

RESOLUTION NO. R- 87-1105

RESOLUTION APPROVING ZONING PETITION 80-54(C), Special Exception

WHEREAS, the Board of County Commissioners, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements as provided for in Chapter 402.5 of the Palm Beach County Zoning Code Ordinance No. 73-2 have been satisfied; and

WHEREAS, Petition No. 80-54(C) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on March 26, 1987 and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. With required master plan modifications, this proposal will be consistent with the requirements of the Comprehensive Plan and local land development regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, assembled in regular session that Petition No. 80-54(C), the petition of CYPRESS CREEK MARINA ASSOCIATES, LTD., by F. Martin Perry, Esquire, for a SPECIAL EXCEPTION TO AMEND THE MASTER PLAN FOR A PLANNED UNIT DEVELOPMENT PREVIOUSLY APPROVED UNDER ZONING PETITION NO. 80-54 AND 80-54(B), TO REDESIGN THE SITE AND REDUCE DENSITY on Parcel No. 1; Beginning at the intersection of the Easterly right-of-way line of Palmwood Road, as said right-of-way is shown on the Plat, recorded

in Road Book 2, page 75, with the East-West 1/4 Section line of Section 20, Township 41 South, Range 43 East, (for the purposes of this description said quarter Section line is assumed to bear South 87 degrees 43' 14" East, and all other bearings hereon relative thereto) Thence North 1 degree 33' 06" East, a distance of 108.70 feet; Thence South 87 degrees 43' 14" East, a distance of 200.00 feet; Thence North 1 degree 33' 06" East, a distance of 438.46 feet; Thence South 87 degrees 43' 14" East, a distance of 129.99 feet to a point on the West right-of-way line of the Intracoastal Waterway, as shown in Plat Book 17, Page 6, Thence run South 31 degrees 12' 32" East, along said Westerly right-of-way line, a distance of 1312.58 feet, Thence South 15 degrees 50' 59" East, a distance of 260.00 feet, Thence South 73 degrees 06' 11" West, a distance of 364.13 feet; Thence South 68 degrees 52' 00" West, a distance of 620.00 feet; Thence South 1 degree 31' 24" West, a distance of 1.08 feet; Thence South 68 degrees 52' 00" West, a distance of 216.70 feet to a point on the Easterly right-of-way of aforementioned Palmwood Road; Thence run North 1 degree 31' 24" East, along said Easterly right-of-way, a distance of 1247.95 feet to the point of beginning. Also that portio of right-of-way of said Intracoastal Waterway lying South of a line parallel with and 450.00 feet South of said East and West 1/4 section line East of above described property and West of the centerline of said Intracoastal Waterway. Together with all riparian rights if any. But excepting therefrom the following described land, Excepted Parcel: A parcel of land situate in Section 20, Township 41 South, Range 43 East, being 28.00 feet in width and being more particularly described as follows: Commencing at the Southwest corner, of the Northwest 1/4 of said Section 20; Thence South 87 degrees 43' 14" East, along the East-West 1/4 Section line of said Section 20, a distance of 1,124.79 feet to the Easterly right-of-way line of Palmwood Road, as recorded in Plat Book 2, Page 85, and the point of beginning of the herein described parcel of land.

From the point of beginning; thence North 1 degree 33' 06" East, along said Easterly right-of-way line, a distance of 108.70 feet; thence South 87 degrees 43' 14" East, departing from said right-of-way, a distance of 28.00 feet; thence South 01 degree 33' 06" West, along a line 28.00 feet East of and parallel with, as measured at right angles to, said East right-of-way line of Palmwood Road, a distance of 108.34 feet; thence South 01 degree 31' 24" West, continuing along said parallel line, a distance of 1,236.26 feet; thence South 68 degrees 52' 00" West a distance of 30.34 feet to the existing right-of-way line of said Palmwood Road; thence North 01 degree 31' 24" East, along said right-of-way line a distance of 1,247.95 feet to the point of beginning. Together with: Parcel No. 2: That portion of Tracts 560 and 561 of the Intracoastal Waterway, as recorded in Plat Book 17 at Page 6 that is West of center line of the Intracoastal Waterway and adjoins the easterly boundary line of that certain parcel of land conveyed to Charles E. Largay Sr. by Special Warranty Deed, dated August 30, 1979, recorded September 10, 1979, in Official Records Book 3132, at Page 215, Together with: Parcel No. 3: All of that irregularly shaped parcel of land situated within the Intracoastal Waterway as shown upon Plat Book 17, Page 6 and adjoining the Northeast boundary lines of those certain parcels of lands conveyed to Houdaille Industries, Inc. by Cleary Brothers Construction Company, by Warranty Deed dated October 26, 1971, recorded October 27, 1971 in Official Records Book 1945, Page 126, which lands have been conveyed to Charles E. Largay, Sr., by Special Warranty Deed, dated August 30, 1979, recorded September 10, 1979, in Official Records Book 3132, at Page 215, Together with: Parcel No. 4: All land, above water and submerged, that is North of the center line of Cypress Creek and adjoins the Southerly boundary line of that certain parcel of land conveyed to Charles E. Largay, Sr., by Special Warranty Deed, dated August 30, 1979, recorded September 10, 1979, in Official Records Book 3132 at Page 215. The property

is located on the east side of Palmwood Road, approximately .3 mile north of Donald Ross Road in an RS-Single Family Residential Zoning District was approved as advertised subject to the following conditions:

1. The developer shall comply with all previous conditions of approval unless expressly modified herein.
2. Prior to master plan certification, the master plan shall be amended to indicate a clear corner distance of twenty five (25) feet at the intersection of two (2) public rights-of-way.
3. All property included in the legal description of this petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's Office which shall provide, among other things, for : Formation of a single "master" property owner's association, and automatic membership in the "master" association by any party holding title to any portion of the property included in the Planned Unit Development.
4. Existing native vegetation within the twenty-five (25) PUD buffer, building setback areas, open space and recreation tracts shall be incorporated into the project design. Clearing shall be limited to: roadways, retention and marina facilities, building pads and prohibited species. No mangrove trimming shall be permitted without first obtaining proper permits.
5. Use of the project's marina and clubhouse facilities shall be limited to members only. There shall be no commercial development or land use within the project. There shall be no on-premise signage visible from adjacent public streets indicating existence of the marina and clubhouse, other than customary directional signs.
6. Condition No. 1 of Petition 80-54(B) presently states:

"1. This development shall retain onsite the first one inch of the stormwater runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended."

Revise Condition No. 1 to read:

- "1. The developer shall retain the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However at a minimum, this development shall retain onsite the first one inch of the stormwater runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer."
7. Condition No. 2 of Petition 80-54(B) presently states:

"2. Within ninety (90) days of approval the property owner shall convey to Palm Beach County for the ultimate right of way for Prosperity Farms Road (Palmwood Road), 68 feet from centerline, (approximately an additional

28 feet of right of way). Conveyance must be accepted by Palm Beach County prior to issuance of the first building permit."

Revise Condition No. 2 to read:

"2. The property owner shall convey for the ultimate right-of-way of Prosperity Farms Road (Palmwood Road) 68 feet from centerline (approximately an additional 28 feet) within 90 days of the approval of the Resolution approving this project or prior to Certification of the Master Plan whichever shall first occur."

8. Condition No. 5 of Petition 80-54 presently states:

"5. The developer shall contribute Thirty Thousand Eight Hundred Dollars (\$30,800.00) toward the cost of meeting this project's direct and identifiable traffic impact, to be paid at the rate of \$175.00 per dwelling unit at the time of issuance of the building permits."

Revise Condition No. 5 to read:

"5. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is:

- a) \$804.00 per single family dwelling unit under 2,000 square feet.
- b) \$1,045 per single family dwelling unit over 2,000 square feet.
- c) \$562 per multi family dwelling unit."

9. Condition No. 8 of the previous approval (Resolution R-84-766) which states:

"8. Prior to site plan certification, the proposed site plan shall be amended to reflect the following:

- a. Setbacks conforming to the requirements of the Zoning Code and minimum separation between parking enclosures and principal structures of at least 15 feet.
- b. Provision of a jogging trail around the perimeter of the property and between recreation facilities.
- c. No additional bulkheading of the Intracoastal Waterway or Cypress Creek.
- d. Installation of mangrove seedings along the Intracoastal Waterway and the western portion of Cypress Creek.
- e. Installation of coastal native tree species (buttonwood and gumbo limbos) along the Intracoastal and Cypress Creek in an amount equivalent to one tree per 20 feet of shoreline.

- f. Installation of trees and shrubs along the Palmwood Road and interior property line to achieve a dense vegetative buffer within two years after the date of this approval."

is hereby deleted.

10. In the event that salt water intrusion by this development is demonstrated to affect well water of abutting existing dwellings, the petitioner shall take appropriate remedial action to provide potable water to these properties.

Commissioner Adams, moved for approval of the petition. The motion was seconded by Commissioner Marcus, and upon being put to a vote, the vote was as follows:


Carol A. Roberts	--	Aye
Karen T. Marcus	--	Aye
Dorothy Wilken	--	Aye
Kenneth M. Adams	--	Aye
Carol J. Elmquist	--	Aye

The foregoing resolution was declared duly passed and adopted this 28th day of July, 1987 confirming action of March 26, 1987.

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS
JOHN B. DUNKLE, CLERK

BY: Kathryn S. Miller
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



County Attorney