

RESOLUTION NO. R-92-1834

RESOLUTION APPROVING ZONING PETITION NO. 92-5
SPECIAL EXCEPTION PETITION OF THE UPJOHN COMPANY

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. 92-5 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on April 23, 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. 92-5, the petition of THE UPJOHN COMPANY, BY RUSSELL C. SCOTT, AGENT, for a SPECIAL EXCEPTION TO ALLOW A PLANNED UNIT DEVELOPMENT on a parcel of land lying in on the East 1/4 of Section 21, Township 46 South, Range 42 East, LESS the right-of-way for West Atlantic Avenue as recorded in Road Plat Book 3, Page 24, and being located ON THE S SIDE OF W. ATLANTIC AVE., APPROX. .2 MILE E OF LEGENDS WAY, IN THE RTS DISTRICT, was approved on April 23, 1992, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County. (ZONING)
2. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 3). 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)

3. The petitioner shall submit an application to the Site Plan Review Committee for the certification of the site plan approved by the Board of County Commissioners for this site prior to July 27, 1992. (MONITORING/Zoning)

B. CIVIC SITE

1. The Petitioner shall dedicate by deed to Palm Beach County Board of County Commissioners 2% of the gross area of the Planned Unit Development (3.3 acres) and shall have satisfied each of the following conditions prior to deed conveyance. (PREM)
2. Developer to provide Palm Beach County Board of County Commissioners with a warranty deed by April 30, 1993, for the 3.3 acre Civic site, in a location and form acceptable to Facilities, Planning, Design & Construction Department (FPD&C) and the County Attorney's office. Developer to Plat and dedicate the Civic site to Palm Beach County prior to conveying the deed. (MONITORING-PREM)
3. Developer to provide a title policy insuring marketable title to Palm Beach County for the Civic site. Policy is subject to Property & Real Estate Management Department's (PREM) and County Attorney's approval. The title policy to be insured to Palm Beach County for a dollar value based on current market appraisal of the proposed Civic site. The appraisal to be obtained by the Developer. The County to have the option, at their discretion to release all or part of the Declarations of Covenants and Conditions of the P.U.D. as it would apply to the Civic site. (PREM)
4. All ad valorem real estate taxes and assessments for the year of closing shall be pro-rated at the day of acceptance of the deed for the Civic site; acceptance date to be determined by PREM and the County Attorney's Office after receiving Board approval. (PREM)
5. Developer to provide the County with a certified survey of the proposed Civic site; survey to reflect the boundary and topographical areas of the site. Surveyor to use the following criteria:
 - a. The survey shall meet Minimum Technical Standards for a Boundary Survey as prescribed by F.A. C. 21HH.6.
 - b. If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided.
 - c. The survey should include location of any proposed water retention areas that will border the Civic site.

Survey is also subject to the County's approval of the location of any proposed or existing easements within the proposed Civic site. (PREM)

6. Civic site to be free and clear of all trash and debris at the time of acceptance of the warranty deed. (PREM)
7. Developer shall provide all retention, detention and drainage required for any future development of the proposed Civic site by the County. Developer shall specifically address the following issues:
 - a. The discharge of surface water from the proposed Civic site into the Developer's water retention basins.
 - b. An easement across Developer's property from the proposed Civic site to the retention basins, if required. (PREM)
8. By acceptance of these conditions developer agrees to allow the County to perform any on site inspections deemed appropriate to support the acquisition of the Civic Site. (PREM)
9. The Petitioner shall provide PREM with an Environmental Assessment of the proposed Civic site by April 30, 1993. The minimum assessment which is required is commonly called a "Phase I Audit". The audit shall describe the environmental conditions of the property and identify the past and current land use. (MONITORING-PREM)

The assessment will include but not be limited to the following:

- a. Review of property abstracts for all historical ownership data for evidence of current and past land use of the proposed Civic site.
- b. Review of local, state, and federal regulatory agency's enforcement and permitting records for indication of prior groundwater or soil contamination, if any, of the proposed Civic Site. Also, the review of the neighboring property that borders the proposed Civic Site. Records to review but not limited to are: Palm Beach County Environmental Resources Management Depart. (PBCERM) and the Florida Department of Environmental Regulation (FDER). The assessment to reflect if the proposed Civic Site or any bordering property is on any of the following lists: EPA's National Priorities List (NPL), Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA), Hazardous Waste Data Management System List (HWDMS).
- c. Review of current and historical aerial photographs of the proposed Civic site. Provide a recent aerial showing site and surrounding properties.
- d. Perform on-site survey to describe site conditions and to identify potential areas of contamination.
- e. Review of Wellfield Protection Zone maps to determine if property is located in a wellfield zone. (PREM)

10. Developer to prepare civic site to buildable grade under the direction of the Facilities, Planning, Design & Construction Department. (PREM)
11. Developer to provide water and sewer stubbed out to the property line. (PREM)
12. At the County's option, the Petitioner may exchange the required on-site dedication of land (by fee simple title) for cash of equal value or land off-site equal in acreage. In addition, should the off-site land option be chosen each condition listed in (1 through 11) above will also apply, and should the land off-site be of less cash value than the on-site dedication the petitioner shall contribute cash equal to the difference in values. Valuation of the land shall be subject to the County appraisal process and be at the cost of the petitioner. If off-site land or cash contribution is accepted by Palm Beach County, the petitioner shall be deemed to have satisfied the intent of Zoning Code Section 500.21.H. and Conditions B.1 through B.11, above. (PREM)
13. The Department of Property and Real Estate Management may extend the time limits referenced in Conditions B.1 through B.11, above, to allow sufficient time for appraisal, planning, review and design considerations as necessary. (PREM)
14. No portion of the civic site shall be used for onsite or offsite to address stormwater retention requirements. (PREM)

C. COMMERCIAL

1. No Commercial land use, Zoning, Commercial tract(s) or Commercial use(s) shall be permitted or allowed within the subject PUD. (ZONING)

D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. All new excavated lakes shall possess a littoral shelf area. A littoral shelf shall be an area with a slope not greater six (6) feet horizontal to one (1) foot vertical, ranging in depth from ordinary high water (OHW) or the controlled water level (CWL) to four feet below OHW or CWL. A minimum of 30% of the surface area of all lakes shall be planted with native aquatic vegetation on a minimum of three foot centers. A littoral shelf planting plan and maintenance plan shall be submitted to the Department of Environmental Resources Management concurrent with Site Plan Review application and approved by ERM prior to Site Plan certification. This information shall also be provided on a mylar for the Zoning Division as part of the site plan application. Upon the completion of littoral zone planting ERM shall be notified. This notification shall occur within three working days. This planting shall not be credited as compensation required by wetland permits. (ZONING-ERM)

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 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. The Property owner shall construct a left turn lane, east approach on West Atlantic Avenue at the project's entrance road concurrent with the improvements for the first plat. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BUILDING)
3. Prior to June 1, 1993 or prior to the issuance of the first Building Permit, the Property owner shall convey to Palm Beach County adequate road drainage tract through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of West Atlantic Avenue to conform to Florida Department of Transportation requirements. Said easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures. Elevation and location of all construction shall be approved by the County Engineer. Any and all excess fill material from excavation within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. This time limit may be extended by the County Engineer to allow for planning, design and review of the required conveyance. (MONITORING-Building)
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. (IMPACT FEE COORDINATOR)
5. The property owner shall convey to the Lake Worth Drainage District the north 90 feet of the subject property as shown on the survey submitted by the property owner for the required right-of-way for Lateral Canal No. 34, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to June 1, 1992. This time limit may be extended by the County Engineer to allow for planning, design and review of the required conveyance. (MONITORING-Engineering)
6. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:
 - a. Building Permits for more than 40 single family or 57 multi family dwelling units or a combination of the above which would not generate more than 401 daily trips per day shall not be issued until construction has begun for West Atlantic Avenue from Jog Road to Military Trail as a 6 lane section plus the appropriate paved tapers. (BUILDING)
 - b. Building Permits for more than 90 single family or 129 multi family dwelling units or a combination of the above which would not generate more than 907 daily trips per day shall not be issued until

construction has begun for Jog Road as a 6 lane facility from West Atlantic Avenue to Linton Boulevard plus the appropriate paved tapers. (BUILDING)

7. The Developer shall install signalization if warranted as determined by the County Engineer at the intersection of West Atlantic Avenue and the project's entrance. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition. (BUILDING-Engineering)
8. The property owner shall fund any required signal modifications in conjunction with roadway improvements funded by this developer. Funding shall include design and construction of the signal modifications as required by the Palm Beach County Traffic Division. Funding shall be completed within 60 days after receiving notice from Palm Beach County Engineering Department. (ENGINEERING)
9. 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)
10. Petitioner shall include in all written solicitations, advertisements, inducements, and other methods or attempts to encourage any person to purchase a legal or equitable interest in property which is the subject of this petition (or amendment hereto) a disclosure statement identifying all planned roadways adjacent or through the petition property which are included in the County's Thoroughfare Plan or Five Year Road Program. These roadways are the future construction of Linton Boulevard west of the Florida's Turnpike. Linton Boulevard is planned to be constructed as a future 6 lane roadway from State Road 7 to State Road 11A. (ENGINEERING)

F. HEALTH

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

G. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner. (UTILITIES)

H. LANDSCAPE WITHIN 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 from the following list.

<u>Trees:</u>	<u>Groundcover:</u>
Laurel Oak	Wedilia
Live Oak	Bahia Grass
Slash Pine	
Sabal Palmetto	

Alternative species may be allowed subject to approval by the Zoning Division. 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 planting shall be done in accordance with detail planting plans and specifications to be submitted and approved by the Zoning Division 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-Zoning)

I. 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. (COUNTY ATTORNEY)

J. RECYCLE SOLID WASTE

1. The petitioner shall encourage homeowners to participate in a recycling program for paper, plastic, metal and glass products. (SWA)

K. 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)

L. VEGETATION

1. The Petitioner shall incorporate the cypress stand located along the southeast portion of the property into the open space and maintain the original hydrology. (ZONING)

M. COMPLIANCE

1. As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:
 - a. 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; and/or
 - b. The revocation of the 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 Commission decision, shall be by petition for writ Of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

Commissioner Aaronson moved for approval of the Resolution.

The motion was seconded by Commissioner Marcus 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: *Burton Altman*
COUNTY ATTORNEY

BY: *Robert J. ...*
DEPUTY CLERK



INTER-OFFICE COMMUNICATION
PALM BEACH COUNTY
DEPARTMENT OF PLANNING, ZONING AND BUILDING

TO: The Honorable Burt Aaronson
District 5 Commissioner

FROM: Kristin S. Kern, Executive Director
Planning, Zoning and Building Department

DATE: December 7, 1992

RE: The Upjohn Petition (92-5)

92 DEC 15 P 2:44
RECEIVED

My November 30, 1992 memorandum has been updated to reflect your comments. The corrected information regarding the Upjohn petition is provided below.

- On April 23, 1992, the Board of County Commissioners approved an increase in density from 2.03 to 2.99 dwelling units per acre, for a total of 495 units on approximately 166 acres. These units are shown on the master plan on file at the Planning, Zoning and Building Department.
- Condition No. A2 of the Resolution states that "Development of the site is limited to the uses and site design shown on the certified master plan (Exhibit No. 3). 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) [minor administrative changes]..."
- The master plan approved by the Board of County Commissioners showed no commercial uses, therefore, the property owner would be required to return to the County Commission at some point in the future before any commercial uses could be added.
- The property owner recently received a Comprehensive Plan amendment, which would allow up to five dwelling units per acre. At the Comp Plan hearing, the property owner, through his agent, agreed to relinquish any rights to commercial uses on the property, specifically stating that "[There] never will be commercial... I would like to put this issue to rest, we are not asking for commercial at this time, we will not ask for commercial in the future. [Emphasis added.]" However, in order to achieve a further increase in density as allowed by the Comp Plan amendment, the County Commission would have to approve another Rezoning petition.

Please contact me (233-5011) or Zoning Director, Roxanne Manning (233-5206) if you have any further questions.

KSK:lag:228

CC: Roxanne Manning, Zoning Director
K.C. Collette, Assistant County Attorney