

RESOLUTION NO. R-83-1362

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE CITY OF PALM BEACH GARDENS TO REZONE RECENTLY ANNEXED PROPERTY PURSUANT TO §171.062, FLORIDA STATUTES, AND PALM BEACH GARDENS RESOLUTION NO. 52-1983.

WHEREAS, by its Resolution No. 52-1983, the City of Palm Beach Gardens has requested permission from the Board of County Commissioners to rezone the property described therein after Annexation of same into the corporate limits of the City; and

WHEREAS, the property is currently zoned RH-Residential High Density and is subject to the Palm Beach County Comprehensive Land Use Plan; and

WHEREAS, the City proposes to rezone the property to a Planned Unit Development with underlying zoning of CG-1 General Commercial; and

WHEREAS, the Comprehensive Land Use Plan identifies the subject site as Medium High to High Residential having a density of twelve (12) units per acre in a standard subdivision and eighteen (18) units per acre in a Planned Unit Development Commercial Potential is not recognized for the site; and

WHEREAS, the Intergovernmental Coordination Element of the Palm Beach County Comprehensive Land Use Plan (Ordinance 80-8, as amended by Ordinances 81-27 and 82-26) provides that the Board of County Commissioners may find the proposed waiver request compatible with the Comprehensive Plan if the uses and/or densities proposed will have little or no significant impact upon County systems, or such effect is mitigated by compliance with Performance Standards equal to those adopted as part of the County's Comprehensive Plan, or other adopted Ordinance, which, simultaneously with the development of the annexed area, will fully meet all performance criteria in terms of the impact upon County Systems; and

WHEREAS, the Planning, Zoning, and Building Department has reviewed the request and has found that the proposed development is inconsistent with the Comprehensive Land Use Plan designation for the subject area. The difference between the County's RH Zoning District and the City's CG-1 Zoning District is significant and not in harmony with the intent of the Comprehensive Land Use Plan. However, the Planning Division has determined that there will not be a significant impact upon County

systems from the proposed zoning change to CG-1 General Commercial, and therefore recommends that the waiver request be granted, and outlined in the October 19, 1983 memorandum of the Planning Director, attached hereto and made a part hereof; and

WHEREAS, Florida Statutes 171.062, requires that when a City desires to rezone property which was previously subject to County land use control that the City must request and receive permission for such change from the Board of County Commissioners of the respective County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are hereby affirmed and ratified.
2. This Board finds that the Rezoning proposed by the City of Palm Beach Gardens will have no significant impact upon County systems.
3. The request of the City of Palm Beach Gardens in its Resolution No. 52-1983, attached hereto and made a part hereof, is hereby approved.

The foregoing Resolution was offered by Commissioner BAILEY who moved for its adoption. The motion was seconded by Commissioner WILKEN, and upon being put to a vote, the vote was as follows:

PEGGY B. EVATT	-	AYE
KENNETH G. SPILLIAS	-	AYE
DENNIS P. KOEHLER	-	AYE
DOROTHY H. WILKEN	-	AYE
BILL BAILEY	-	AYE

The Chairman thereupon declared the Resolution duly passed and adopted this 25th day of October, 1983.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

JOHN B. DUNKLE, Clerk

BY: John Ballitt  
County Attorney

BY: John B. Dunkle  
Deputy Clerk

FILED THIS .. .. DAY OF  
**OCT 25 1983** 19  
AND RECORDED IN RESOLUTION  
MINUTE BOOK NO 316 AT  
PAGE 1-11 RECORD VERIFIED  
JOHN B DUNKLE, CLERK  
BY D. H. Harris

RESOLUTION 52, 1983

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA, REQUESTING THAT THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY PURSUANT TO FLORIDA STATUTES 171.062, WAIVE THE TWO (2) YEAR PERIOD FOR THE USE OF LANDS ANNEXED TO THE CITY OF PALM BEACH GARDENS, FLORIDA WITH THE CURRENT COUNTY ZONING CLASSIFICATION MEDIUM HIGH-HIGH DENSITY RESIDENTIAL DISTRICT BEING CHANGED TO THE CITY'S ZONING CLASSIFICATION OF PUD - PLANNED UNIT DEVELOPMENT WITH UNDERLYING ZONING OF CG-1 - (GENERAL COMMERCIAL)

WHEREAS, the City of Palm Beach Gardens has received a request by Attorney Alan Ciklin, Authorized Agent, to annex the following described property:

THE EAST 67 FEET OF THE WEST 593 FEET OF THE SOUTH 97 9 FEET OF THE NORTHWEST QUARTER (N.W. 1/4) OF SECTION 4 (AS MEASURED ALONG LINES PARALLEL WITH THE WEST AND SOUTH LINES OF SAID NORTHWEST QUARTER OF SECTION 4), TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH LOTS 6 AND 7, ACCORDING TO THE PLAT OF BOMAR ADDITION, AS RECORDED IN PLAT BOOK 23, AT PAGE 42, IN AND FOR THE RECORDS OF PALM BEACH COUNTY, FLORIDA

CONTAINING IN ALL .42 ACRES, MORE OR LESS SUBJECT TO RIGHTS-OF-WAY, EASEMENTS AND OTHER MATTERS OF RECORD

AND WHEREAS, Chapter 171.062, Florida Statutes, requires that when a municipality shall annex unincorporated property with a zoning classification permitting a higher or lower intensity or density, than is currently in effect under permitted County zoning usage, that such use effected by the municipality cannot be utilized until two (2) years have elapsed from date of annexation

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA, AS FOLLOWS

Section 1 That the City Council hereby requests the Board of County Commissioners of Palm Beach County to waive the two (2) year statutory mandatory moratorium of land use on the foregoing lands annexed by the City of Palm Beach Gardens with a zoning classification of PUD - Planned Unit Development with underlying zoning of CG - 1 - (General Commercial Zoning District).

Section 2 That the City Clerk shall deliver certified copies of this Resolution to each member of the Board of County Commissioners of Palm Beach County, the County Administrator and the Director of Planning, Zoning and Building of Palm Beach County.

INTRODUCED, PASSED, AND ADOPTED THIS THE 15th DAY OF SEPTEMBER, 1983.

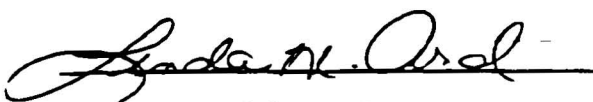


MAYOR

R 83 1362

Linda M. Aro Clerk of the City of Palm Beach Gardens do hereby certify that this is a true copy as taken from the Official records of the City of Palm

ATTEST



CITY CLERK

AUGUST 15, 1983

ORDINANCE 10, 1983

AN ORDINANCE OF THE CITY OF PALM BEACH GARDENS, FLORIDA, ANNEXING A PARCEL OF LAND LOCATED IN SECTION 4, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO, INTO THE CITY OF PALM BEACH GARDENS, FLORIDA, AND CONCURRENTLY WITH THE ANNEXATION THEREOF CREATING A ZONING AND USE CLASSIFICATION OF SAID LAND DESIGNATED AS A PLANNED UNIT DEVELOPMENT, WITH THE UNDERLYING PERMITTED ZONING USAGE OF SAID LAND BEING DESIGNATED AS CG-1 GENERAL COMMERCIAL ZONING DISTRICT, REQUIRING THE POSTING OF REQUISITE SURETY BY THE DEVELOPER TO ASSURE REQUIRED CONSTRUCTION OF ROAD PAVING, UTILITIES AND DRAINAGE IN A SUM OF MONEY TO BE DETERMINED BY THE CITY ENGINEER, PROVIDING FOR THE HATCHING OR COLORING OF THE OFFICIAL ZONING MAP OF THE CITY OF PALM BEACH GARDENS BY THE CITY CLERK TO REFLECT THE ZONING DESIGNATION CREATED HEREIN, PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith, AND, PROVIDING FOR AN EFFECTIVE DATE HEREOF

WHEREAS, the contract purchaser of the lands described in Exhibit "A", Dr Joseph Giurato has filed a written Petition with the City of Palm Beach Gardens, Florida, requesting that the City of Palm Beach Gardens annex said described lands into and within the territorial boundaries of said City, and

WHEREAS, said Petitioner has further requested that the City of Palm Beach Gardens concurrently with the annexation thereof create a zoning use classification thereof to be designated as a Planned Unit Development with the underlying permitted zoning usage thereof designated as CG-1 - General Commercial Zoning District, and

WHEREAS, the City Council of Palm Beach Gardens, Florida, finds that the lands described in Exhibit "A" are contiguous to existing City boundaries, and that no enclave will be created by said annexation, that the City can furnish or cause to be furnished necessary utilities, police, fire, and sanitation services, and that the annexation of said lands is in compliance with Chapter 171, Annexation, Florida Statutes and with the Palm Beach Gardens Code

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA

Section 1. The parcel of land comprising approximately .42 acres, located in Section 4, Township 42 South, Range 43 East, Palm Beach County, Florida, and fully described in Exhibit "A", attached hereto and made a part hereof, is hereby annexed into the territorial limits of the City of Palm Beach Gardens, Florida, and shall henceforth be a part of said City with the same force and legal effect as if having been an original part hereof.

Section 2. Concurrently with the annexation of said lands described in Exhibit "A" a zoning use classification on said lands is hereby created and designated as a Planned Unit Development with the underlying permitted zoning usage thereof being designated as CG-1 - General Commercial Zoning District

Section 3. The Planned Unit Development created by this Ordinance shall be developed solely in accordance with the Site Plan prepared by Kilday & Associates, Drawing No 82 - 59, under revised date of September 13, 1983, consisting of one page, and Landscaping Plan by Kilday & Associates, Drawing No. 83-65, consisting of one page, under final revised date of September 15, 1983, which documents are hereby expressly made a part of this Ordinance as if fully set out herein

Section 4. Prior to issuance of the initial building permit by the Building Official for development of said Planned Unit Development, the Petitioner shall post with the City of Palm Beach Gardens a Performance Bond or a Letter of Credit in a sum of money which shall be determined by the City Engineer to assure construction by the Petitioner of all required road paving, drainage facilities and utilities in said Planned Unit Development. The requisite form and execution of the Bond or Letter of Credit shall be subject to the approval by the City Manager

Further, prior to the issuance by the Building Official of the first Building Permit for a building structure in said Planned Unit Development, Petitioners shall obtain and file with the City Clerk copies of all Permits required by law to be issued by governmental entities other than the City of Palm Beach Gardens

Section 5. The Petitioner, within 20 days from effective date of this Ordinance, shall execute and deliver to the City of Palm Beach Gardens, Florida, an Easement Deed in recordable form, wherein Petitioner is Grantor and said City is Grantee, which Deed shall convey, free and clear of liens and encumbrances, easement rights therein for Roadway and Utility Purposes, over, across, and under the North 25 feet of the real property described in Exhibit "A" attached hereto. The required Easement Deed shall be in a form acceptable to the City Attorney. The Attorney for Petitioner shall furnish to the City Attorney a Certificate of Title pertaining to the lands being conveyed that Petitioner has a good and marketable Title to same and that there are no liens or encumbrances thereon.

Further, the Petitioner, within 20 days from effective date of this Ordinance, shall execute and deliver to the City of Palm Beach Gardens, Florida, simultaneously with the above described Easement Deed, an Unity of Title Agreement, in recordable form wherein the Petitioner and owner of the lands described in Exhibit "A" agrees with said City as a party thereto, that all of the lands described in Exhibit "A" shall be considered as one parcel of land, and no conveyance of any part thereof shall be made without the written approval of the City of Palm Beach Gardens in the form of a Resolution by the City Council.

Further, in said Unity of Title Agreement, Lots 6 and 7 of the Bomar Addition, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 23 Page 42, shall be used solely for the purpose of providing parking facilities for motor vehicles.

The required Unity of Title Agreement shall be in a form acceptable to the City Attorney

Section 6 The full development of said Planned Unit Development shall be completed within two (2) years from effective date hereof, and the Petitioner may obtain an extension of one (1)

additional year for good cause shown by approval of subsequent Ordinance, otherwise, the City Council shall establish a zoning classification of permitted use for all lands remaining in the uncompleted portions of the Planned Unit Development.

Section 7. The City Clerk shall designate the change of zoning provided herein by coloring or hatching upon the official zoning map of the City. Further, the City Clerk shall furnish a certified copy of this Ordinance to the governmental bodies required by law

Section 8. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 9 This Ordinance shall be effective upon passage.


PLACED ON FIRST READING THIS 18th DAY OF AUGUST, 1983.

PLACED ON SECOND READING THIS 15th DAY OF SEPTEMBER, 1983

PASSED AND ADOPTED THIS 15th DAY OF SEPTEMBER, 1983.

  
\_\_\_\_\_  
MAYOR

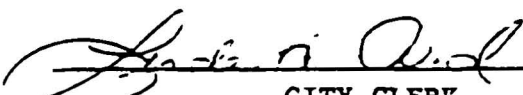
  
\_\_\_\_\_  
COUNCILMAN

  
\_\_\_\_\_  
VICE MAYOR

  
\_\_\_\_\_  
COUNCILWOMAN

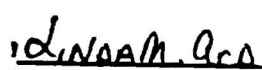
  
\_\_\_\_\_  
COUNCILMAN

ATTEST

  
\_\_\_\_\_  
CITY CLERK

R 83

1362

  
\_\_\_\_\_  
Clerk of the City of Palm

Stan Redick  
October 18, 1983  
Page 2

Comprehensive Plan or other adopted ordinances) on County systems." In this case, it has been determined that there is not a significant impact on County systems from the proposed change.

Recommendation

Based on the fact that the City's proposed change in zoning will not have a significant impact on County systems, it is recommended that the waiver of County zoning be granted to the City of Palm Beach Gardens under Chapter 171.062 Florida Statutes.

RM;cjs  
Encl.

ok. Jf

Richard F. Moley

R 83 1362

BOOK 316 009



## Inter-Office Communication

PALM BEACH COUNTY

TO Stan Redick  
Planning Director  
FROM Richard Morley  
Principal Planner  
RE Annexation/Rezoning/Waiver Request - City of Palm Beach  
Gardens - Resolution #52-1983

DATE October 18, 1983  
FILE

The Planning Division has reviewed the above waiver request under Chapter 171.062 Florida Statutes and offer the following comments.

### Background Information

The City of Palm Beach Gardens has recently annexed two contiguous parcels of land totalling .42 acres on the north side of PGA Boulevard between U S. Highway #1 and Ellison Wilson Road (see location map). The parcel has been simultaneously zoned by the City to a Planned Unit Development with underlying permitted zoning usage of CG-1, General Commercial Zoning District. The request is now for the purpose of requesting permission from Palm Beach County to waive the two year moratorium on the increase or decrease of zoning.

### Land Use Plan Designation and Zoning Districts

- a) The subject site is presently zoned (RH) Residential High Density by the County allowing for 12 units per acre in a Standard Subdivision and 18 units per acre in a PUD.
- b) The City has rezoned the property to a Planned Unit Development with underlying zoning of CG-1 (General Commercial).
- c) The difference between the County's RH Zoning District and the City's CG-1 Zoning District is significant.
- d) The County's Land Use Plan identifies the subject annexed site as Medium High to High Residential having a density of 12 units per acre in a standard subdivision and 18 units per acre in a PUD. No "Commercial Potential" exists for the site.
- e) The City's rezoned property to CG-1 is not consistent with the County's Land Use Plan, inasmuch as there is no "Commercial Potential" identified for the subject site in the Comprehensive Plan.

### Waiver Determination

**R 83 1362**

Although the City's requested CG-1, General Commercial Zoning is not consistent with the County's Comprehensive Plan, the Board of County Commissioners, under the amendment to the Intergovernmental Coordination Element of the Palm Beach County Comprehensive Plan may find the proposed waiver compatible with the Plan if "the uses and/or densities in the municipal plan for the area have no significant impact (as defined in the

BOOK 316 008

SIGNED \_\_\_\_\_



## CITY OF PALM BEACH GARDENS

10500 N MILITARY TRAIL • PALM BEACH GARDENS, FLORIDA 33410 622-1200

September 16, 1983

Mr. Robert Basehart, Director  
Planning, Zoning and Building Department  
Palm Beach County  
PO Box 1548  
West Palm Beach, Fla. 33402

Dear Mr. Basehart:

Please find enclosed certified copies of the City's Ordinance 10, 1983, and Resolution 52, 1983, unanimously adopted by the Council at their Regular Meeting of September 15, 1983.

Ordinance #10, 1983, annexed into the City two contiguous parcels of land totalling .42 acres, on the north side of PGA Boulevard between U.S. Highway #1 and Ellison Wilson Road.

Resolution 52, 1983, references Chapter 171.062, Florida Statutes, and requests you, the Board of County Commissioners, to waive the two year statutory mandatory moratorium of usage of the lands as zoned simultaneously with the annexation - Planned Unit Development with underlying permitted zoning usage of CG-1, General Commercial Zoning District.

Respectfully,

A handwritten signature in cursive script that reads "Linda M. Ard".

Linda M. Ard  
City Clerk  
CITY OF PALM BEACH GARDENS

R 83 1362

cc Mr. John Sansbury, County Administrator  
Board of County Commissioners

BOOK 316 010

EXHIBIT "A"

The East 67 feet of the West 593 feet of the South 97.9 feet of the Northwest Quarter (N.W.¼) of Section 4 (as measured along lines parallel with the West and South lines of said Northwest Quarter of Section 4), Township 42 South, Range 43 East, Palm Beach County, Florida.

Together with lots 6 and 7, according to the plat of Bomar Addition, as recorded in Plat Book 23, at Page 42, in and for the records of Palm Beach County, Florida

Containing in all .42 acres, more or less. Subject to rights-of-way, easements and other matters of record.

R 83 1362

BOOK 316 011