

RESOLUTION NO. R-92- 1821

RESOLUTION APPROVING ZONING PETITION NO. 92-11
SPECIAL EXCEPTION PETITION OF JERALD GOLDSTEIN

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, have been satisfied; and

WHEREAS, Petition No. 92-11 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on June 29, 1992; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, 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, this approval is subject to the 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, sitting as the Zoning Authority, made the following findings of fact:

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

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 92-11, the petition of JERALD GOLDSTEIN, TRUSTEE, BY ROBERT BASEHART, AGENT, for a SPECIAL EXCEPTION TO ALLOW A PLANNED UNIT DEVELOPMENT on a parcel of land lying in Tracts 61 and 62, BOYNTON GARDENS, Section 23, Township 45 South, Range 42 East, according to the Plat thereof recorded in Plat Book 6, Page 32 of the Public Records of Palm Beach County, Florida, LESS right-of-way for State Road 804 as set out in Deed Book 957, Page 482, Public Records of Palm Beach County, Florida, and being located ON THE NE CORNER OF BOYNTON BEACH BLVD. AND EL CLAIR RANCH RD., was approved on June 29, 1992, as advertised, subject to the following conditions:

A. ALL PETITIONS

1. This Special Exception is granted concurrent with a rezoning. Development of the site is limited to the uses and site design shown on the master plan approved by the Board of County Commissioners (Exhibit No. 22). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes

are permitted pursuant to Zoning Code Section 402.7 (E)2 (b) (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval contained herein. (ZONING)

2. The petitioner shall receive certification of the master plan approved by the Board of County Commissioners for the subject property, as amended as required by the conditions of approval, by the Site Plan Review Committee on or before September 30, 1992. (MONITORING)

B. BUILDING AND SITE DESIGN

1. Prior to site plan certification, the petitioner shall amend the master plan to indicate the following:
 - a. A total minimum tree count of 229 trees.
 - b. Crosswalks and sidewalks for pedestrian traffic from all residential areas to all recreation areas. The locations shall be approved by Engineering.
 - c. Surrounding land uses and zoning.
 - d. If access is permitted on El Clair Ranch Road, a cul-de-sac or other street termination device at the south end of the local access street to prevent vehicular access to the property from Boynton Beach Boulevard. If access is permitted by extending the existing bridge from Boynton Beach Boulevard over the LWDD E-3 Canal into the project, the petitioner shall revise the master plan to indicate the new location of the local access street within the project. If access is from Boynton Beach Boulevard, no access will be permitted from El Clair Ranch Road. Approval of either access is subject to Engineering and Zoning approval.
 - e. The deletion of the east forty feet of Lot 62, to be conveyed to the Lake Worth Drainage District.
 - f. The designation of Parcel A (seven (7) patio home lots) as Phase I and Parcel B (46 townhomes) as Phase II of the development. (ZONING-BUILDING)
2. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material. (BUILDING)

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The Petitioner shall submit an Affidavit of Notification to the Department of Environmental Resources Management prior to site plan certification. (ERM)

D. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (HEALTH)
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (HEALTH)

E. ENGINEERING

1. The Developer shall provide discharge control and treatment for 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 stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of three (3) inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement. (ENGINEERING)
2. Prior to Master Plan Approval, Master Plan shall be revised to reflect only one (1) access to the site from El Clair Ranch Road. Location of this access shall be approved by the County Engineer.
 - a. Palm Beach County shall acquire right-of-way, if required through an eminent domain procedure, for the El Clair Ranch Road entrance over the ten (10) foot wide buffer strip lying between the subject property and El Clair Ranch Road. Purchase of the right-of-way shall be completed prior to August 1, 1993. The Developer shall prepare and provide to the County all necessary construction plans for said entrance as a two (2) lane roadway. The construction plans shall be approved by the County Engineer based upon the Palm Beach County Minimum Construction Plans Standards as they exist at the time of submittal. These construction plans shall be submitted prior to September 1, 1992.
 - b. The Developer shall fund all necessary right-of-way acquisition documents including, but not limited to, surveys, property owner's map, legal descriptions for acquisition, and parcel right-of-way maps required for the construction of said entrance as referenced above and subject to the approval of the County Engineer. These documents shall include a title search for a minimum of twenty-five (25) years. The right-of-way documents shall be provided prior to October 1, 1992.
 - c. The Developer shall provide all funding inherent with the provisions outlined in Paragraph E.2. herein and fund all necessary right-of-way acquisition costs including, but not limited to, the actual cost of right-of-way acquired, all legal costs incurred by the County in the acquisition of said right-of-way, including the costs of all expert witness fees and attorneys' fees. Any funds required to be expended by the County shall be advanced to the County by the Developer. In addition, the Developer shall provide, at Developer's cost, private legal counsel to initiate

and pursue to conclusion the acquisition of said property by eminent domain, as required under the provision of paragraph E.2. herein on behalf of Palm Beach County. (ENGINEERING)

3. In the event the County is unable to obtain, for any reason, the right-of-way required for the El Clair Ranch Road connection set forth in Paragraph **E(2)** (a) (b) (c) and (d) above, then the Master Plan shall be revised to reflect access to the site from Boynton Beach Boulevard. Location of this access shall be approved by the County Engineer. (ENGINEERING)
4. The Developer 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 at the time of the Building Permit is **\$65,835 (399 trips x \$165.00 per trip)**. (IMPACT FEE COORDINATOR)
5. The Developer shall convey to the Lake Worth Drainage District the east forty **(40)** feet of Lot **62**, according to the plat **of** Boynton Gardens, as recorded in Plat Book **6**, Page **32**, for the required right-of-way for Lateral Equalizing Canal No. **3**, by Quit-Claim Deed or an Easement Deed in the form provided by said District prior to October **15, 1993**. (MONITORING-ENGINEERING)
6. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision and Required Improvements Regulations **90-8** as amended. The platting of this property may be phased in accordance with a phasing plan acceptable to the office **of** the County Engineer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety. (ENGINEERING)

F. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within **500** feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (UTILITIES)

G. LANDSCAPE WITHIN THE MEDIAN

1. Prior to site plan certification, the petitioner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist **of** a minimum of one **(1)** fourteen **(14)** foot tall native tree for each thirty **(30)** linear feet of the adjacent median to be planted and appropriate ground cover. Trees may be planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected for the following list:

Trees:

Laurel Oak
Live Oak
Slash Pine
Sabal Palmetto

Groundcover:

Wedilia
Bahia Grass

Alternative species may be allowed subject to approval by the County Engineer. All plant material shall be installed and selected according to xeriscape principles and shall conform with the following:

- a. All plants shall **be** container grown or field collected and transplanted from the project site.
- b. All plantings shall be done in accordance with detailed planting plans and specifications to be submitted and approved by the County Engineer concurrent with Site Plan certification.

All required median landscaping, including watering, shall be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or assignees, or duly established Property Owner's Association and/or Homeowner's Association, and shall be installed on or before issuance of the first Certificate of Occupancy or filing of the first plat, whichever occurs first. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to receiving the first building permit or filing of the first plat, whichever occurs first, to reflect this obligation. Maintenance shall be in accordance with the issued permits. (ENGINEERING-BUILDING)

H. PARKS AND RECREATION

1. Prior to site plan certification, the petitioner shall receive written verification from the Parks and Recreation Department that the master plan meets minimum recreation requirements. (PARKS)

I. PLANNED UNIT DEVELOPMENT

1. Prior to each Certificate of Occupancy, each primary structure within the PUD shall clearly display a street address number on the facade of the building which is legible from the street. (BUILDING)
2. Prior to master plan certification, the petitioner shall provide Zoning with a phasing plan that designates Parcel A (seven patio home lots) as Phase I and Parcel B (46 townhomes) as Phase II. The phasing plan shall include approximate commencement/completion dates for each phase and its corresponding infrastructure, including roads and drainage systems, and any other information deemed necessary by Zoning staff. The phasing plan shall be subject to approval by the Zoning Division. (ZONING)

J. PROPERTY OWNERS ASSOCIATION

1. All property included within the legal description of the petition shall be subjected to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall, among other things, provide for: Formation of a single "master" property

owner's association, automatic voting membership in the "master" association by any party holding title to any portion of the property included in the Planned Unit Development (PUD), and assessment of all members of the "master" association for the cost of maintaining the PUD's common areas. The property shall not be subjected to the Declaration of Restrictions in phases, and approval of the Declaration must be obtained from the County Attorney's Office prior to the recordation of the first plat of any portion of the Planned Unit Development. (ENGINEERING-COUNTY ATTORNEY)

K. RECYCLE SOLID WASTE

1. All property owners and lessees shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SOLID WASTE AUTHORITY)

L. SCHOOL BOARD

1. All sales and notice literature and purchase agreements for the within development shall include a statement/notice that students may not be assigned to the nearest school and that all prospective buyers are encouraged to contact the Palm Beach County School Board to determine which school assignment will apply to their children. (SCHOOL BOARD)
2. Prior to master plan certification, petitioner(s) shall demonstrate that they have met with the School Board and discussed the potential of entering into an agreement to help achieve racial balance and allow the children who reside within the development to attend the nearest available schools. (SCHOOL BOARD)

M. VEGETATION

1. Native vegetation not located within preservation/relocation areas and deemed relocatable by the Zoning Division, shall be relocated to perimeter buffers or other open space areas on site. (ZONING)
2. The petitioner shall establish, during the platting process, a preserve area easement along the north and west property lines. This preserve area easement shall be a minimum of 25 feet wide. The preserve area shall be a continuous contiguous parcel. No development activity shall be permitted within this easement. A minimum of one (1) native tree and three (3) native shrubs per 250 square feet shall be preserved, relocated or established within this area. (ZONING)
3. Prior to issuance of a Vegetation Removal Permit, the petitioner shall complete the following:
 - a. All trees to be relocated, preserved, or removed shall be identified in the field, tagged and numbered according to a tree survey;

- b. Trees to be preserved shall receive appropriate protection during site development. No clearing shall commence until all protection devices are installed by the petitioner, and inspected and approved by the Zoning Division. (ZONING)
4. No vegetation removal or development activity such as trenching, grade changes or grubbing that may cause injury to the vegetation shall be permitted in required buffer areas or preservation areas. (ZONING)
5. Tree relocation shall occur prior to construction activity except as approved by the Zoning Division upon submission of a development phasing plan. (ZONING)
6. All tree relocation shall be completed prior to any building permit inspections for any structure on the site, except as approved by the Zoning Division. (BUILDING-ZONING)
7. All prohibited species shall be removed from the subject property prior to the issuance of a Certificate of Occupancy (C.O.). (BUILDING-ZONING)

N. COMPLIANCE

1. As provided in Zoning Code Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in one or more of the following:
 - a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property; and/or
 - b. The revocation of any special exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
 - c. A requirement of the development to conform with updated standards of development, applicable 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. (MONITORING)
2. Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of special exception, rezoning, or other actions based on a Board of County Commissioners decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

Commissioner Marcus moved for approval of the Resolution.

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

Mary McCarty, Chair	--	AYE
Ken Foster, Vice Chair	--	ABSENT
Burt Aaronson	--	AYE
Maude Ford Lee	--	AYE
Karen T. Marcus	--	AYE
Warren Newell	--	AYE
Carol A. Roberts	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 1st day of December, 1992.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

