

RESOLUTION NO. R-2010- 1343

RESOLUTION APPROVING ZONING APPLICATION PDD-2009-02680  
(CONTROL NO. 2009-01683)  
an Official Zoning Map Amendment to a Planned Development District  
APPLICATION OF Mazzoni Farms Inc  
BY Land Design South, Inc., AGENT  
(Boynton Beach Office and Storage)

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 PDD-2009-02680 was presented to the Board of County Commissioners at a public hearing conducted on August 26, 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 PDD-2009-02680, the application of Mazzoni Farms Inc, 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 Districts to the Multiple Use Planned Development (MUPD) Zoning District 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 August 26, 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 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 August 26, 2010.

Filed with the Clerk of the Board of County Commissioners on September 7th, 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

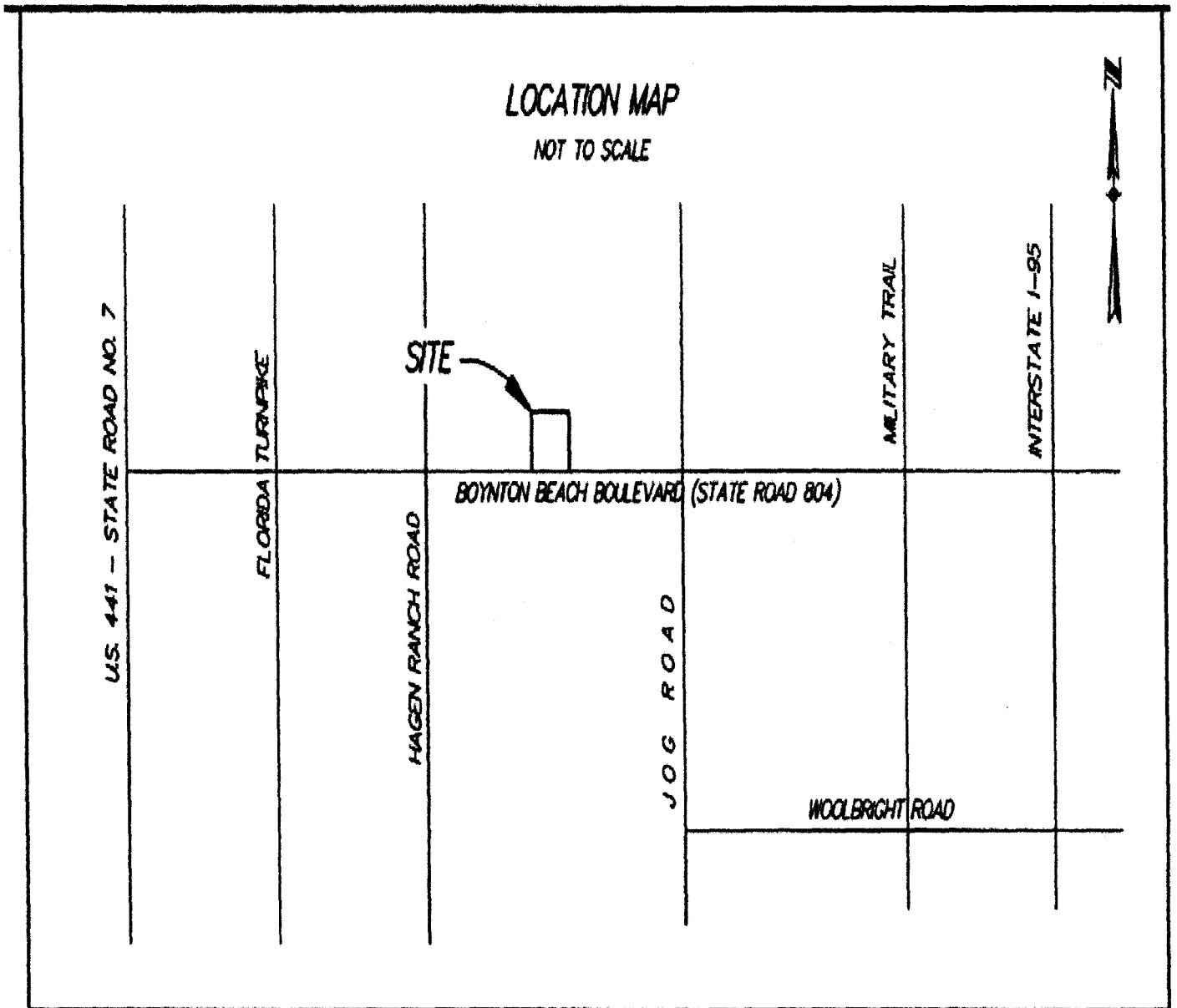


**EXHIBIT A**  
**LEGAL DESCRIPTION**

**DESCRIPTION:**

**TRACT 56, TRACT 57, AND THE EAST HALF OF THE 50 FOOT RIGHT OF WAY ADJACENT TO SAID TRACT 56, BLOCK 48, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE SOUTH 95 FEET THEREOF.**

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. The approved Preliminary Site Plan is dated March 25, 2010. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

#### ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all proposed structures shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC and generally consistent with the perspectives dated October 26, 2009. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

#### DRO

1. Prior to final plan approval by the Development Review Officer (DRO), the property owner shall abandoned the 10-foot FPL easement or reconfigure the site plan to show the dumpster outside of the easement located approximately 30 feet west of building D. (DRO: 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, 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, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2. The property owner shall revise the site plan to delete the proposed right turn lane at the west driveway entrance on Boynton Beach Boulevard or revise the turn lane length such that it meets Palm Beach County standards or as otherwise approved by Florida Department of Transportation, prior to final site plan approval. (DRO: ENGINEERING-Eng)

3. If the property owner chooses to construct a right turn lane on Boynton Beach Boulevard on the east approach at the western driveway, the property owner shall be responsible for any and all costs associated with the construction. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Prior to the issuance of the first building permit, the property owner shall provide to Florida Department of Transportation by warranty deed additional right of way for the construction of the right turn lane. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as otherwise approved by FDOT. The right of way should be continued across the project entrance. This additional right of way shall be free of all encumbrances and encroachments. Property owner shall provide FDOT with sufficient documentation, including, at minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from tax collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Grantor must warrant that the property being conveyed to FDOT 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 County and FDOT 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, as determined by the County Engineer, additional right of way for Expanded Intersections and corner clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDG PERMIT: MONITORING-Eng)

b. Permits required from FDOT 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)

4. The Property owner shall construct a directional median opening on Boynton Beach Boulevard at the project's west entrance as required by Florida Department of Transportation.

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 FDOT 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. Prior to final site plan approval, the property owner shall abandon the 10-foot FPL easement, as shown on the site plan associated with application PDD-2009-2680. (DRO: ENGINEERING-Eng)

6. Prior to final site plan approval by the DRO, the property owner shall provide a copy of the recorded agreement to the Land Development Division to share median landscape maintenance costs for the median within Boynton Beach Boulevard right of way, adjacent to the property's frontage, with Tivoli Lakes Homeowner's Association (Control 2002-015). The agreement shall be signed by representatives of both property owners. (DRO: ENGINEERING-Eng)

#### LANDSCAPE - GENERAL

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. A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet;
- b. Canopy diameter: seven (7) feet - diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
- c. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (DRO BLDG PERMIT: LANDSCAPE - Zoning)

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

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

- 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)

5. Prior to Final DRO Site Plan Approval the applicant shall submit the Landscape Plan and/or an Alternative Landscape to the Tivoli Lakes Property Owners Association for approval. (DRO:LANDSCAPE-Zoning)

#### **LANDSCAPE - PERIMETER**

1. Prior to Certificate of Completion or Certificate of Occupancy, which ever occurs first, the property owner shall install the entire right-of-way buffer for Phase I. (CO/CC: ZONING-Landscaping)

2. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF BOYNTON BEACH BOULEVARD) Landscaping and buffering along the south property line shall be upgraded to include:

- a. a minimum 25 foot wide landscape buffer strip; No width reduction or easement encroachment shall be permitted.
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet;
- c. one (1) native canopy tree (Live Oak) for each twenty-five (25) linear feet of the property line;
- d. one (1) palm (Royal Palm) tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Ixora 'Nora Grant' shall be planted in a bed at the base of each Royal Palm;
- e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum of eighteen (18) inches at installation;
- f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum of twenty-four (24) inches at installation; and,
- g. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum of thirty (30) inches at installation. (BLDG PERMIT: LANDSCAPE - Zoning)

3. LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINE (ABUTTING ALDEN RIDGE) In addition to code requirements and the proposed landscaping and/or buffer width along the north and east property line shall be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted.
- b. a continuous 3 foot high berm;
- c. a six (6) foot opaque concrete block wall to be located on the plateau of the berm. Both or the exterior side(s) of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure. Height of the wall shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property. (BLDG PERMIT: LANDSCAPE - Zoning)

4. LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL, PALM ISLES PUD) In addition to code requirements and the proposed landscaping and/or buffer width along the west property line shall be upgraded to include:

- a. a minimum 25 foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted.
- b. a continuous 3 foot high berm;
- c. a six (6) foot opaque concrete wall. Both or the exterior side(s) of the wall shall be given a finished architectural treatment that is consistent with the color and style of the

principal structure. Height of the wall shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property.

d. Prior to final approval by the Development Review Officer, the property owner shall obtain a Type II Variance approval for deviations from Art.7.F.3, Locations of Planting for the perimeter buffers or comply with ULDC requirements. (DRO: ZONING Landscape)

#### LIGHTING

1.The lighting conditions shall not apply to proposed low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

2.All outdoor lighting shall be extinguished no later than (1/2) hour after operating hours excluding security lighting only. (ONGOING: CODE ENF - Zoning)

3.All outdoor, freestanding lighting fixtures be setback 100 feet from the north, east and west property lines. (BLDG PERMIT: BLDG - Zoning)

4.All outdoor, freestanding lighting fixtures shall not exceed 25 feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - 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. Said location shall be adjacent to the ADA Accessible Route from Boynton Beach Blvd to the Roundabout Blvd between Buildings C and D.Supporting documentation, including but not 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.Per the condition associated with the small scale land use amendment Boynton Beach Blvd Office & Industrial SCA 2009-069, the Industrial portion of the subject site shall be restricted to a warehouse or self-storage facility only. (ONGOING:PLANNING-Planning)

#### SIGNS

1.Freestanding signs fronting on Boynton Beach Boulevard shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - ten feet;
- b. maximum sign face area per side - 100 square feet;
- c. maximum number of signs - one (2);
- d. style - monument style only;
- e. signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG - Zoning)

#### USE LIMITATIONS

1.All construction traffic shall be limited to the Boynton Beach Boulevard access point. (ONGOING:CODE ENF Zoning)

2.The hours of operation shall be restricted to 6:00 a. m. - 11:00 p. m. for the Industrial (IND) land use and 7:00 a. m. - 8:00 p. m. for the Commercial Low Office (CLO) land use. (ONGOING: CODE ENF - Zoning)

3.Total gross floor area shall be limited to a maximum of 86,625 square feet consisting of 30,500 square feet of medical office/professional office use and 56,125 square feet of warehouse facility use. No further expansion is permitted except subject to BCC approval. (ONGOING: ZONING - Zoning)

4.The Commercial Low Office (CL-O) land use shall be limited to Professional Office/Medical Office Uses. (ONGOING: CODE ENF - Zoning)



## **USE LIMITATIONS - RETAIL**

1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)

## **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)