

RESOLUTION NO. R-2022- 0378

RESOLUTION APPROVING ZONING APPLICATION ABN/PDD-2021-01322
(CONTROL NO. 2003-00830)
an Official Zoning Map Amendment
APPLICATION OF Butters SA, LLC. - Malcolm Butters, Southeast Investments of Palm
Beach County, Inc.
BY JMorton Planning & Landscape Architecture, AGENT
(Mountain Business Center MUPD)

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;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application Z-2019-01612 for an Official Zoning Map Amendment to allow a rezoning from the Agricultural Reserve (AGR) Zoning District to the Light Industrial (IL) Zoning District with a Conditional Overlay Zone (COZ), was presented to and adopted by the Board of County Commissioners at a public hearing on January 27, 2020 by R-2020-0056;

WHEREAS, Zoning Application ABN/PDD-2021-01322 for an Official Zoning Map Amendment to allow a rezoning from the Light Industrial (IL) Zoning District with a Conditional Overlay Zone (COZ) to Multiple Use Planned Development (MUPD) with abandonment of the COZ, was presented to the Board of County Commissioners at a public hearing conducted on April 28, 2022;

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;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for an Official Zoning Map Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC 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 ABN/PDD-2021-01322, the Application of Butters SA, LLC. - Malcolm Butters, Southeast Investments of Palm Beach County, Inc., by JMorton Planning & Landscape Architecture, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Light Industrial (IL) Zoning District with a Conditional Overlay Zone (COZ) to the Multiple Use Planned Development (MUPD) Zoning District, on a parcel of land generally described as shown on the legal description 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 April 28, 2022, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kerner moved for the approval of the Resolution.

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

- Commissioner Robert S. Weinroth, Mayor - Aye
- Commissioner Gregg K. Weiss, Vice Mayor - Aye
- Commissioner Maria G. Marino - Aye
- Commissioner Dave Kerner - Aye
- Commissioner Maria Sachs - Aye
- Commissioner Melissa McKinlay - Aye
- Commissioner Mack Bernard - Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on April 28, 2022.

Filed with the Clerk of the Board of County Commissioners on April 28th, 2022.

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

JOSEPH ABRUZZO, CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK 

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

TRACTS 13, 14, 15 AND 16, SECTION 19, TOWNSHIP 46 SOUTH, RANGE 42, EAST, ACCORDING TO THE PALM BEACH FARMS COMPANY PLAT NO. 1, AS RECORDED IN PLAT BOOK 2, PAGES 26 TO 28 INCLUSIVE OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THAT PORTION OF SAID TRACT 13 AND 14 LYING WITHIN 100 FEET OF THE CENTER LINE OF DELRAY WEST ROAD; LESS THAT PORTION OF TRACTS 15 AND 16 LYING WITHIN 83 FEET OF THE CENTER LINE OF DELRAY WEST ROAD; LESS THAT PORTION OF TRACT 16 LYING WITHIN 95 FEET OF THE WEST SECTION LINE OF SAID SECTION 19; AND LESS THAT PORTION OF TRACT 13 CONVEYED BY DEED RECORDED IN OFFICIAL RECORDS BOOK 9322, PAGE 36, MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE EAST 200.00 FEET OF TRACT 13, LESS THAT PORTION THEREOF LYING WITHIN 100 FEET OF THE CENTER LINE OF ATLANTIC AVENUE (DELRAY WEST ROAD, AKA STATE ROAD NO. 806) IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 42 EAST, OF PALM BEACH FARMS COMPANY PLAT NOT. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 26, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

INTENTIONALLY DELETED.

PARCEL 3:

INTENTIONALLY DELETED.

ALSO KNOWN AS

A PORTION OF TRACTS 13, 14, 15 AND 16, SECTION 19, TOWNSHIP 46 SOUTH, RANGE 42, EAST, ACCORDING TO THE PALM BEACH FARMS COMPANY PLAT NO. 1, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 19; THENCE ON A GRID BEARING OF SOUTH 49°25'47" EAST, A DISTANCE OF 126.45 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE NORTH 83.00 FEET OF SAID SECTION 19 AND THE POINT OF BEGINNING; THENCE NORTH 89°32'38" EAST ALONG SAID LINE, A DISTANCE OF 553.54 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID TRACT 13; THENCE SOUTH 01°13'32" EAST ALONG SAID EAST LINE, A DISTANCE OF 17.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE NORTH 100.00 FEET OF SAID SECTION 19; THENCE NORTH 89°32'38" EAST ALONG SAID LINE, A DISTANCE OF 433.59 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE EAST 200' OF SAID TRACT 13; THENCE SOUTH 01°43'42" EAST ALONG SAID WEST LINE, A DISTANCE OF 613.15 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SUSSMAN AGR-PUD NORTH PLAT ONE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 123 PAGE 175 OF SAID PUBLIC RECORDS; THENCE SOUTH 89°19'57" WEST ALONG SAID NORTH LINE, A DISTANCE OF 997.99 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF THE WEST 100.00 FEET OF SAID SECTION 19; THENCE NORTH 00°43'34" WEST ALONG SAID LINE, A DISTANCE OF 633.68 FEET TO THE POINT OF BEGINNING.

CONTAINING 619,733 SQUARE FEET/14.2271 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

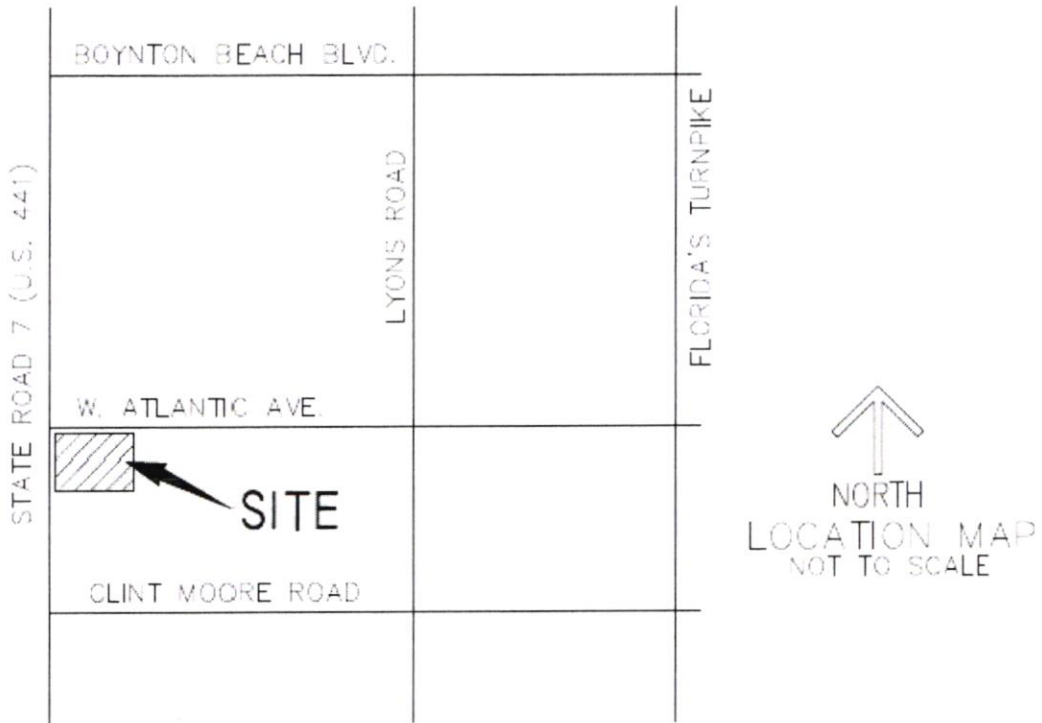


EXHIBIT C

CONDITIONS OF APPROVAL

Non Residential Planned Development District

ALL PETITIONS

1. The approved Preliminary Site Plan is dated February 10, 2022; and the approved Preliminary Master Sign Plan is dated February 10, 2022. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (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, 2026, or as amended. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPM: MONITORING - Engineering)

3. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPM/PLAT: MONITORING - Engineering)

4. The Property Owner shall construct a right turn lane west approach on Atlantic Avenue at the project entrance.

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 the Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

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

5. Landscape Within the Median of State Road 7

The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of State Road 7. This landscaping and irrigation shall strictly conform to the specifications and standards for the County Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires County Engineer 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 c below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from the Florida Department of Transportation prior to the issuance of the first building permit, or as approved by the County Engineer. (BLDGPMT: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy, or as approved by the County Engineer. (BLDGPMT/CO: MONITORING - Engineering)

c. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to Palm Beach County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit, or as approved by the County Engineer. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan or a corridor proposed to be added to the OTIS Master Plan and shall be based on the project's front footage along State Road 7. 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. (BLDGPMT: MONITORING - Engineering)

LANDSCAPE - PERIMETER-PERIMETER ALONG SOUTH PROPERTY LINE ABUTTING RESIDENTIAL

1. A Type 3 Incompatibility Buffer shall be provided along the south property line abutting residential. No buffer reduction or easement encroachment shall be allowed. (ONGOING: ZONING - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. The property owner shall convey Exclusive Easements required on the E-1 and L-34 Canals, lying outside of FDOT's project construction limits directly to LWDD, prior to platting. (PLAT: ENGINEERING - Lake Worth Drainage District)

PLANNING

1. Prior to Final Approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney's Office, the Property Owner shall submit a recorded cross access easement agreement, for the location depicted on the site plans. (DRO: PLANNING - Planning)

2. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Site Plan to add the Official records book and page number for the recorded cross access easement. (DRO: PLANNING - Planning)

3. Prior to the release of the Certificate of Occupancy, the Property Owner shall construct, and pave to the property line, the cross access as shown on the final site plan. (CO: MONITORING - Planning)

SIGNS

1. Wall signage (W3) located on the rear (south) facade of Building 1 shall be limited to a maximum height of twenty-nine (29) feet. (BLDGPMT/ONGOING: ZONING - Zoning)

2. Wall Signage (W7 and W8) along the south facade of Building 2 shall not exceed twenty-four (24) square feet per tenant. (BLDGPMT/ONGOING: ZONING - Zoning)

SITE DESIGN

1. Any building or structure within 150 feet of the south property line shall be limited to a maximum of 30 feet in height, measured from finished grade to the highest point of the building or structure. (BLDGPMT/ONGOING: ZONING - Zoning)

2. Dumpster enclosures shall not be located within 100 feet of the south property line. (BLDGPMT/ONGOING: ZONING - Zoning)

3. Prior to Final Development Review Officer (DRO) approval the Preliminary Site Plan shall be revised to reflect the correct the driveway turning movement counts to be consistent with those of the approved Traffic Study dated February 10, 2022. (DRO: ZONING - Zoning)

USE LIMITATIONS

1. The following uses shall be prohibited within Building 2:
 - a. Repair and Maintenance Heavy;
 - b. Machine or Welding Shop;
 - c. Manufacturing and Processing;
 - d. Towing Service and Storage;
 - e. Contractors Storage Yard; and
 - f. Composting Facility (ONGOING: ZONING - 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; 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; the 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 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 of Approval; 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)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.