

RESOLUTION NO. R-2010- 0669

RESOLUTION APPROVING ZONING APPLICATION Z-2009-04543
(CONTROL NO. 2009-02434)
an Official Zoning Map Amendment
APPLICATION OF Tidal Wave Development Corp
BY Urban Design Kilday Studios, AGENT
(Tidal Wave South)

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

WHEREAS, Zoning Application Z-2009-04543 was presented to the Board of County Commissioners at a public hearing conducted on April 22, 2010; 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, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) 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 the request; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.1.B.

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-2009-04543, the application of Tidal Wave Development Corp, by Urban Design Kilday Studios, agent, for an Official Zoning Map Amendment to allow for a rezoning from the Multiple Use Planned Development (MUPD) Zoning District to the Light Industrial (IL) 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 in EXHIBIT B, attached hereto and made a part hereof, was approved on April 22, 2010 subject to the conditions described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Commissioner Burt Aaronson, Chair	- Aye
Commissioner Karen T. Marcus, Vice Chair	- Aye
Commissioner Jeff Koons	- Aye
Commissioner Shelley Vana	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Jess R. Santamaria	- Aye
Commissioner Priscilla A. Taylor	- Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on April 22, 2010.

Filed with the Clerk of the Board of County Commissioners on April 28, 2010.

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:

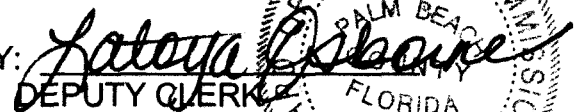

DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

Parcel 12 (179): A parcel of land located and situate in Section 34, Township 43 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Beginning at the Northeast corner of Tract 69, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the plat thereof, recorded in Plat Book 2, Page 45, Public Records of Palm Beach County, Florida, go South 00° 37' 01" East along the Eastern boundary of said Tract 69, a distance of 660 feet to the Southeast corner of said Tract 69; thence continue South 00° 37' 01" East along the Eastern boundary of Tract 72, of said Plat of The Palm Beach Farms Co. Plat No. 3, to the intersection of the Eastern boundary of said Tract 72 with the Northern Right-of-Way line of State Road 80 as established and laid out in Road Plat Book 2, Pages 11 through 18, inclusive; thence go North 88° 06' 55" West, along the Northern Right-of-Way line of State Road 80, a distance of 230.22 feet to a point; thence go North 00° 37' 01" West a distance of 310.06 feet, more or less; thence go South 89° 22' 59" West, a distance of 100.13 feet to a point on the West line of the East one-half of Tract 69; thence go North 00° 35' 57" West along the West line of the East one-half of Tract 69, a distance of 410.00 feet to a point on the North boundary line of said Tract 69; thence go North 89° 22' 59" East a distance of 330 feet to the POINT OF BEGINNING.

LESS and EXCEPTING that portion thereof for additional Right-of-Way for State Road 80 per the Order of Taking recorded in O.R. Book 13725, Page 1614, Public Records of Palm Beach County, Florida.

TOGETHER WITH

Parcel 16 (182): The South 250 feet of the West 100 feet of the East 1/2 of Tract 69, Block 5, The Palm Beach Farms Co. Plat No. 3 and a parcel in Tract 72, Block 5, The Palm Beach Farms Co. Plat No. 3, according to the map or plat thereof recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, the point of beginning, being 330 feet East of the Northwest corner of said Tract; thence run East 100 feet along North line of said Tract; thence South parallel to the West boundary line of said Tract a distance of 60 feet, more or less to the North boundary of State Road 80 Right-of-Way; thence Westerly 100 feet along the North line of said road; thence North parallel to the West boundary line of said Tract a distance of 55 feet more or less to the POINT OF BEGINNING. LESS and EXCEPTING that certain parcel described in that Order of Taking recorded in O.R. Book 13789, Page 1847, Public Records of Palm Beach County, Florida.

Containing: 209,664 square feet, more or less (4.81 Acres, more or less) as surveyed

EXHIBIT B
VICINITY SKETCH

LOCATION MAP:

SEC. 34 TWN. 43 RNG. 42

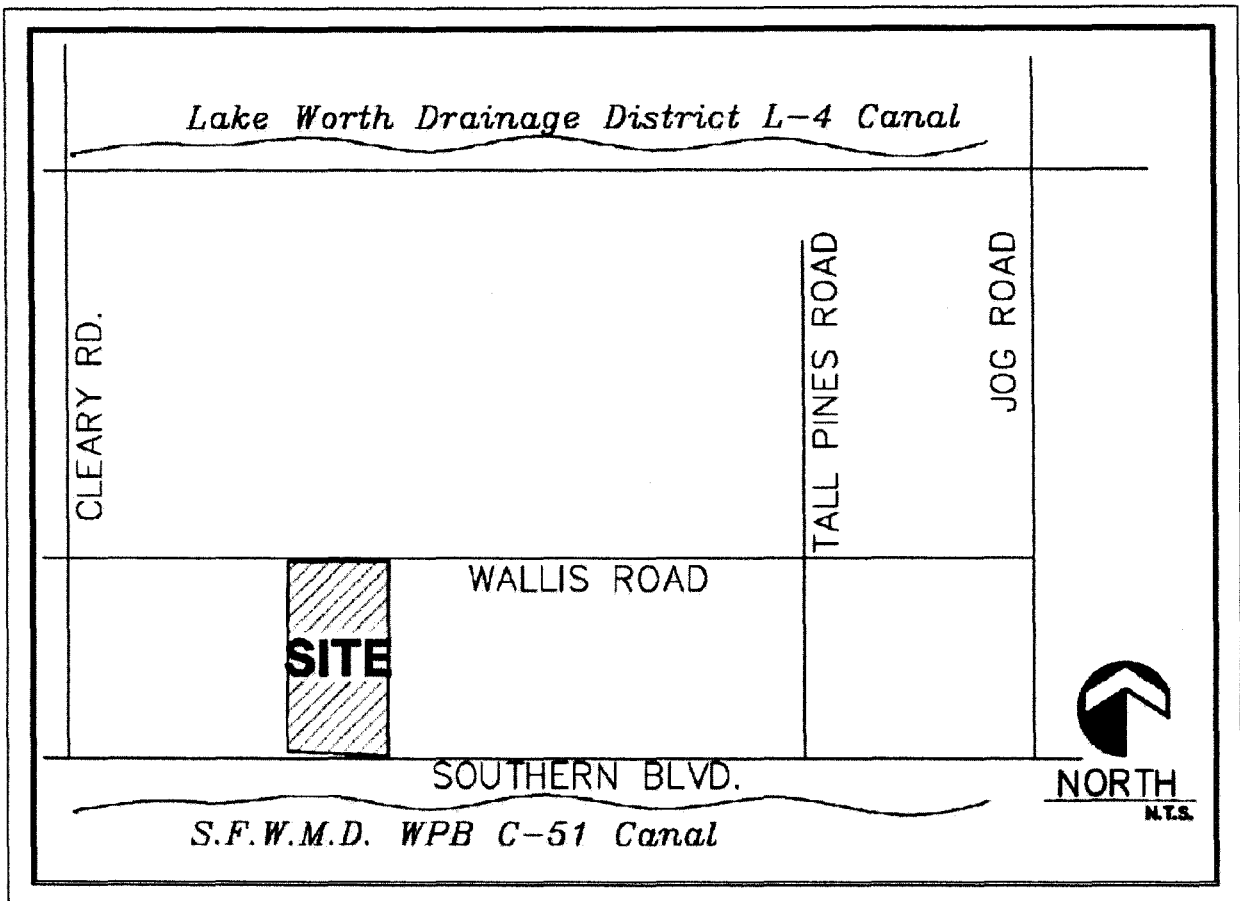


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.The applicant shall apply for DRO final site plan approval for the illegal contractor storage yard by June 19, 2010, or cease use of the property and remove all illegal uses and structures. (DATE: Monitoring: Zoning/Code Enforcement)

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, 2015. 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 provide by warranty deed submitted to Palm Beach County Land Development Division for 40 feet of right of way from centerline of Wallis 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. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the property owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT: MONITORING-Eng)

3.The Property owner shall construct

-Wallis Road from the project's west property line to Tall Pines Road, as approved by the County Engineer. The construction shall include a 5 foot pedestrian sidewalk along the north side of the 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 and acquisition of any additional required right-of-way.

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)

4.Landscape Within the Median of Southern Boulevard

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Southern Boulevard. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below. (ONGOING:ENGINEERING-

Eng)

- b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)
- c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)
- d. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING-Eng)
- e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Southern Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: ENGINEERING-Eng) [Note: COMPLETED]

5. The Property owner shall, as determined by the County Engineer, either:

- i. Construct separate turn lanes (exclusive right and shared through/left, or as approved by the County Engineer) on the west approach of Wallis Road/Jog Road intersection. 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. OR
- ii. Fund 8 percent of the cost of signal installation if warranted as determined by the County Engineer at the Wallis Rd/Jog Rd intersection. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and required utility relocation and right of way or easement acquisition.

a. Prior to the issuance of the first building permit, the Property Owner shall either obtain permits required from Palm Beach County for the turn lane construction OR provide to the Traffic Division an acceptable surety for 8 percent of the cost of signal installation in an amount as determined by the Director of Traffic Division. (BLDG PERMIT: MONITORING-Eng)

b. If required, construction of the turn lane shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

c. If the signal surety is required, in order to be relieved from the signal condition above and have surety returned for the traffic signal work, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at Wallis Rd/Jog Rd intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the surety to construct the traffic signal or release the surety. (ONGOING: ENGINEERING-Eng)

6. Prior to issuance of the first building permit the property owner shall combine the property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

HEALTH

1. Owners and operators generating industrial, hazardous, or toxic wastes shall not deposit or cause to be deposited any such wastes 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)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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 (CO); 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 Unified Land Development Code (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 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 condition of approval. (ONGOING: MONITORING - Zoning)