

RESOLUTION NO. R-2008- 0121

RESOLUTION APPROVING ZONING APPLICATION CA2007-509  
(CONTROL NO. 2007-053)  
CLASS A CONDITIONAL USE  
APPLICATION OF SITU GROUP, LLC  
BY SEMINOLE BAY LAND COMPANY INC, AGENT  
(GULFSTREAM VILLAS)

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 Board of County Commissioners, pursuant to Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

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

WHEREAS, Zoning Application CA2007-509 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 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 Class A Conditional Use is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Class A Conditional Use also meets applicable local land development regulations. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
3. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

5. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
6. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Class A Conditional Use, with conditions as adopted, is consistent with applicable Neighborhood Plans.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Class A Conditional Use.

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 CA2007-509, the application of Situ Group, LLC, by Seminole Bay Land Company Inc, agent, for A Class A Conditional Use to allow the Transfer of Development Rights in the Multi-Family Residential 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 January 24, 2008, subject to the conditions of approval 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 Aaronson and, upon being put to a vote, the vote was as follows:

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

BY:   
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:   
DEPUTY CLERK



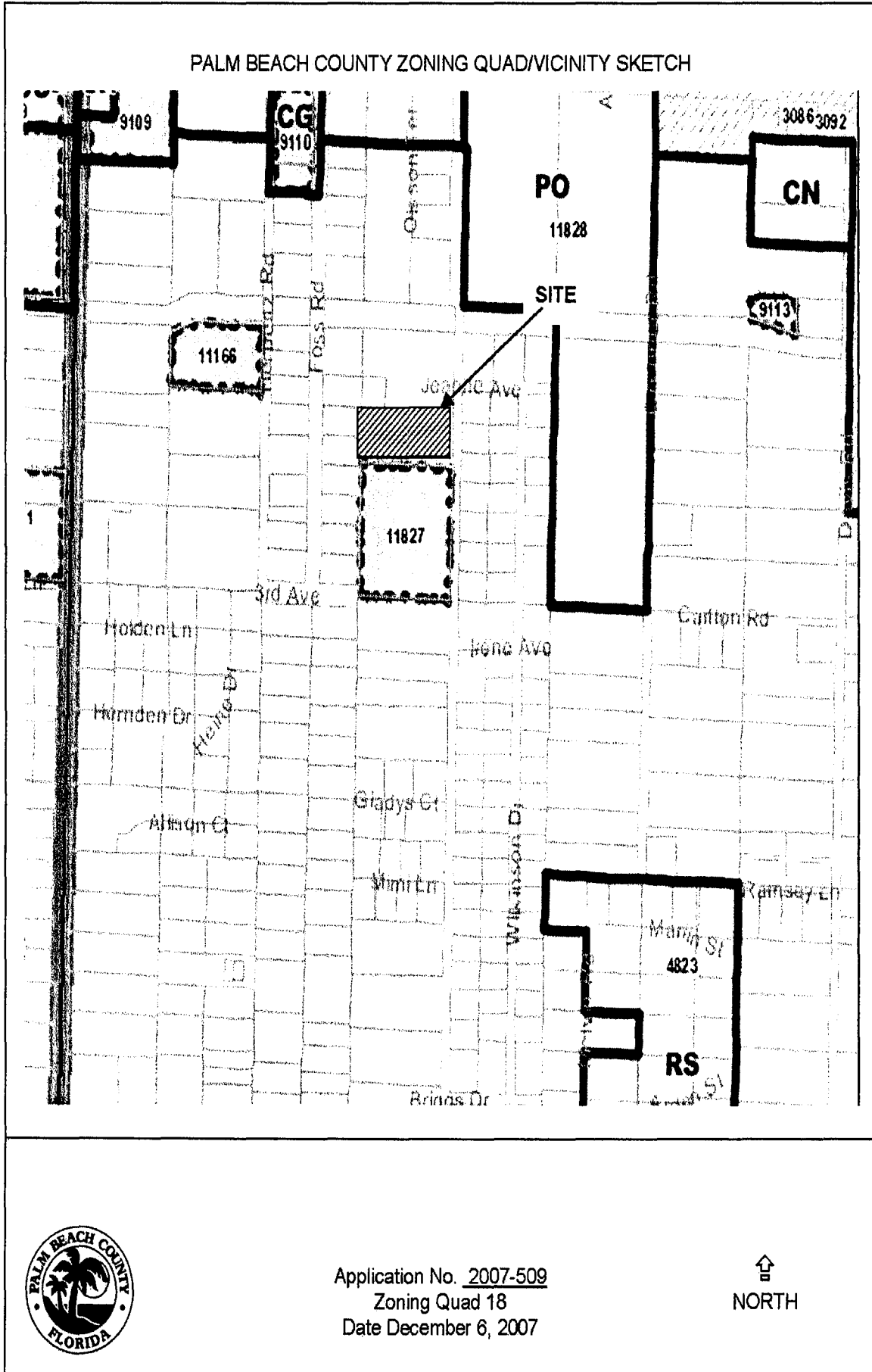
## EXHIBIT A

### LEGAL DESCRIPTION

The South ½ of Tract B, Block 20 and the North ½ of Tract C, Block 20, of the plat thereof recorded in Plat Book 5, Page 72 in PALM BEACH FARMS COMPANY, PLAT NO. 7, according to the plat thereof on file in the Office of the Clerk of Court in and for Palm Beach County, Florida; TOGETHER WITH a parcel of land located in the North ½ of aforesaid Tract B, Block 20, more particularly described as follows:

Beginning at the Northwest corner of aforesaid South ½ of Tract B, Block 20, run on an assumed bearing of due North, said line being the West line of aforesaid Block 20, for a distance of 7.47 feet to a point, said being the Northeast corner of Lot 26, FOSS SUBDIVISION, as recorded in Plat Book 24, Page 137, of the Public Records of PALM BEACH County, Florida; thence run South 84d 17' 29" East, a distance of 80.40 feet to a point on the North line of aforesaid South ½ of Tract B, Block 20; thence run North 89d 27' 35" West, along the North line of aforesaid South ½ of Tract B, Block 20; thence run 89d 27' 35" West, along the North line of aforesaid South ½ of Tract B, Block 20 a distance of 80.00 feet to the Point of Beginning, LESS any portion of the above property lying within the legal description recorded in Official Records Book 6960, Page 233, of the Public Records of Palm Beach County, Florida.

EXHIBIT B  
VICINITY SKETCH



Application No. 2007-509  
Zoning Quad 18  
Date December 6, 2007



## 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 October 15, 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. (DRO: ZONING - Zoning)

#### DEPARTMENT OF AIRPORTS (DOA)

1. The property owner shall include in homeowners documents as well as written sales brochures, sales contracts, and related Site Plans a disclosure statement identifying and notifying prospective residents that the community is within the flight path of the Palm Beach County Park Airport. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning on January 3, 2009 and shall continue on an annual basis until all units within the development have been sold or the property owner relinquishes control to the homeowners association. (DATE: MONITORING - Airports)

#### ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:
  - a. No Building Permits for the site may be issued after January 3, 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. CORRIDOR CONVEYANCE OF RIGHT OF 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 Gulfstream Road 30 feet from centerline.

All right of way deed(s) and associated documents shall be provided and approved prior to April 1, 2008 or prior to the issuance of a Building Permit whichever shall first occur.

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)

3. The property owner shall construct a 4 foot concrete sidewalk along the projects Gulfstream Road frontage. Location of this sidewalk shall be the west side of Gulfstream Road as shown on the applicants proposed site plan.
  - a. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to utility relocations.
  - b. 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)
  - c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

#### LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF GULFSTREAM ROAD), NORTH AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

1. In addition to the ULDC landscaping requirements, landscaping along the east, north and west property lines shall be upgraded to include:
  - a. one (1) palm or slash pine tree for each twenty five (25) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)
  - b. The existing Royal Palms on the site will be incorporated into the site plan or the landscape buffer. (BLDG PERMIT: LANDSCAPE - Zoning)

#### SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

##### "NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (SCHOOL BOARD: School Board)

#### SIGNS

1. Sign fronting on Gulfstream Road shall be limited as follows:
  - a. Maximum sign height - four (4) feet measured from the finished grade to the highest point;
  - b. Maximum sign width ten (10) feet;
  - c. Maximum single face area per side - forty (40) square feet;
  - d. Maximum number of signs - one (1);
  - e. Monument style only, and shall be consistent with the architectural theme of the overall development, subject to review by the Architectural Review Section. (BLDG PERMIT: BLDG - 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: PBCWUD - PBCWUD)

## WORKFORCE HOUSING

1. Prior to final approval by the Development Review Officer (DRO), the property owner shall record in the public records of Palm Beach County a restrictive covenant, in a form acceptable to the Palm Beach County Attorney, which includes the following:
  - a. Guarantees the attainability of all of the requested TDR units for a period of twenty-five years (recurring). These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the Workforce Housing requirements in the ULDC. The unit sales prices will be determined by Palm Beach County's Housing and Community Development Department; and
  - b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRO: COUNTY ATTY- Planning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall include notations on Master Plans and related Site Plans that the requested TDR units have been designated as workforce housing units. Notations shall also indicate that every deed of sale for each of the designated workforce units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of 25 years (recurring), and that any person or family wishing to reside in a unit that has been designated as a workforce unit shall qualify for eligibility. (DRO: PLANNING - Planning)
3. On an annual basis, beginning April 1, 2008, or as otherwise stipulated in the Workforce Housing declaration of restrictive covenants, the property owner, master homeowners association, or property owner association shall submit an annual report to the Planning Division and HCD documenting compliance with the Workforce Housing declaration of restrictive covenants, and the deed of sale restriction. (DATE/ONGOING: MONITORING - Planning/HCD)

## 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. 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)

Failure to comply with any of the voluntary commitments 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 voluntary commitments; 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 Official Zoning Map Amendment, Conditional Use, Requested Use, 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 voluntary commitment 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 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 15<sup>th</sup> Judicial Circuit. (ONGOING: MONITORING - Zoning)