

RESOLUTION NO. R-2007-2135

RESOLUTION APPROVING ZONING APPLICATION PDD2007-519  
(CONTROL NO. 1977-148)  
OFFICIAL ZONING MAP AMENDMENT  
TO A PLANNED DEVELOPMENT DISTRICT (PDD)  
APPLICATION OF CASA DE RESTAURACION  
BY ANNA S. COTTRELL & ASSOCIATES, AGENT  
(CASA DE RESTAURACION)

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 PDD2007-519 was presented to the Board of County Commissioners at a public hearing conducted on November 29, 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 PDD2007-519, the application of Casa De Restauracion, by Anna S. Cottrell & Associates, agent, for an Official Zoning Map Amendment to a Planned Development District from the General Commercial Zoning District to the Multiple Use Planned Development 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 November 29, 2007, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty 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	- Absent
Jeff Koons, Vice Chair	- Aye
Karen T. Marcus	- Aye
Robert J. Kanjian	- Aye
Mary McCarty	- Aye
Burt Aaronson	- Aye
Jess R. Santamaria	-

The Chairperson thereupon declared that the resolution was duly passed and adopted on November 29, 2007.

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

A PARCEL OF LAND LYING ON THE SOUTHEAST QUARTER (1/4) OF SECTION 1, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

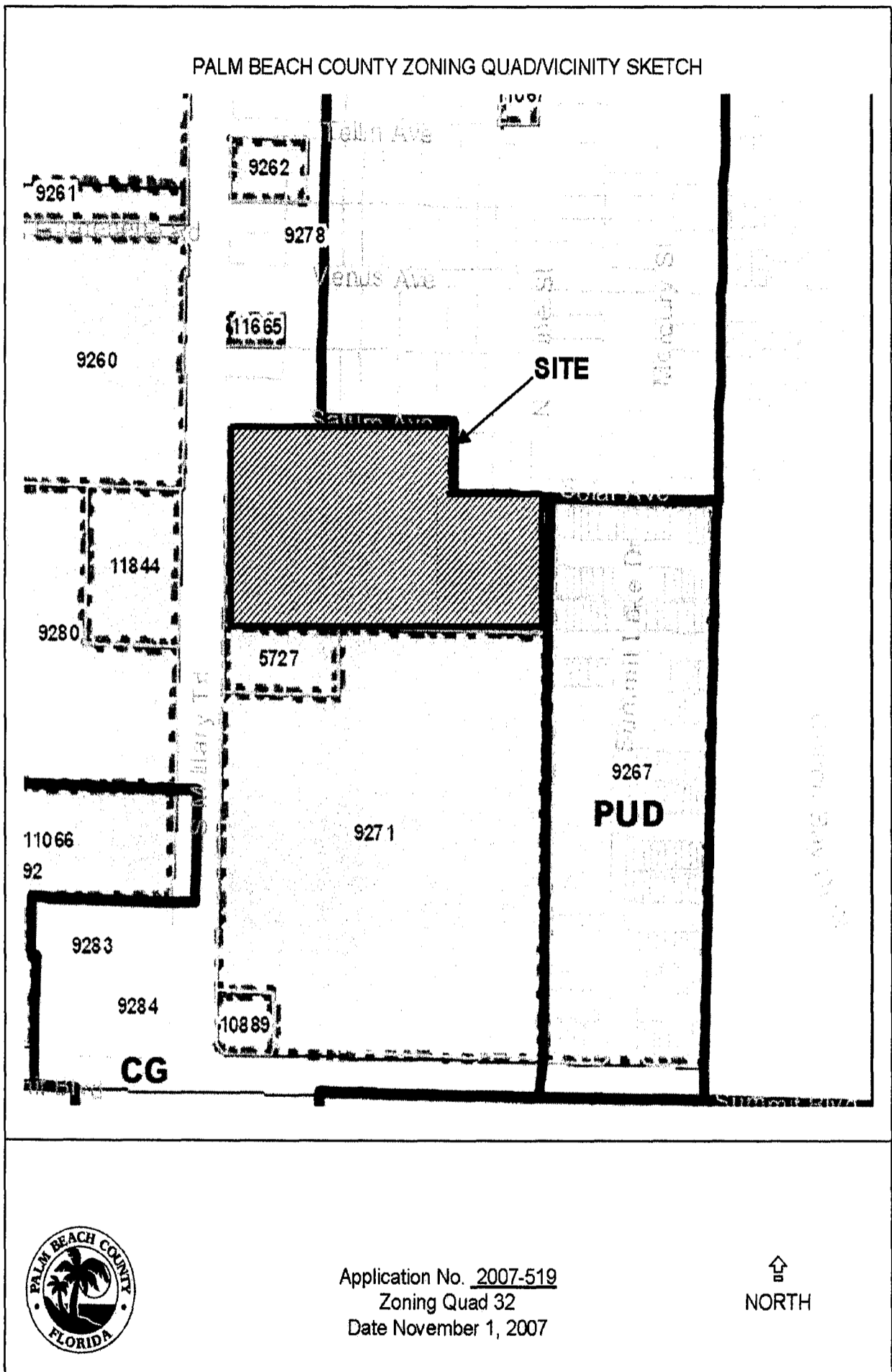
LOTS 110 THROUGH 120, INCLUSIVE, LESS THE WEST 10.00 FEET AND THE NORTH 10.00 FEET THEREOF OF THE **PLAT OF SKY RANCH** AS RECORDED IN PLAT BOOK 21, PAGE 64 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL:

BEGIN AT THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY OF MILITARY TRAIL (S.R 809) AS SHOWN IN ROAD PLAT BOOK 3, PAGE 75 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, THE WITH NORTH LINE OF THE SOUTH HALF (1/2) OF THE SAID SOUTHEAST QUARTER (1/4) OF SECTION 1; THENCE SOUTHERLY ALONG SAID RIGHT-OF-WAY FOR 300.00 FEET TO THE NORTH LINE OF THE PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 1454, PAGE 577 OF SAID PUBLIC RECORDS; THENCE EASTERLY, PARALLEL WITH SAID NORTH LINE OF THE SOUTH HALF (1/2) OF THE SOUTHEAST QUARTER (1/4) FOR 852.48 FEET TO THE NORTHEAST CORNER OF SAID PROPERTY DESCRIBED IN O.R. BOOK 1454, PAGE 577; THENCE NORTHERLY, ALONG THE EXTENSION OF THE EASTERLY LINE OF SAID PROPERTY FOR 300.00 FEET TO THE SAID NORTH LINE OF THE SOUTH HALF (1/2) OF THE SOUTHEAST QUARTER (1/4); THENCE WESTERLY ALONG SAID LINE FOR 850.39 FEET TO THE POINT OF BEGINNING.

LESS THE WEST 7.00 FEET THEREOF.

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 preliminary site plan is dated August 10, 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. (ONGOING: ZONING - Zoning)

#### ARCHITECTURAL REVIEW

1. The exterior elevations of all buildings shall include exterior colors that shall be neutral, pastel, or earth tone colors. Building colors shall be varied by providing contrasting, but complimentary, colors for the building trims and massing (i.e. stucco banding, door and window frames, etc.). Roof and trim colors shall be coordinated with base colors. (BLDG PERMIT: BLDG - Arch. Review)

#### DUMPSTER

1. Prior to issuance of the Certificate of Occupancy for the 19,000 square-foot Place of Worship, the property owner shall retrofit existing loose dumpsters in accordance with Article 5.B.1.A.8.e. (CO: BLDG - Zoning)

#### ENGINEERING

1. Within ninety (90) days of the Special Exception approval the Developer shall convey to Palm Beach County the additional right-of-way required to provide sixty (60) feet from the centerline for the ultimate right-of-way for Military Trail.  
[NOTE: Condition completed.]
2. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall record a cross access agreement from the subject property to the Polo Grounds Shopping Mall in a form and manner that is acceptable to the County Attorney's office. (DRO: COUNTY ATTY - Zoning)
3. Within ninety (90) days of the Special Exception approval the Developer shall convey to Palm Beach County, the additional right-of-way required to provide thirty (30) feet from the centerline for the ultimate right-of-way for Saturn Avenue.  
[NOTE: Condition completed.]
4. Developer shall construct three (3) lanes on Saturn Avenue from the west entrance of the shopping center to Military Trail, when warranted, as determined by the County Engineer. (ONGOING: ENG – Eng)
5. Entrance on Military Trail shall be designed as a right turn in and right turn out, when warranted, as determined by the County Engineer. (ONGOING: ENG – Eng)
6. Developer shall provide Palm Beach County with the amount of five thousand five hundred dollars (\$5,500.00) toward Palm Beach County's existing roadway improvement program, to be paid prior to June 1, 1985.  
[NOTE: Payment has been received.]
7. CORNER CLIP CONVEYANCE OF ROAD RIGHT OF WAY  
The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for a 25 foot "Corner Clip" at the intersection of Saturn Avenue and Military Trail All right of way deed(s) and associated documents shall be provided and approved prior to March 12, 2008.

Right of way conveyance shall be free of all encroachments and encumbrances. 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 shall record all appropriate deeds and documents. (DATE: MONITORING - Eng)

#### 8. SHARED PARKING STUDY

Prior to Final Site Plan approval by the Development Review Officer (DRO), the property owner shall record a restrictive covenant limiting the uses, operating hours and days for the shopping center tenants identified in the approved shared parking study. This restrictive covenant shall be subject to approval by the County Attorney and County Engineer prior to the recordation. (DRO: ENG - Eng)

9. 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 shall be issued after December 31, 2009. 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)

#### ZONING – LANDSCAPING

1. Prior to final approval by the Development Review Officer (DRO), the property owner shall submit a Landscape Plan and/or an Alternative 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. (DRO: LANDSCAPE - Zoning)
2. Prior to the issuance of Certificate of Occupancy for interior renovations for the 19,000 square foot Place of Worship, the property owner shall replace all dead and missing plant materials on the entire subject property. (CO: LANDSCAPE - Zoning)

#### SIGNS

1. The Property Owner and/or the Applicant shall submit a Master Sign Plan at final approval by the Development Review Officer (DRO) reflecting the existing signage for the entire site and the proposed signage for the 19,000 square foot Place of Worship. (DRO: ZONING – Zoning)

#### USE LIMITATIONS

1. Accessory outdoor uses such as temporary sales events shall be set back a minimum of seventy-five (75) feet from all residential property lines. (ONGOING: CODE ENF - Zoning)
2. Outdoor speaker or public address systems shall not be permitted on the property. (ONGOING: CODE ENF – 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: WUD – WUD)

## VARIANCE

1. Prior to the submittal for final approval by the Development Review Officer (DRO), the approved variance requests and any associated conditions of approval shall be reflected on the site plan. (DRO: ZONING - Zoning)
2. The side setback variance of five (5) feet is for only the 19,000 square foot structure located along the east portion of the site. (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.

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)