

RESOLUTION NO. R-2009-0020

RESOLUTION APPROVING ZONING APPLICATION PDD-2008-01177
(CONTROL NO. 2008-00290)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
APPLICATION OF BYRON RUSSELL
BY LAND DESIGN SOUTH, INC., AGENT
(CHENEY RANCH)

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 PDD-2008-01177 was presented to the Board of County Commissioners at a public hearing conducted on January 8, 2009; 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 PDDPDD-2008-01177, the application of Byron Russell, by Land Design South, Inc., agent, for an Official Zoning Map Amendment to a Planned Development District to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Residential Planned Unit Development (PUD) Zoning District in the PUD 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 January 8, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Vana 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	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Absent
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
District 4 Commissioner Mary McCarty	-	Absent
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 8, 2009.

Filed with the Clerk of the Board of County Commissioners on February 4th, 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

The North one-half of the Northwest Quarter of the Northeast Quarter of Section 3, Township 44 South, Range 42 East, Palm Beach County, Florida, **LESS** and **EXCEPT** Jog Road right-of-way.

PARCEL 2

A tract of land in Section 3, Township 44 South, Range 42 East, Palm Beach County, Florida, bounded as follows:

On the North by the North line of said Section 3; on the South by the Westerly extension of the South line of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 3; on the East by the West line of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 3 and on the West by the East line of Blocks 5 and 13, **PALM BEACH FARMS CO. PLAT NO. 3**, Palm Beach County, Florida, according to the Plat thereof on file in the office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 2, Pages 45 to 54.

LESS and **EXCEPT** Jog Road right-of-way.

PARCEL 3

A tract of land in Section 3, Township 44 South, Range 42 East, Palm Beach County, Florida, bounded as follows:

On the North by the Westerly extension of the South line of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 3; on the East by the West line of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 3; on the West by the East line of Tract 1, Block 13, **PALM BEACH FARMS CO. PLAT NO. 3**, Palm Beach County, Florida, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 2, Pages 45 to 54 inc.; and on the South by the Easterly extension of the South line of said Tract 1, Block 13, **THE PALM BEACH FARMS CO. PLAT NO. 3**.

LESS and **EXCEPT** Jog Road right-of-way.

PARCEL 4

The North $\frac{1}{2}$ of Tract 1, Block 13, **THE PALM BEACH FARMS CO. PLAT NO. 3**, a subdivision in Palm Beach County, Florida, according to the Plat thereof recorded in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 2, Pages 45 to 54, together with the rights granted to grantor in Official Records Book 1516, Page 559.

PARCEL 5

That part of the East $\frac{1}{2}$ of Tract 76 lying South of State Road 80, in Block 5 of the **PALM BEACH FARMS COMPANY PLAT NO. 3**, according to the Plat thereof recorded in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 2, Pages 45 to 54, inclusive.

PARCEL 6

The West $\frac{1}{2}$ of tract 76, Block 5, lying South of the West Palm Beach Canal, **THE**

PALM BEACH FARMS COMPANY PLAT NO. 3, 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 2, Page 45.

PARCEL 7

That 50 foot wide strip of land lying South of the Westerly 570' of Tract 76, Block 5, and North of Tract 1, Block 13, **PALM BEACH FARMS CO. PLAT #3**, recorded in Plat Book 2, Pages 45-54 of the Public Records of Palm Beach County Florida.

PARCEL 8

That part of Tract 75, Block 5, **THE PALM BEACH FARMS COMPANY PLAT NO. 3**, 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 2, Page 45, lying South of and being adjacent to the Southerly right of way line of the West Palm Beach Canal C-51.

Together with

The North 19.50 feet of the South 330 feet of Tract 1, Block 13, **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida.

AND

The North 19.50 feet of the South 330 feet of that part of the West half of Section 3, Township 44 South, Range 42 East, lying East of and adjacent to the South half of Tract 1, Block 13, **THE PALM BEACH FARMS CO. PLAT NO. 3**, less any rights-of-way for Jog Road, according to the Plat thereof recorded in Plat Book 2, Page 45, Public Records of Palm Beach County, Florida.

PARCEL 9

The East half of Tract 2, Block 13, **THE PALM BEACH FARMS COMPANY PLAT NO. 3**, according to the plat thereof recorded in Plat Book 2, Pages 45 to 54 inclusive, in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida.

TOGETHER WITH an easement for ingress and egress over the North 19.50 feet of the South 330 feet of Tract 1, Block 13, **THE PALM BEACH FARMS COMPANY PLAT NO. 3**, according to the plat thereof recorded in Plat Book 2, Pages 45 to 54 inclusive, in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida.

TOGETHER WITH and easement for ingress and egress over that part of the North 19.50 feet of the South 330 feet of the West half of Section 3, Township 44 South, Range 42 East, lying East of and adjacent to the South Half of Tract 1, Block 13, **THE PALM BEACH FARMS CO., PLAT NO. 3**, LESS any rights-of-way for Jog Road, according to the Plat thereof recorded in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 2, Pages 45 to 54 inclusive.

PARCEL 10

That 50 foot wide strip of land lying South of the East half of Tract 75, Block 5 and North of the East half of Tract 2, Block 13, **PALM BEACH FARMS CO. PLAT #3**, recorded in Plat Book 2, Pages 45-54 of the Public Records of Palm Beach County, Florida;

AND

The North half of that 50 foot wide strip of land lying South of the West half of Tract 75, Block 5, **PALM BEACH FARMS CO. PLAT #3**, recorded in Plat Book 2, Pages 45-54 of the Public Records of Palm Beach County, Florida.

PARCEL 11

The East 15 feet of that 30 foot wide strip of land lying between Tracts 74 & 75, Block 5, and South of West Palm Beach Canal, **PALM BEACH FARMS CO. PLAT #3**, recorded in Plat Book 2, Pages 45-54 of the Public Records of Palm Beach County, Florida.

Containing in all 40.599 acres, **MORE OR LESS.**

EXHIBIT B
VICINITY SKETCH

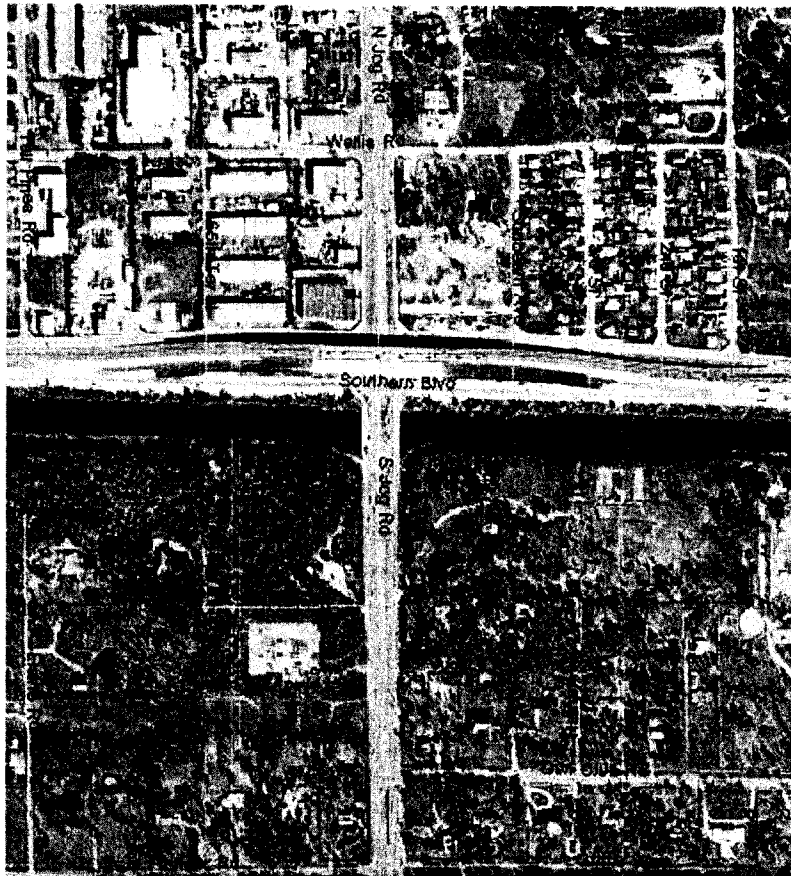


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses as approved by the Board of County Commissioners. The approved preliminary master and site plans are dated October 8, 2008. 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: MONITORING - Zoning)

DUMPSTER

1. Doorside trash pick-up shall be provided by on-site management for the buildings west of Jog Road. (ONGOING-ZONING)

ENGINEERING

1. Prior to final approval of the Site Plan by the Development Review Officer, the Property owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels. The PUD's stormwater management system shall then be designed to accept this historical drainage. (DRO: ENGINEERING-Eng)

2. The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 60 feet of right of way from centerline of Jog Road prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear 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, including a topographic survey. 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 as determined by the County Engineer additional right of way for Expanded Intersections and corner clips. (BLDG PERMIT: MONITORING-Eng)

3. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

a. No building permits for the site shall be issued after December 31, 2012. 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)

4. The property owner shall modify the existing full median opening on Jog Rd in front of the proposed property entrances to a directional median opening (a peanut). This may require modifying the existing north and south approach left turn lanes at this location, as approved by the County Engineer. 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 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 shall be completed prior to the issuance of the first Certificate of Occupancy (CO: MONITORING Eng)

5. The developer shall lengthen the existing left turn lane north approach on Jog Road at the entrance to the Project's east side. This turn lane shall be lengthened to a minimum 280 feet in length plus 50 foot paved taper. 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 and acquisition of any additional required right-of-way.

- a. Permits required for improvements identified above shall be obtained from Palm Beach County 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)

ENVIRONMENTAL

1. The Preliminary Master Plan dated October 8, 2008 shows a 1.15 acre upland preserve area. A Preserve Management plan shall be approved by ERM and a Conservation Easement shall be recorded prior to DRO site plan approval (DRO:ERM-ERM)

2. All mitigation required by ULDC Chapter 14.C shall be completed and accepted by ERM prior to the issuance of the Certificate of Occupancy for the 182 unit. (CO: MONITORING-ERM)

ZONING - LANDSCAPING

1. 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)

2. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation, unless otherwise indicate herein:

- 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. (BLDG PERMIT: LANDSCAPE - Zoning)

3. All pines required to be planted on the property by this approval shall meet the following minimum standards at installation:

- a. pines shall be planted in clusters of five (5) to seven (7) pines. Pine height shall be a minimum of twelve (12) feet to sixteen (16) feet at installation and have a maximum spacing of forty (40) feet between clusters; and,
- b. credit may be given for existing pines provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE Zoning)

4. A group of three (3) or more palms or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)

5. Field adjustment of wall and plant material location may be permitted to provide pedestrian sidewalks and bike paths, and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (EAST OF JOG ROAD)

6. In addition to the code requirements, landscaping along the south and east property lines, east of Jog Road, shall be upgraded to include:

- a. a minimum forty (40) foot wide landscape buffer strip.
- b. one (1) palm for each for each thirty (30) linear feet of the property line with a maximum spacing of thirty (30) feet between clusters.
- c. a continuous six (6) foot high berm; and

d. a six (6) foot high black vinyl coated chain linked fence to be located on the plateau of the berm. (BLDG PERMIT: LANDSCAPE-Zoning).

ZONING - LANDSCAPING-LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (WEST OF JOG ROAD)

7. In addition to the code requirements, landscaping along the south and east property lines, west of Jog Road, shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip.
- b. one (1) palm for each for each thirty (30) linear feet of the property line with a maximum spacing of twenty (20) feet between clusters.
- c. a six (6) foot opaque concrete wall. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE NORTH PROPERTY LINE (WEST AND EAST OF JOG ROAD)

8. No easement encroachment shall be permitted within the north Right-of-Way landscape buffer. (ONGOING: LANDSCAPE-Zoning)

PALM TRAN

1. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (PLAT:ENG -Palm Tran)

PLANNING

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 but is not limited to the following:

- a. Guarantees the attainability of all 65 workforce units, which includes all units required per Article 5.G in the ULDC for a period of twenty-five years (recurring). These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle). This does not prohibit allowing higher numbers of lower income units. Final distribution of the units shall be defined at the time of final DRO, consistent with the Workforce Housing requirements in Article 5.G in the ULDC; 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 a notation in Master Plans and related Site Plans that shall indicate that a minimum of 65 units have been designated as workforce housing units. Notations shall make reference to the recorded Restrictive Covenants for Workforce Housing and indicate that all the required workforce units are subject to the Restrictive Covenants. (DRO: PLANNING Planning)

3. On an annual basis, beginning April 1, 2009, or as otherwise stipulated in the Declaration of Restrictive Covenants for Workforce Housing, 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 Declaration of Restrictive Covenants for Workforce Housing. (DATE/ONGOING: MONITORING Planning/HCD)

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).

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.

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)