

RESOLUTION NO. R-2010- 0670

RESOLUTION APPROVING ZONING APPLICATION Z-2009-04544  
(CONTROL NO. 2009-02435)  
an Official Zoning Map Amendment  
APPLICATION OF Tidal Wave Management Corp Inc  
BY Urban Design Kilday Studios, AGENT  
(Tidal Wave North)

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-2009-04544 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-2009-04544, the application of Tidal Wave Management Corp Inc, by Urban Design Kilday Studios, agent, for an Official Zoning Map Amendment to allow 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

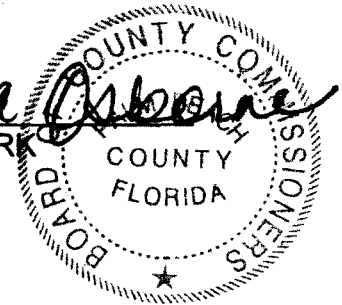


EXHIBIT A

LEGAL DESCRIPTION

Parcel 13: Tracts 47 and 48, Block 5, PALM BEACH FARMS COMPANY PLAT NO. 3, according to the map or plat thereof, as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida. LESS AND EXCEPT the North 36.00 feet thereof as Right-of-Way for the Lake Worth Drainage District L-4 Canal.

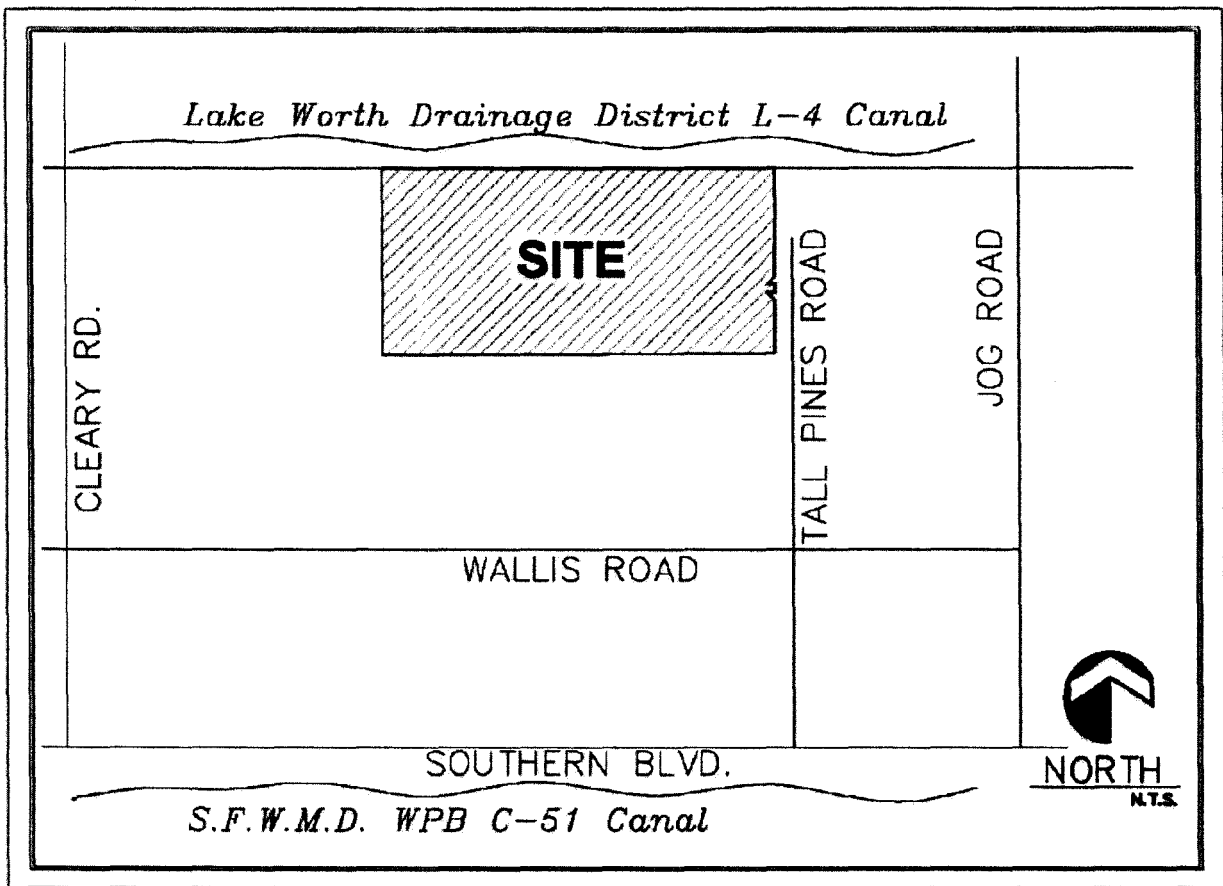
Also LESS and EXCEPT the property contained in the Right-of-Way Warranty Deed recorded in Official Record Book 7125, Page 1582, Public Records of Palm Beach County, Florida.

Containing: 807,989 square feet, more or less (18.55 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. By June 19, 2010, the applicant shall apply for applicable use approvals for the site in accordance with the ULDC. (DATE: Monitoring: Zoning/Code Enforcement)

2. 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 Tall Pines 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) [Note: COMPLETED]

3. 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 43 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 43 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)

4.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 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)

#### 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)