

3. F. 11

RESOLUTION NO. R-2008 -0111

RESOLUTION APPROVING ZONING APPLICATION Z2007-070
(CONTROL NO. 2005-076)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
APPLICATION OF ROY DUNWORTH
BY SEMINOLE BAY LAND COMPANY, INC, AGENT
(DUNWORTH OFFICE-WAREHOUSE)

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 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 Z2007-070 was presented to the Board of County Commissioners at a public hearing conducted on January 24, 2008; 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, 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, 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; and,
7. This official zoning map amendment is consistent with applicable Neighborhood Plans.

8. This official zoning map amendment (rezoning) complies with Article 2.F (CONCURRENCY - Adequate Public Facility Standards) 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 Z2007-070 the application of Roy Dunworth by Seminole Bay Land Company, Inc, agent, for an Official Zoning Map Amendment from the Multi-family Residential Zoning District to the General 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 January 24, 2008, subject to the conditions of the CONDITIONAL OVERLAY ZONE described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Jeff Koons 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:

Addie L. Greene, Chairperson	-Aye
John F. Koons, Vice Chair	-Aye
Karen T. Marcus	-
Robert J. Kanjian	-Aye
Mary McCarty	-Aye
Burt Aaronson	-
Jess R. Santamaria	-Aye
	-Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 24, 2008.

Filed with the Clerk of the Board of County Commissioners on January 24, 2008

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

BY:


COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


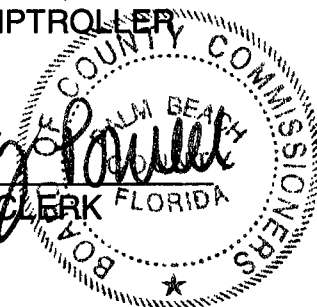

DEPUTY CLERK


EXHIBIT A

LEGAL DESCRIPTION

(PCN: 00424325000001081)

Commencing at the Southeast corner of the West 1/4 of the Northeast 1/4 of the Northeast 1/4 of said Section 25 and run North along the East line of said West 1/4 a distance of 274.77 feet to the POINT OF BEGINNING; thence West, making an angle with the preceding course of 89d18'40" (measured from South to West) a distance of 337.04 feet, MORE OR LESS, to a point 269.75 feet, South of the Northwest corner of the Southwest 1/4 of the Northeast 1/4 of the Northeast 1/4 of Section 25; thence East parallel to the South line of the herein described parcel 137.06 feet, MORE OR LESS, to a point 200 feet West of the East line of the West 1/4 of the Northeast 1/4 of the Northeast 1/4 of Section 25; thence South parallel to the East line of said West 1/4 a distance of 72 feet to a point; thence Southeasterly, making an angle with the preceding course of 2118d43'20" (Measured North to Southeast), a distance of 57.02 feet to a point; thence East parallel to the South line of the herein described parcel 150 feet to a point in the East line of the West 1/4 of the Northeast 1/4 of the Northeast 1/4 of Section 25; thence South on said East line 29.25 feet to the POINT OF BEGINNING.

PARCEL "F" (PCN: 00424325000001060)

A parcel of land in the South Half of the West half of the West half of the Northeast Quarter of the Northeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County , Florida, being more particularly described as follows:

From the Southeast corner of the above described South half, run North along the East line of said South half, a distance of 304.02 feet to the POINT OF BEGINNING; thence run West at an angle of 89d18'40" measured from South to West, a distance of 150 feet to a point; thence run North parallel to the East line of said South Half a distance of 100 feet; thence run East parallel to the South line of said South Half a distance 150 feet to a point in the East line of said South Half; thence run South along said East line a distance of 100 feet to the POINT OF BEGINNING; LESS the East 10 feet thereof reserved for road right of way; and

PARCEL "G" (PCN: 00424325000001060)

A parcel of land in the South Half of the West Half of the West Half of the Northeast Quarter of the Northeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

From the Southeast corner of the above described South Half, run North along the East line of said South Half a distance of 404.02 feet; thence run West at an angle of 89d18'40", measured South to West, a distance of 150 feet to the POINT OF BEGINNING; thence continue West on the same course a distance of 50 feet; thence run South at an angle of 90d41'20" measured East to South, a distance of 72 feet; thence run Southeast at an angle of 118d43'20", measured North to Southeast, a distance of 57.02 feet; thence run North 100 feet to the POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

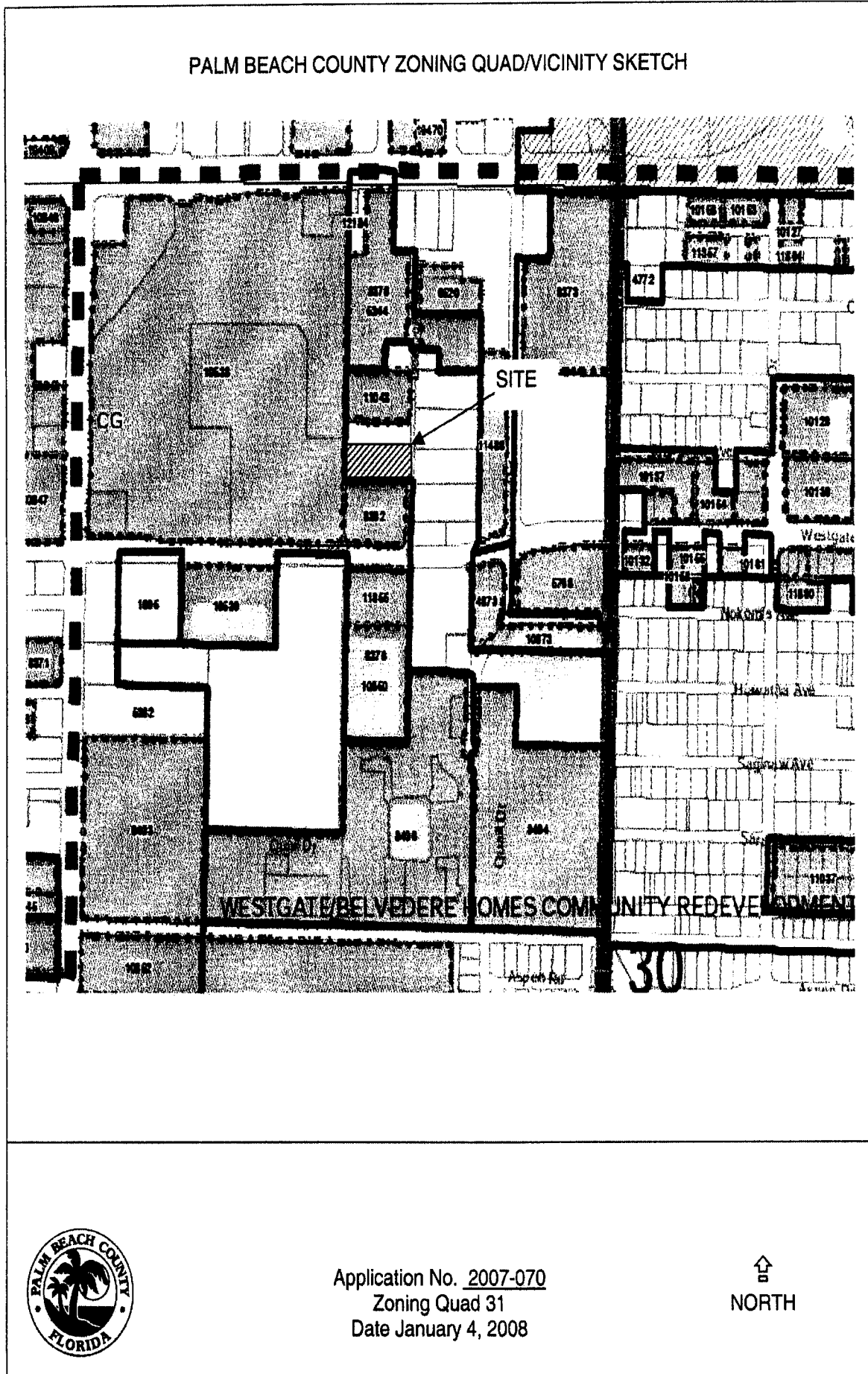


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated November 16, 2007. 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 - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final DRO approval of the site plan, the architectural elevations for all the buildings shall be submitted simultaneously with the site plan for final architectural review. Elevations shall be designed to be consistent with Sec. 6.6.E of the ULDC. Development shall be consistent with the approved architectural elevations. (DRO: ARCH REVIEW - Zoning)
2. All roof or ground mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BLDG - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after January 24, 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. The property owner shall reconstruct Donnell Road from Westgate Avenue to the Project's north property line. Construction shall be to typical fifty foot right of way local street standards and shall include but not be limited to appropriate drainage, 2 twelve foot travel lanes and sidewalks. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.
 - a. 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)
 - b. Construction for this improvement shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

3. **CORRIDOR CONVEYANCE OF ROAD RIGHT OF WAY FOR DONNELL ROAD**

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 Donnell Road 25 feet from centerline. All right of way deed(s) and associated documents shall be provided and approved prior the issuance of a Building Permit.

Right of way conveyance shall be along the entire frontage and 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. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate provisions for Expanded Intersection Details and "Corner Clips." 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/BLDG. PERMIT: MONITORING-Eng)

HEALTH

1. The site shall be served by sanitary sewer and a community water system. Neither an onsite sewage treatment and disposal system (OSTDS) nor potable water wells shall be approved for use on the property. All existing OSTDS shall be abandoned in accordance with Chapter 64E-6, FAC, and Palm Beach County ECR-I. All existing onsite potable water supply systems shall be abandoned in accordance with Chapter 64E-8, FAC, and Palm Beach County ECR-II. (ONGOING: CODE ENF-Health)
2. The property owners and operators of facilities generating industrial, hazardous or toxic waste shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: CODE ENF-Health)

ZONING – LANDSCAPING

1. Fifty (50) 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. (CO: LANDSCAPE - Zoning)
2. A group of three (3) or more palm or pine trees may not supersede the requirement for canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)
3. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the Plant the Right Tree in the Right Place guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (CO: LANDSCAPE - Zoning)
4. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings. (CO: LANDSCAPE - Zoning)

5. 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(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING - LANDSCAPING-ALONG THE NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

6. In addition to code requirements, landscaping along the north property line shall be upgraded to include:
 - a. a six (6) foot high opaque concrete panel 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; and,
 - b. 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. (BLDG PERMIT: LANDSCAPE - Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

SIGNS

1. Freestanding sign fronting on Donnell Road 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 - sixteen (16) square feet;
 - c. maximum number of signs one (1); and,
 - d. style - monument style only. (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS

1. Outdoor speaker or public address systems shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)
2. Hours of business operation shall be limited to 7:00 a.m. to 9:00 p.m. Monday through Saturday. (ONGOING:CODE ENF - Zoning)
3. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on the property, except within the designated loading space. (ONGOING: CODE ENF - Zoning)

VARIANCE

1. Prior to the submittal for final approval by the Development Review Officer (DRO), the approved variance request(s) and any associated conditions of approval shall be reflected on the site plan. (DRO:ZONING-Zoning)

COMPLIANCE

1. In granting this approval, the Zoning Commission 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 Zoning Commission 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)