

RESOLUTION NO. R-2023-0827

RESOLUTION APPROVING ZONING APPLICATION Z/CA-2021-02123
(CONTROL NO. 2014-00014)
a Class A Conditional Use
APPLICATION OF Medjool Nurseries LLC
BY JMorton Planning & Landscape Architecture, AGENT
(Towns at Tidewater)

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/CA-2021-02123 submitted on behalf of Medjool Nurseries LLC by JMorton Planning & Landscape Architecture, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Single Family Residential (RS) Zoning District on 9.24 acres, with a Conditional Overlay Zone; A Class A Conditional Use to allow Townhouse dwelling units on 9.24 acres; and a Class A Conditional Use to allow a combined density increase greater than two units per acre through the Workforce Housing and Transfer of Development Rights programs on 9.24 acres was presented to the Board of County Commissioners at a public hearing conducted on June 22, 2023;

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 a Class A Conditional Use;

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 Z/CA-2021-02123, the Application of Medjool Nurseries LLC, by JMorton Planning & Landscape Architecture, Agent, for a Class A Conditional Use to allow a combined density increase

greater than two units per acre through the Workforce Housing and Transfer of Development Rights programs on 9.24 acres, 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 June 22, 2023, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

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

Commissioner Gregg K. Weiss, Mayor	-	Aye
Commissioner Maria Sachs, Vice Mayor	-	Aye
Commissioner Maria G. Marino	-	Aye
Commissioner Michael A. Barnett	-	Nay
Commissioner Marci Woodward	-	Aye
Commissioner Sara Baxter	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on June 22, 2023.

Filed with the Clerk of the Board of County Commissioners on June 22nd, 2023.

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

THE EAST ONE HALF (E. 1/2) OF THE NORTHWEST QUARTER (N.W. 1/4) OF THE NORTHEAST QUARTER (N.E. 1/4) OF THE NORTHWEST QUARTER (N.W. 1/4) OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; LESS THE NORTH 56.0 FEET AND THE SOUTH 30.0 FEET THEREOF FOR ROAD AND CANAL PURPOSES. A/K/A PALM BEACH RANCHES (UNRECORDED) LOT 3 BLOCK 8.

TOGETHER WITH:

THE WEST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, EXCEPT THE NORTH 56 FEET THEREOF, AND EXCEPT THE SOUTH 30 FEET THEREOF FOR ROAD AND CANAL PURPOSES. (ALSO KNOWN AS LOT 2, BLOCK 8, OF THE UNRECORDED PLAT OF PALM BEACH RANCHES.)

ALSO DESCRIBED AS

A PORTION OF THE NORTHWEST 1/4 OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 11; THENCE ON A GRID BEARING OF SOUTH 81°21'20" WEST, A DISTANCE OF 334.61 FEET TO A POINT OF INTERSECTION OF THE EAST LINE OF THE WEST 1/2 OF THE NE 1/4 OF THE NE 1/4 OF SAID NORTHWEST 1/4 OF SAID SECTION 11 AND THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-18 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING LINE LYING 56.00 FEET SOUTH OF THE NORTH LINE OF SAID SECTION 11, SAID INTERSECTION BEING THE POINT OF BEGINNING; THENCE SOUTH 04°15'10" WEST ALONG SAID EAST LINE, A DISTANCE OF 604.67 FEET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF RANCHES ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 1836, PAGE 167 OF SAID PUBLIC RECORDS; THENCE NORTH 89°01'53" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 666.16 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE EAST 1/2 OF THE NW 1/4 OF THE NE 1/4 OF SAID NORTHWEST 1/4 OF SECTION 11; THENCE NORTH 04°06'56" EAST ALONG SAID WEST LINE, A DISTANCE OF 604.83 FEET TO A POINT OF INTERSECTION WITH SAID SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-18 CANAL; THENCE SOUTH 89°00'37" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 667.60 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

CONTAINING 402,665 SQUARE FEET OR 9.2439 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B

VICINITY SKETCH

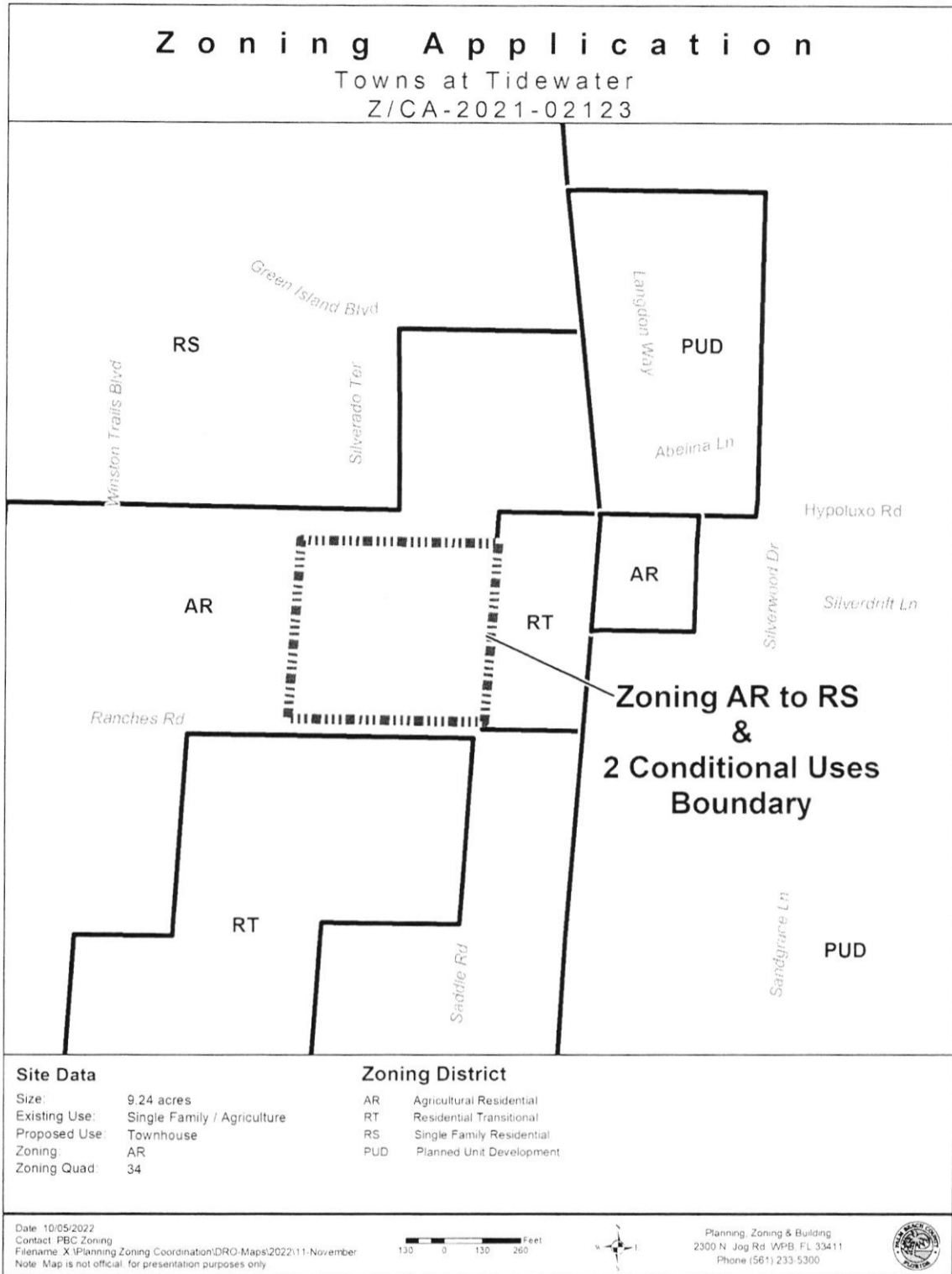


EXHIBIT C

CONDITIONS OF APPROVAL

Class A Conditional Use - to allow a combined density increase greater than two units per acre through the Workforce Housing and Transfer of Development Rights programs on 9.24 acres

ALL PETITIONS

1. The approved Preliminary Subdivision Plan is dated April 11, 2023. 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)

PLANNING

1. The subject request for 69 units with a 16-unit Workforce Housing Program (WHP) obligation was calculated based on conditions contained within SCA 2022-019; Ord. 23-17 requiring the purchase of 28 TDR s and that 23% of total the dwelling units to be built as WHP and will be provided onsite. .

2. Prior to the issuance of the first residential Building Permit, the Property Owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney. The site plan shall also be modified to include the OR Book and Page of the recorded document and provide a copy of the revised site plan to the Planning Division. (BLDGPM: MONITORING - Planning)

3. Prior to the release of the 5th Building Permit (34 units), Fifty percent of WHP units (8) must receive Certificates of Occupancy. (BLDGPM: MONITORING - Planning)

4. Prior to the release of the 8th Building Permit (58 units), All WHP units (16) must receive Certificates of Occupancy. (BLDGPM: MONITORING - Planning)

5. Should more than 50% of the Building Permits be issued simultaneously, then the initial Certificate of Occupancies (CO s) that are released will be attributable to the WHP obligation. (ONGOING: PLANNING - Planning)

6. Prior to the release of the first Building Permit, the Developer shall provide documentation demonstrating compliance with the required design standards, such as but not limited to: compatible exteriors, provision of a dry model. (BLDGPM: MONITORING - Planning)

7. The Developer shall notify the Planning Division and the Department of Housing and Economic Development (DHED) at the commencement of leasing or sales. (ONGOING: PLANNING - Planning)

TRANSFER OF DEVELOPMENT RIGHTS

1. Prior to Final Approval by the Development Review Officer, the Property Owner shall submit a Contract for Sale and Purchase of Transfer of Development of Rights (TDRs) in a manner and form approved by the County Attorney, signed by the Developer and/or Property Owner, in order that it is signed by the Executive Director of Planning, Zoning and Building Department.

The Contract for Sale and Purchase of TDRs shall accommodate a maximum of 28 TDR units at a total selling price of \$543,900 (18 TDR units to be purchased at the Multi-family Full (Market Rate) TDR price of \$29,400 per unit (\$529,000) and 10 TDR units to be purchased at the at the Multi-family Workforce rate of \$1,470 per unit (\$14,700).

Upon execution, the Property Owner shall submit the Contract to the Palm Beach County Clerk of Court for recordation, and a copy of the recorded Contract shall be provided to the

Zoning Division. (DRO: ZONING - Planning)

2. Prior to Final Approval by the Development Review Officer, the Property Owner shall submit the Transfer of Development Rights Deed in a manner and form approved by the County Attorney, signed by the Developer and/or Property Owner, in order that it is signed by the Executive Director of Planning, Zoning and Building Department. (DRO: ZONING - Zoning)

3. Prior to Technical Compliance of the plat, or issuance of the first Building Permit, whichever occurs first, the Property Owner shall pay one hundred (100) percent of the Funds, pursuant to the recorded Contract for Sale and Purchase of TDRs, to the Board of County Commissioners, through the Zoning Division. (BLDGPM/TC: ZONING - Zoning)

4. Prior to the issuance of the first Building Permit, except Sales Models or temporary Real Estate Sales and Management Offices, the Zoning Division provides the Developer and/or Property Owner the executed Transfer of Development Rights Deed, in order for the Property Owner to submit the TDR Deed to the Palm Beach County Clerk of Court for recordation, and a copy of the recorded TDR Deed shall be provided to the Zoning Division. (BLDGPM/TC: 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: ZONING - 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: ZONING - Zoning)

DISCLOSURE

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