

RESOLUTION NO. R-2004- 0001

RESOLUTION APPROVING ZONING PETITION Z2003-048
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF DEBRA SWINFORD
BY MARK RICKARDS, AGENT
(SWINFORD 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 petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition Z2003-048 was presented to the Board of County Commissioners at a public hearing conducted on January 8, 2004; 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 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;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is 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) with approved conditions 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) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20, as amended; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) 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 Z/COZ2003-048, the petition of Debra Swinford by Mark Rickards, agent, for an Official Zoning Map Amendment rezoning from the Residential High Density Zoning District to the Light Industrial 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 January 8, 2004, subject to the conditions of the Conditional Overlay Zone described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti 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 Chair thereupon declared that the resolution was duly passed and adopted on January 8, 2004.

Filed with the Clerk of the Board of County Commissioners on 2 day of February, 2004.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

THE WEST ONE-HALF (W ½) OF THE NORTH 300.0 FEET OF TRACT 93, MODEL LAND CO. SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, 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 5, PAGE 79

EXHIBIT B
VICINITY SKETCH

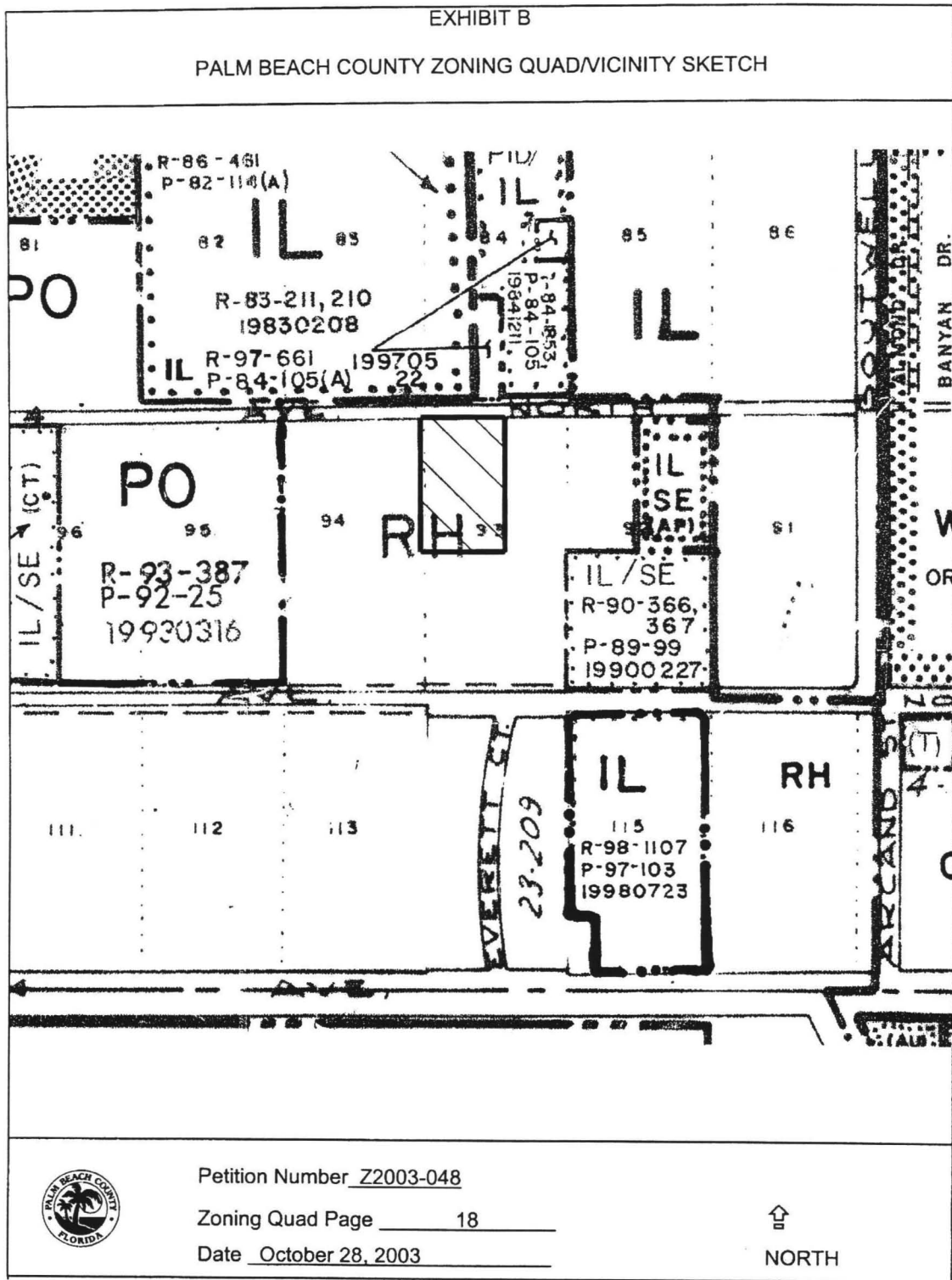


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to all permitted uses under the IL zoning district, and to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated December 8, 2003. 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)

B. ANNEXATION

1. The property owner shall voluntarily annex into the City of Lake Worth at such time the subject property becomes contiguous to the City of Lake Worth or is the subject of an annexation proposal by the City of Lake Worth. (ONGOING: PLANNING - Planning)

C. LANDSCAPE – STANDARD

1. Fifty-percent (50%) of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:
 - a. tree height: fourteen (14) feet;
 - b. trunk diameter: 3.5 inches measured at 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 3.5 feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE - Zoning)
2. 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. (CO: LANDSCAPE - Zoning)
3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a two (2) heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. this condition does not apply to five (5) foot wide compatibility buffers or where a single row of hedge is required on one or both sides of the wall or fence. (CO: LANDSCAPE - Zoning)
4. All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)
5. A group of three (3) or more palm trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)

D. LANDSCAPING ALONG NORTH PROPERTY LINE (FRONTAGE OF 4TH AVENUE NORTH)

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip;
 - b. a minimum two (2) foot high continuous berm measured from the top of curb;
 - c. one (1) native canopy tree for each thirty (30) linear feet of the property line;
 - d. a minimum of five (5) palms which may be allowed to be clustered in groups of two (2);
 - e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
 - f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation;
 - g. The petitioner may submit an Alternative Landscape Plan to the Landscape Section for review and approval prior to final DRC approval of the site plan, in order to meet intent of Conditions D.1.a through D.1.f. (DRC/CO: 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 January 8, 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 Chapter E, of the Unified Land Development Code. (DATE: MONITORING-Eng)
2. Prior to the issuance of the first Building Permit the Property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for 4th Avenue North, 35 feet from centerline along the project's entire frontage, 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. Right-of-way conveyances shall also include "Corner Clips" where appropriate at intersections as determined by the County Engineer. 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 fees including Attorney's fees as well as the actual cost of the clean up. (DATE/BLDG PERMIT: MONITORING-Eng)
3. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG - Eng)

F. LANDSCAPING ALONG SOUTH, EAST AND THE WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the south, east and west property lines shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. Prior to the issuance of the Certificate of Occupancy, the width of the required buffer may be reduced to five (5) feet if the adjacent property does not have existing residential use;
- b. a six (6) foot high vinyl coated chain link fence;
- c. one (1) canopy tree planted for each twenty (20) linear feet of the property line. Trees to be planted alternating on both sides of the fence;
- d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Palms or pine trees to be planted alternating on both sides of the fence;
- e. one (1) medium shrub for each two (2) linear feet of the property line to be planted on the interior side of the fence;
- f. one (1) large shrub for each two (2) linear feet of the property line to be planted on the exterior side of the fence. Shrub shall be a minimum height of seventy-two (72) inches at installation. Minimum height at installation may be lowered to thirty-six (36) inches if the adjacent property does not have existing residential use prior to the issuance of the first Certificate of Occupancy. Shrubs shall be maintained at a minimum height of seventy-two (72) inches at maturity. (CO: LANDSCAPE - Zoning)

G. LANDSCAPING - INTERIOR

- 1. Landscaping for terminal islands in the parking area shall consist of the following:
 - a. a minimum of one (1) canopy trees; and,
 - b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials shall be maintained at a maximum height of thirty (30) inches. (CO: LANDSCAPE - Zoning)
- 2. Prior to final DRC approval, the site plan shall be amended to include landscaping on the north and west side of the detention area to consist of the following:
 - a. a minimum of one (1) canopy tree for each twenty (20) linear feet of the detention area; and,
 - b. a continuous hedge between all trees within the detention area where applicable. Shrub or hedge materials shall be installed at a minimum height of twenty-four (24) inches, spaced twenty-four (24) inches on center. (DRC/CO: ZONING/LANDSCAPE - Zoning)
- 3. Special planting treatment shall be provided on both sides of the access point. Planting shall consist of the following:
 - a. a minimum of one (1) canopy tree; and
 - b. shrub or hedge materials. (CO: LANDSCAPE - Zoning)

H. SIGNS

- 1. Freestanding point of purchase sign shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - six (6) feet;
 - b. maximum sign face area per side – sixty (60) square feet;
 - c. maximum number of signs - one (1); and
 - d. style - monument style only; and
 - e. location – within thirty (30) feet of an entrance point. (CO: BLDG - Zoning)

2. Wall signs shall be limited to north facade of the building and individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to only identification of tenants only. (CO: BLDG - Zoning)

I. USE LIMITATION

1. Outdoor storage shall not be permitted on the property. (ONGOING: CODE ENF - 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 Section 5.8 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)