

Resolution No. R-89-1382

RESOLUTION APPROVING ZONING PETITION NO. 86-106(B), MODIFICATION OF COMMISSION REQUIREMENTS AND REVIEW OF SUBSTANTIAL DEVIATION FROM AN APPROVED DEVELOPMENT OF REGIONAL IMPACT AND ISSUING A DEVELOPMENT ORDER FOR THE SMITH DAIRY (AMERIFIRST) PLANNED UNIT DEVELOPMENT ('ZONINGPETITION NO. 86-106(B), A DEVELOPMENT OF REGIONAL IMPACT

WHEREAS, Amerifirst Development Corporation has filed a Development of Regional Impact Application for Development Approval with Palm Beach County in accordance with Section 380.06, Florida Statutes; and

WHEREAS, Amerifirst Development Corporation proposes to develop a residential planned unit development consisting of 2,908 dwelling units on 850 acres of land, a project which constitutes a Development of Regional Impact pursuant to Florida Statutes, Section 380.06, on real property located in Palm Beach County and fully described in Exhibit "A" of Resolution No. R-87-481; and

WHEREAS, the Board of County Commissioners as the governing body of the local government having jurisdiction, pursuant to Section 380.03 and 380.06, Florida Statutes, is authorized and empowered to consider Applications for Development Approval for Developments of Regional Impact; and

WHEREAS, the notice and hearing requirements of Section 380.06, Florida Statutes, have been satisfied; and

WHEREAS, the Board of County Commissioners has determined that all regional issues have been sufficiently addressed and that the proposed development is consistent with all regional and local comprehensive plans pursuant to Chapter 163, Florida Statutes; and

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, 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. 86-106(B) was presented to the Board of County Commissioners of Palm Beach County at its public hearing conducted on June 29, 1989; 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 Planning Commission; and

WHEREAS, this approval is subject to Zoning Code Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

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

Petition No. 86-106(B)

1. This proposal is consistent with the requirements of the Comprehensive Land Use Plan and local land development regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 86-106(B), the petition of AMERIFIRST DEVELOPMENT CORPORATION, by John C. Toshner, Agent, for a MODIFICATION OF COMMISSION REQUIREMENTS [SMITH DAIRY PLANNED UNIT DEVELOPMENT, PETITION NO. 86-106(A)] AND TO REVIEW SUBSTANTIAL DEVIATION FROM AN APPROVED DEVELOPMENT OF REGIONAL IMPACT, as indicated in Section 1 below, is hereby approved as a Development of Regional Impact, subject to special conditions indicated in Section 3 of Resolution No. R-87-481 as amended below, and other requirements of this Development Order.

SECTION 1. MODIFICATION OF ZONING RESOLUTION R-87-481.

Zoning Resolution R-87-481 adopted March 24, 1987 and entitled as follows:

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA: REPEALING RESOLUTION R-86-1924 AND ISSUING A DEVELOPMENT ORDER APPROVING A SPECIAL EXCEPTION FOR THE SMITH DAIRY (AKERIFIRST) PLANNED UNIT DEVELOPMENT (ZONING PETITION 86-106), A DEVELOPMENT OF REGIONAL IMPACT

is hereby amended.

SECTION 2. LEGAL DESCRIPTION OF PARCEL SUBJECT TO DEVELOPMENT ORDER.

The legal description of the petition of AMERIFIRST DEVELOPMENT CORPORATION by R. Redding Stevenson, Jr., Agent, for a SPECIAL EXCEPTION TO ALLOW A PLANNED UNIT DEVELOPMENT is found in Exhibit "A" which is attached hereto and made an integral part of this Development Order.

SECTION 3. CONDITIONS OF APPROVAL:

Approval of this Development Order is expressly conditioned upon compliance with, and satisfaction of, the following conditions of approval:

1. The petitioner shall comply with all previous conditions of approval, unless expressly modified herein.
2. Condition No. 11.a. of Zoning Petition No. 86-106 Resolution No. R-87-481, which presently states:

"11. HABITAT, VEGETATION, AND WILDLIFE

a. Wetland Preservation:

At a minimum, the developer shall preserve in viable condition the 10.1 acres of wetland habitat shown on Map G of the Smith Dairy Informational Sufficiency Response of June 13, 1986. The developer shall undertake whatever action may be necessary to maintain normal hydro-periods within these preserved

wetland areas prior to, during, and after construction."

is hereby amended to read as follows:

"HABITAT, VEGETATION, AND WILDLIFE:

- a. At a minimum, the developer shall preserve in viable condition ten(10) acres of wetland habitat, as shown on Master Water Management Plan, Exh'ibit of the Smith Dairy Substantial Deviation Application for Development Approval. The developer shall relocate the Pond Apple Preserve to an 0.12 acre littoral shelf located adjacent to the area where the Pond Apples exist at present. In addition, 0.23 acres of wetland vegetation will be planted at the northeast corner of the lake in a double littoral zone using mixed hardwood swamp species, as shown on the Mitigation Plan, Exhibit E submitted December, 1988, in the Smith Dairy DRI request for development order change. The developer shall undertake whatever action may be necessary to maintain normal hydro-periods within these preserved and relocated wetland areas prior to, during, and after construction."
3. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
4. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
5. Failure to comply with any conditions of approval may result in the denial or revocation of a building permit: the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code.

SECTION 4. ADOPTION OF DEVELOPMENT ORDER.

This Resolution shall constitute the Development Order for the Smith Dairy (Amerifirst) Development of Regional Impact, as required by Chapter 380.06, Florida Statutes.

SECTION 5. SUBSTANTIAL DEVIATIONS.

If required by Chapter 380 of Florida Statutes, any modifications to or deviations from the approved plans or requirements of this Development Order shall be submitted by the Executive Director of the Department of Planning, Zoning and Building to the Board of County Commissioners for a determination as to whether the change constitutes a substantial deviation. The Board of County Commissioners shall make its determination of substantial deviation at a public hearing after notice to the developer and as required by Section 380.06 of Florida Statutes.

SECTION 6. SUPPLEMENTAL DEFINITIONS.

In addition to the definitions found in Zoning Code Section 200.2 (Definitions), the definitions found in Chapter 380, Florida Statutes, shall apply to the interpretation of this Development Order.

SECTION 7. COMPLIANCE WITH APPLICABLE LAW.

The approval granted by this Development Order is conditional, and shall not be construed to obviate the duty of the developer to comply with all other applicable local, state and federal permitting requirements.

SECTION 8. SEVERABILITY.

In the event that any portion or section of this Development Order is deemed to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Development Order, which shall remain in full force and effect.

SECTION 9. EFFECTIVE DATE.

This Development Order shall become effective upon adoption.

SECTION 10. SUCCESSORS IN INTEREST.

This Development Order shall be binding upon the developer and its assignees OR successors in interest. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced government agency in existence on the effective date of this Development Order.

SECTION 11. TRANSMISSION OF COPIES.

Copies of this Development Order shall be transmitted immediately by Certified Mail to the State of Florida Department of Community Affairs, the Treasure Coast Regional Planning Council, and Amerifirst Development Corporation.

SECTION 12. INTERPRETATION OF CAPTIONS.

Captions used throughout this Resolution to introduce sections are intended for convenience of the reader only and shall not be used to construe legislative intent.

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

Carol J. Elmquist	--	AYE
Karen T. Marcus	--	AYE
Carol A. Roberts	--	AYE
Ron Howard	--	AYE
Carole Phillips	--	ABSENT

The foregoing resolution was declared duly passed and adopted this 25th day of July, 1989 confirming action of June 29, 1989.

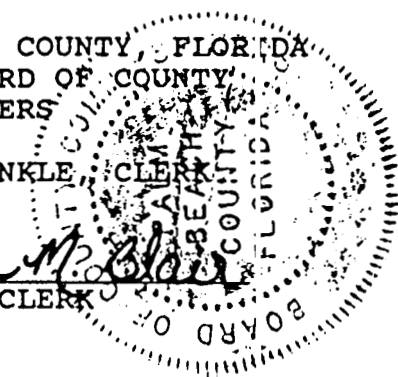
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: Barbara Altman
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: Jina M. Blair
DEPUTY CLERK



RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS OF PALM BEACH COUNTY,
FLORIDA, ISSUING A DEVELOPMENT ORDER
APPROVING A SPECIAL EXCEPTION FOR
THE SMITH DAIRY (AMERIFIRST) PLANNED UNIT DEVELOPMENT
(ZONING PETITION 86-106), A DEVELOPMENT OF REGIONAL IMPACT

EXHIBIT "A" LEGAL DESCRIPTION

The petition of AMERIFIRST DEVELOPMENT CORPORATION By R. Redding Stevenson, Jr., Agent, for a SPECIAL EXCEPTION TO ALLOW A PLANNED UNIT DEVELOPMENT on a portion of Sections 3, 4, and 5, Township 45 South, Range 42 East, said portion being part of Blocks 38 and 39 as shown on plat of Palm Beach Farms Company, Plat No. 3, as recorded in Plat Book 2 at Pages 45 through 58 inclusive, and as corrected to Tracts 1 through 16, inclusive, Block 38 and Tracts 1 through 9 inclusive, Block 39 as shown on plat of Plat No. 13 as recorded in Plat Book 6 at Page 99, together with the Hiatus lying between the West Right-of-way line of Jog Road and the East line of said Block 39, being more particularly described as follows: Commencing at the North 1/4 corner of said Section 3; thence South 89 degrees 15'59" West along the North line of said Section 3, a distance of 40.00 feet to the Point of Beginning of this description, said point being on the West Right-of-way line of Jog Road as recorded in Official Record Book 1207 at Page 361; thence South 00 degrees 47'13" East along said West Right-of-way line, a distance of 27149.03 feet; thence South 89 degrees 12'47" West, a distance of 115.00 feet; thence North 00 degrees 47'13" West, a distance of 75.00 feet; thence South 89 degrees 12'47" West, a distance of 971.79 feet to the beginning of a curve concave to the Southeast having a radius of 1493.63 feet and a central angle of 31 degrees 59'34"; thence Southwesterly along the arc of said curve, a distance of 834.01 feet; thence South 57 degrees 13'13" West along the tangent of said curve, a distance of 200.00 feet to the beginning of a curve concave to the Northwest having a radius of 1142.91 feet and a central angle of 29 degrees 05'50"; thence Southwesterly along the arc of said curve, a distance of 580.42 feet; thence South 86 degrees 19'03" West along the tangent of said curve, a distance of 850.43 feet; thence South 03 degrees 40'57" East, a distance of 75.00 feet; thence South 86 degrees 19'03" West, a distance of 75.00 feet; thence South 03 degrees 40'57" East, a distance of 176.71 feet to the beginning of a curve concave to the Northeast having a radius of 1227.52 feet and a central angle of 17 degrees 40'42"; thence Southeasterly along the arc of said curve, a distance of 378.74 feet; thence South 21 degrees 21'39" East along the tangent of said curve, a distance of 200.00 feet to the beginning of a curve concave to the Southwest having a radius of 1138.37 feet and a central angle of 20 degrees 20'51"; thence Southeasterly along the arc of said curve, a distance of 404.27 feet; thence South 01 degrees 00'48" East along the tangent of said curve, a distance of 610.16 feet; thence North 88 degrees 59'12" East, a distance of 75.00 feet; thence South 00 degrees 52'41" East, a distance of 75.00 feet; thence North 89 degrees 07'19" East, a distance of 412.54 feet to the beginning of a curve concave to the Southwest having a radius of 10461.90 feet and a central angle of 05 degrees 00'00"; thence Southeasterly along the arc of said curve, a distance of 912.97 feet; thence South 85 degrees 52'41" East along the tangent of said curve, a distance of 208.70 feet to a Point of Intersection with the South line of said Block 39; thence South 89 degrees 07'19" West along the Easterly prolongation of the south line of said Blocks 38 and 39, a distance of 6980.60 feet to a Point of Intersection with the West line of said Block 38, said point being 70.00 feet East of as measured at right angles and parallel with the East Right-of-way line of Sunshine State Parkway as shown on Right-of-way map Station 2334+53.14 to Station 2342+94.41 Contract

No. 3.2 Sheet 8 of 13; thence North 01 degree 02'30" West along said West line of Block 38, a distance of 5154.48 feet to a Point of Intersection with the North line of said Section 5; thence North 88 degrees 46'49" East along the North line of said Section 5, a distance of 540.70 feet to the Northwest corner of said Section 4; thence North 89 degrees 18'59" East along the North line of said Section 4, a distance of 2727.04 feet to the North 1/4 corner of said Section 4; thence North 89 degrees 19'08" East along the North line of said Section 4, a distance of 2726.84 feet to the Northwest corner of said Section 3; thence North 89 degrees 15'59" East along the North line of said Section 3 and the Easterly prolongation of the North line of said Block 39, a distance of 2686.54 feet to the Point of Beginning, (the last four (4) described courses also being the North line of said Blocks 38 and 39 of said Plat No. 13). Said property located on the west side of Jog Road, being bounded on the south by Hypoluxo Road Extension and on the west by Florida's Turnpike (Sunshine State Parkway).

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, JOHN B. DUNKLE, ex-officio Clerk of the
Board of County Commissioners certify this to
be a true and correct copy of the original filed in
my office on July 25, 1989
DATED at West Palm Beach, FL on July 26, 1989
JOHN B. DUNKLE, Clerk,
By: Jim W. Blair . D.C.