

RESOLUTION NO. R-2008- 2266

RESOLUTION APPROVING ZONING APPLICATION Z-2007-02014
(CONTROL NO. 2005-00414)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLA ZONE (COZ)
APPLICATION OF Marquez Jones Joint Venture LLC
BY Land Design South, Inc., AGENT
(Marquez-Jones)

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 public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), have been satisfied; and

WHEREAS, Zoning Application Z-2007-02014 was presented to the Board of County Commissioners at a public hearing conducted on December 4, 2008; 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 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. 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.
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) 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 Z-2007-02014, the application of Marquez Jones Joint Venture LLC, by Land Design South, Inc., agent, for an OFFICIAL ZONING MAP AMENDMENT (REZONING) from the AR Zoning District to the RT Zoning District with a Conditional Overlay Zone (COZ) 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 October 23, 2008.

Commissioner Marcus moved for the approval of the Resolution.

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

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on December 4, 2008.

Filed with the Clerk of the Board of County Commissioners on January 23rd, 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 1:

TRACT 3 OF HYPOLUXO FARMS, ACCORDING TO THE UNRECORDED PLAT THEREOF PREPARED BY E. ELLIOTT GROSS AND ASSOCIATES REG. ENGINEERS, WEST PALM BEACH, FLORIDA, JUNE 1954, BEING A SUBDIVISION OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, SAID POINT BEING 685.30 FEET SOUTHERLY FROM THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 11, WHICH NORTHWEST CORNER IS 5315.17 FEET WESTERLY FROM THE CENTERLINE OF MILITARY TRAIL; THENCE CONTINUE SOUTHERLY ALONG THE WEST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 11, A DISTANCE OF 342.65 FEET; THENCE EASTERLY, MAKING AN ANGLE OF 86°38'52" WITH THE PRECEDING COURSE, MEASURED FROM NORTH TO EAST, A DISTANCE OF 1374.00 FEET; THENCE NORTHERLY, MAKING AN ANGLE OF 90°55'22" WITH THE PRECEDING COURSE, MEASURED FROM WEST TO NORTH, A DISTANCE OF 340.26 FEET; THENCE WESTERLY, MAKING AN ANGLE OF 89°09'12" WITH THE PRECEDING COURSE, MEASURED FROM SOUTH TO WEST, A DISTANCE OF 1359.45 FEET TO THE POINT OF BEGINNING. (EXCEPTING THEREFROM THE WEST 42.24 FEET AS CANAL RIGHT-OF-WAY AND THE EAST 25 FEET AS ROAD RIGHT-OF-WAY.)

ALL PLATS ACCORDING TO THE PLAT THEREOF, ON FILE WITH THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

TRACT 4 OF HYPOLUXO FARMS, ACCORDING TO THE UNRECORDED PLAT THEREOF PREPARED BY E. ELLIOTT GROSS AND ASSOCIATES REG. ENGINEERS, WEST PALM BEACH, FLORIDA, JUNE 1954, BEING A SUBDIVISION OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

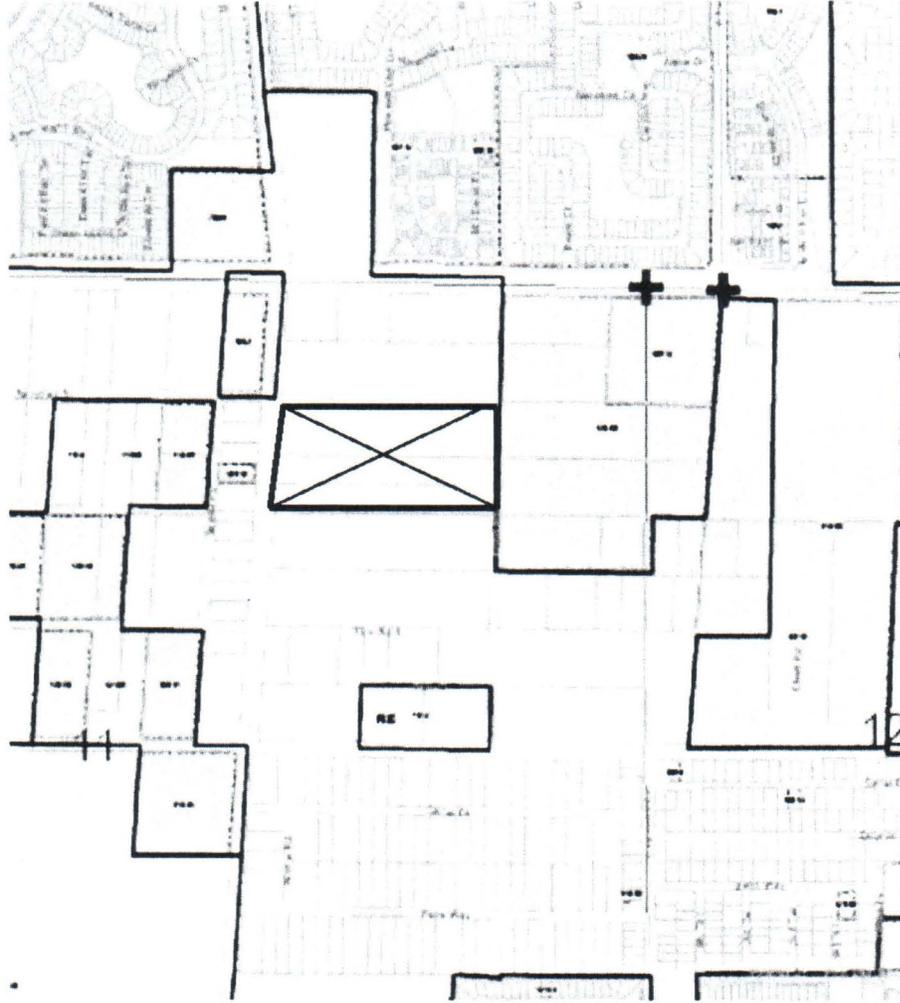
BEGINNING AT A POINT IN THE WEST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, SAID POINT BEING 1027.95 FEET SOUTHERLY FROM THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER (NE 1/4) OF SECTION 11, WHICH NORTHWEST CORNER IS 5315.17 FEET WESTERLY FROM THE CENTERLINE OF MILITARY TRAIL; THENCE CONTINUE SOUTHERLY ALONG THE WEST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 11, A DISTANCE OF 342.65 FEET; THENCE EASTERLY, MAKING AN ANGLE OF 86°34'17" WITH THE PRECEDING COURSE, MEASURED FROM NORTH TO EAST, A DISTANCE OF 1388.85 FEET; THENCE NORTHERLY, MAKING AN ANGLE OF 90°59'57" WITH THE PRECEDING COURSE, MEASURED FROM WEST TO NORTH, A DISTANCE OF 340.26 FEET; THENCE WESTERLY, MAKING AN ANGLE OF 89°04'38" WITH THE PRECEDING COURSE, MEASURED FROM SOUTH TO WEST, A DISTANCE OF 1374.00 FEET TO THE POINT OF BEGINNING. (EXCEPTING THEREFROM THE WEST 42.24 FEET AS CANAL RIGHT-OF-WAY AND THE EAST 25 FEET AS ROAD RIGHT-OF-WAY, SAID ROAD RIGHT-OF-WAY BEING MORE PARTICULARLY DESCRIBED IN INSTRUMENT RECORDED IN DEED BOOK 1057, PAGE 225, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.)

THE ABOVE DESCRIBED PARCELS CONTAIN 20.465 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. Z2007-2014
Zoning Quad 34



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 Subdivision Plan is dated September 11, 2008. Modifications shall be permitted where required to meet Conditions of Approval, or if in accordance with the ULDC. This may include changes to perimeter buffers where existing incompatible uses on adjacent parcels are redeveloped with compatible uses. (ONGOING: ZONING - Zoning)

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 December 31, 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 construct a left turn lane south approach on Hypoluxo Farms Road at Hypoluxo Road. 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, acquisition of any additional required right-of-way, drainage improvements for additional pavement, relocation of guardrails and required modifications to the culvert crossing at the L-18 canal.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

3. Property owner shall construct a 5 foot concrete sidewalk along the project frontage on Hypoluxo Farms Road between the project's north and south property lines, within the 7 foot pathway easement. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include any utility relocations. These improvements shall be completed concurrently with the onsite paving and grading.

a. Permits for this sidewalk shall be obtained prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

b. The sidewalk shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

4. The property owner shall provide to Palm Beach County Land Development Division a 7 foot pathway easement prior to the issuance of the first building permit. This easement shall be a continuous 7 foot easement along the project's entire frontage on Hypoluxo Farms Road and is to provide for the required 5 foot concrete sidewalk along the project frontage on Hypoluxo Farms Road. The property owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate easements and documents. (BLDG PERMIT: MONITORING-Eng)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to platting, approval from the District for Technical Compliance, or the issuance of any Lake Worth Drainage District permits, the owner shall convey to the District either by

warranty deed or easement deed the West 80 fet of the NE of Sect 11/45/42 (less lands owned by the District). (PLAT: ENG-LWDD)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the applicant shall meet all of the PREM requirements to complete the transfer of PCN#00-42-44-10-00-000-1510 to Palm Beach County in accordance with ULDC 5.G.1.E.3. Work Force Housing off site options in order to meet the obligation for 6 Workforce Housing units. (DRO: Planning-Planning)

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). (ONGOING: SCHOOL BOARD)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING School Board.)

WORKFORCE HOUSING

1. Deed.

The Property Owner shall provide Palm Beach County Board of County Commissioners with a Statutory Warranty Deed on a 5.28 acre parcel of property prior to Final DRO certification (the Alternate Property"), in lieu of on-site Work Force Housing, and shall have satisfied each of the following conditions prior to deed conveyance. If any of the conditions below are not completed to the satisfaction of the Property & Real Estate Management Division (PREM) or are found to be insufficient for future development of the Alternate Property in PREM's sole discretion, then PREM reserves the right to withhold Final DRO approval for this project.

a) Title

Property Owner to provide a title policy insuring marketable title to Palm Beach County for the Alternate Property and any easements that service the Alternate Property as required by the County Attorney's office. All title exception documentation to be provided to County.

Policy is subject to PREM and County Attorney's approval. The title policy to be insured to Palm Beach County for a dollar value based on current market appraisal of the proposed Alternate Property or the Contract purchase price. If an appraisal is required it shall be obtained by the Property Owner.

b) Traffic Concurrency

Property Owner shall produce a Traffic Study which verifies that sufficient traffic capacity exists at time of conveyance based on the maximum allowable number of units under the existing land use category of MR-5. Traffic Study shall be produced by a recognized traffic engineer and will be subject to approval by the County's Traffic Division. Final traffic levels are subject to PREM's approval.

c) Taxes

All ad valorem real estate taxes and assessments for the year of acceptance shall be prorated to include the day of acceptance.

d) Site condition

Alternate Property to be free and clear of all trash and debris at the time of acceptance of the Statutory Warranty Deed.

e) Drainage

Property Owner shall demonstrate if and where legal positive outfall is available to the Alternate Property. Property Owner shall specifically address the following issues:

1) The discharge of surface water from the proposed Alternate Property into the closest legal outfall location.

2) If legal positive outfall is not available, then the property owner may obtain the necessary easements allowing legal drainage of the Alternate Property.

f) On-Site Inspections

By acceptance of these conditions Property Owner agrees to allow the County to perform any on site inspections and testing deemed appropriate to support the acquisition of the Alternate Property.

g) Vegetation Permit

Property Owner to perform a tree survey, obtain a vegetation clearing permit and clear the property according to the permit. If it is determined by PREM that clearing is not required at time of conveyance, the cost of such clearing shall be paid to the County.

h) Conveyance

Conveyance of the Alternate Property will take place after all conditions have been met. Closing will be at the office of Property & Real Estate Management located at 2633 Vista Parkway, West Palm Beach, Florida 33411-5605. (DRO: PLANNING-PREM)

2. Survey

The Property Owner shall provide the County with a survey certified to Palm Beach County of the proposed Alternate Property. Survey shall reflect the boundary and topographical areas of the site and the surveyor shall use the following criteria:

a) The survey shall meet Minimum Technical Standards for a Boundary Survey as prescribed by F.A.C. 21HH.6.

b) If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided.

c) The survey should include a location of any proposed water retention area that will border the Alternate Property.

Survey is also subject to the County's approval of any proposed or existing easements within the proposed Alternate Property and all title exceptions are to be shown on the survey. (DRO: PLANNING-PREM)

3. Environmental Survey

The Property Owner shall provide PREM with an Environmental Assessment certified to Palm Beach County of the proposed Alternate Property. The minimum assessment which is required is commonly called a "Phase I Audit". The audit shall describe the environmental conditions of the Alternate Property and identify the past and current land use. The assessment will include but not be limited to the following:

a) Review of property abstracts for all historical ownership data for evidence of current and past land use of the proposed Alternate Property.

b) Review of local, state, and federal regulatory agency's enforcement and permitting records for indication of prior groundwater or soil contamination. Also, a review of the neighboring property that borders the proposed Alternate Property will be required. The review shall include, but not be limited to, Palm Beach County Environmental Resources Management Department Records, and Florida Department of Regulation Records. The assessment shall reflect whether the Alternate Property or any bordering property is on the following lists:

- 1) EPA's National Priorities list (NPL)
 - 2) Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA)
 - 3) Hazardous Waste Data Management System List (HWDMS).
- c) Review of current and historical aerial photographs of the proposed Alternate Property. Provide a recent aerial showing site and surrounding properties.
 - d) The results of an on-site survey to describe site conditions and to identify potential area of contamination.
 - e) Review of Wellfield Protection Zone maps to determine if Alternate Property is located in a Wellfield Zone.

If the Phase I audit indicates that a Phase II is necessary, then the property owner shall be required to provide that audit as well. (DRO: PLANNING-PREM)

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 Article 2.E 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)