 feet; thence North $87^{\circ}31'38''$ East along a line 306.80 feet South of and parallel with the North line of said Tract 17, a distance of 301.11 feet to a point on said Westerly right of way line; thence South along said Westerly right of way line, a distance of 42.96 feet to the **POINT OF BEGINNING**; **LESS and EXCEPT** the East 158.54 feet thereof.

TOGETHER WITH:

(P/O PARCEL "B")

A portion of Tract 17, Block 35, 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, Pages 45-54, inclusive, being more particularly described as follows:

COMMENCING at the intersection of the Westerly right-of-way line of State Road No. 7, said right-of-way line shown in Road Plat Book 1, Pages 35 to 41, of the Public Records of Palm Beach County, Florida, with the South line of said Tract 17; bear North, along said Westerly right-of-way line, a distance of 353.25 feet to the **POINT OF BEGINNING**; thence South $87^{\circ} 31' 38''$ West, along a line 306.80 feet South of and parallel with the North line of said Tract 17, a distance of 301.11 feet; thence North $86^{\circ} 01' 00''$ West, a distance of 122.17 feet; thence North, parallel with the Westerly right-of-way line of said State Road No. 7, a distance of 22.49 feet to a point on a line 390 feet North of and parallel with said South line of Tract 17; thence North $89^{\circ}03'00''$ East, along said parallel line, 421.64 feet to a point on aforesaid Westerly right-of-way line; thence South $01^{\circ}28'20''$ West, along said westerly right-of-way line, 35.97 feet to the **POINT OF BEGINNING**; **LESS and EXCEPT** the East 158 feet thereof.

ALSO LESS that parcel of land described in special warranty deed as recorded in Official Records Book 22570, Page 1530, more particularly described as follows:

A portion of Tract 17, Block 35, **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, Pages 45-54, inclusive, being more particularly described as follows:

COMMENCE at the intersection of the Westerly right-of-way line of State Road No. 7, said right-of-way line shown in Road Plat Book 1, Pages 35 to 41, Public Records of Palm Beach County, Florida, with the South line of said Tract 17; thence Northerly, along said Westerly right-of-way line, a distance of 564.39 feet, more or less, to a point of intersection with a line 97.00 feet Southerly of and parallel with, as measured at right angles of, the North line of said Tract 17; thence South 87°31'37" West, along said parallel line, said parallel line also being the Easterly prolongation of the Southerly line of Tract B1, **THOROUGHbred LAKE ESTATES PLAT 1**, according to the plat thereof, recorded in Plat Book 91, Page 75, said Public Records, a distance of 158.37 feet, more or less, to the West right-of-way line of State Road No. 7, Parcel No. 130, as recorded in Official Records Book 10616, Page 482, said Public Records, and the **POINT OF BEGINNING** of the following described parcel of land; thence South 00°00'52" East, along said West right-of-way line (said West right-of-way line is assumed to bear South 00°00'52" East and all other bearings are relative thereto), a distance of 173.92 feet; thence departing said right-of-way line, South 87°33'51" West a distance of 263.48 feet; thence North 00°00'52" West, parallel with said West right-of-way line of State Road No. 7, Parcel No. 130, a distance of 173.75 feet to a point on a line, 97 feet Southerly of and parallel with, as measured at right angles to, the North line of said Tract 17, (said parallel line being common with the Southerly line of said Tract B1); thence North 87°31'38" East, along said parallel line, a distance of 263.49 feet to said West right-of-way line of State Road No. 7, Parcel No. 130, and the **POINT OF BEGINNING**.

Containing in all, 9.171 Acres, more or less.

EXHIBIT B
VICINITY SKETCH

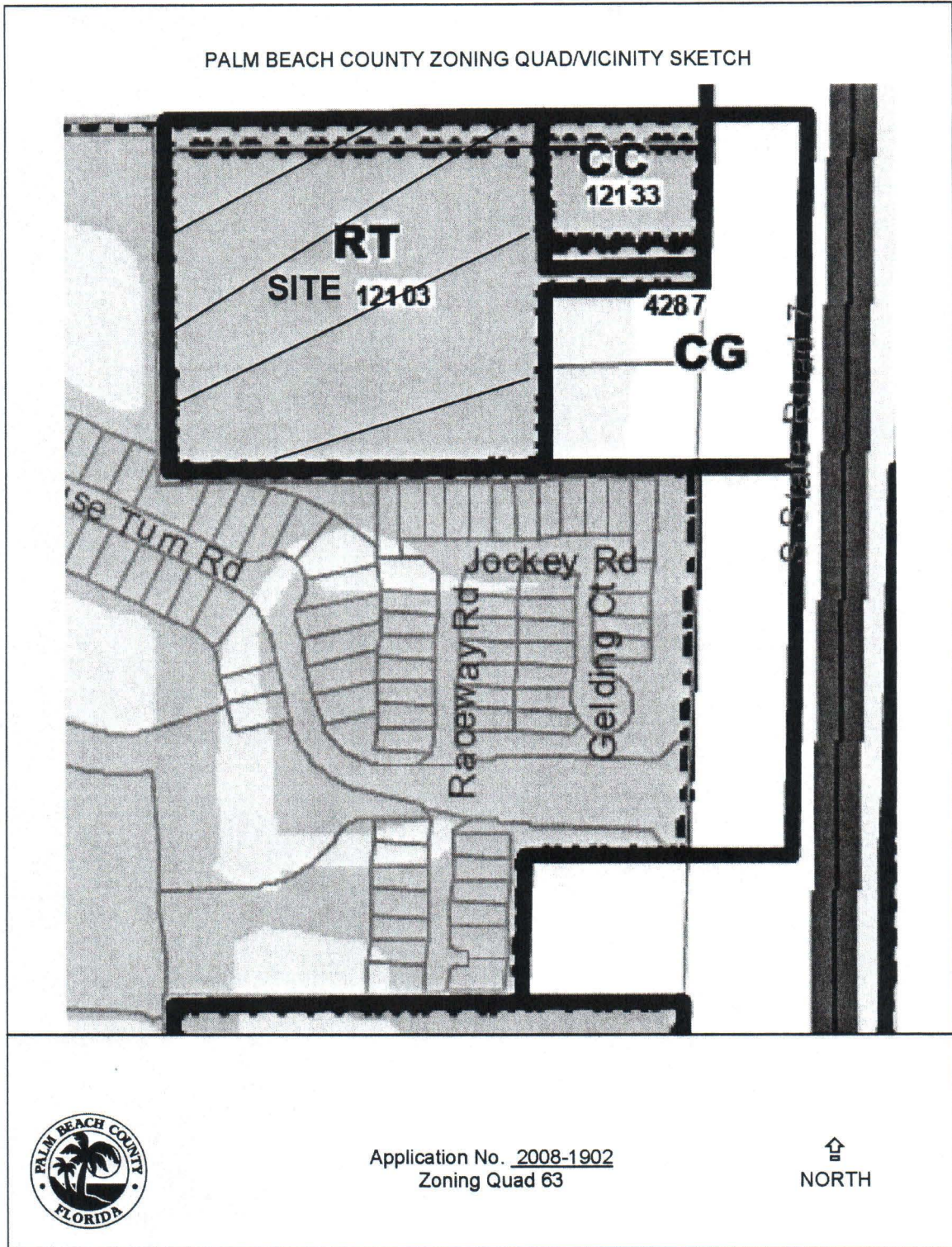


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated January 16, 2009. 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. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the CLF 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)

ENGINEERING

1. No building permits for the site shall be issued after December 31, 2013. 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.E of the Unified Land Development Code. (DATE: MONITORING Eng)

2. Prior to final site plan approval, the site plan shall be revised to show the location of the drainage easements to provide legal positive outfall for the 80 foot non plan collector road. (DRO: MONITORING-Eng)

3. The property owner shall fund a proportionate share, as determined by the County Engineer, of the cost of a traffic signal at the intersection of SR-7 and Cypress Lakes Preserve Drive, if warranted as determined by the County Engineer. The Property Owner shall be required to fund this proportionate share if the traffic signal warrant is met by the amount of left turn and u-turn traffic volumes south approach at this intersection. The property owner shall be relieved of this requirement if the traffic warrant is not met within 2 years of the issuance of the final Certificate of Occupancy. (ONGOING: ENG – Eng)

ZONING - LANDSCAPING

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 all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

2. A minimum of sixty (60) 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)

ZONING - LANDSCAPING-ALONG THE SOUTH AND WEST PROPERTY LINES (ADJACENT TO RESIDENTIAL)

4.In addition to the code requirements and the proposed landscaping, landscaping and/or buffer width along the south and west property lines shall be upgraded to include:

- a. A minimum 20 foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted.
- b. A minimum to 3 foot high undulating berm with an average height of 2.5 feet OR a continuous 2 foot high berm.
- c. one (1) canopy tree planted for each thirty (30) linear feet of property line with maximum thirty (30) feet on center spacing,
- d. One (1) palm or pine for each for each thirty (30) linear of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING - LANDSCAPING-ALONG THE NORTH PROPERTY LINE (ADJACENT TO OPEN SPACE, LWDD AND RESIDENTIAL)

5.Landscaping and buffering along the north property line shall be limited to:

- a. A minimum ten (10) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted. (BLDG PERMIT: LANDSCAPE-Zoning)

PLANNING

1.Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate locations, on the portion of the property forming the access road to State Road 7, for vehicular and pedestrian cross access points to the properties to both the north and south of this access road, and include notations on the plan which shall read, proposed vehicular and pedestrian cross access to be paved to the property line." The locations of these cross-access points shall be generally consistent with the certified plan dated March 10, 2006. (DRO: PLANNING Planning)

2.Prior to final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the portion of the subject property forming the access road to State Road 7 to the adjacent property to the north of that access road in a form acceptable to the County Attorney. (DRO: COUNTY ATTY Planning)

3.Prior to final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the portion of the subject property forming the access road to State Road 7 to the adjacent property to the south of that access road in a form acceptable to the County Attorney. (DRO: COUNTY ATTY Planning)

4.The density associated with the High Residential, 8 units per acre (HR-8), future land use designation shall only be utilized for the development of the property as a Congregate Living Facility (CLF). If developed residentially, other than as a CLF, the density shall be limited to Low Residential, two units per acre (LR-2). (ONGOING: PLANNING-Planning)

SIGNS

1.Prior to final approval by the Development Review Officer (DRO), the owner shall revise the Site Plan/Regulating plan to indicate a maximum height of six (6) feet for the freestanding sign. (DRO:ZONING- Zoning)

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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)