

RESOLUTION NO. R-2000-1705

RESOLUTION APPROVING ZONING PETITION PDD2000-019
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT(PDD)
PETITION OF PHOENIX DEVELOPMENT CORP.
BY H.P. TOMPKINS, JR., AGENT
(CYPRESS LAKES PRESERVE PUD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, 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 Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition PDD2000-019 was presented to the Board of County Commissioners at a public hearing conducted on October 26, 2000; and,

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

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

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) with approved conditions does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20; and,
7. This official zoning map amendment (rezoning) with approved conditions is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition PDD2000-019, the petition of Phoenix Development Corp. by H.P. Tompkins, Jr., agent, for an Official Zoning Map Amendment to a Planned Development District (POD) from Agricultural Residential (AR) to Planned Unit Development (PUD) on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on October 26, 2000, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

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

Maude Ford Lee, Chair		Absent
Warren Newell, Vice Chair	-	Aye
Karen T. Marcus		Absent
Carol A. Roberts		Aye
Mary McCarty		Aye
Burt Aaronson		Aye
Tony Masilotti		Aye

The Chair thereupon declared that the resolution was duly passed and adopted on October 26, 2000.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

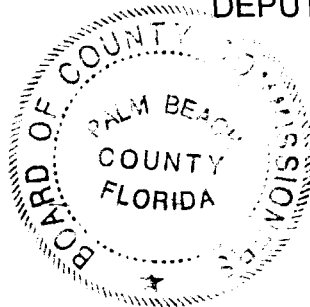


EXHIBIT A

LEGAL DESCRIPTION

DESCRIPTION: (RESIDENTIAL PORTION INCLUDING HIATUS):

A PARCEL LYING IN SECTION 36, TOWNSHIP 44 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF TRACTS 11 THROUGH 16, BLOCK 35, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGE 45; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 4 EAST, PALMS BEACH COUNTY, FLORIDA; THENCE ALONG THE FOLLOWING NUMBERED COURSES.

- 1.) N.01° 27'11"E. (AS A BASIS OF BEARING) ALONG THE EAST LINE OF SECTION 36, A DISTANCE OF 2574.92 FEET TO THE EASTERLY PROLONGATION OF THE SOUTH LINE OF SAID TRACT 16;
- 2.) S.89° 00'53"W. ALONG THE SOUTH LINE OF TRACT 16, AND THE EASTERLY PROLONGATION THEREOF, A DISTANCE OF 222.21 FEET TO THE WEST RIGHT-OF-WAY OF U.S. 441 (STATE ROAD No. 7) AS RECORDED IN OFFICIAL RECORD BOOK 10507, PAGE 1304, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND THE POINT OF BEGINNING;
- 3.) S.89° 00'53"W. ALONG THE SOUTH LINE OF TRACTS 13, 14, 15, AND 16, A DISTANCE OF 2393,49 FEET TO A LINE PARALLEL WITH AND 55.31 FEET EAST OF THE NORTH-SOUTH QUARTERS SECTION LINE OF SECTION 36 (SAID PARALLEL LINE BEING THE EAST LINE OF CHANCERY CASE NO. 407 AS AGREED TO WITH THE LAKE WORTH DRAINAGE DISTRICT);
- 4.) N.02° 03'38"E. ALONG SAID PARALLEL LINE, A DISTANCE OF 1321.40 FEET TO THE NORTH LINE OF TRACT 12;
- 5.) N.89° 01'25"E. ALONG THE NORTH LINE OF TRACTS 11, 12, A DISTANCE OF 1366.20 FEET TO THE NORTHEAST CORNER OF TRACT 11;
- 6.) S.01° 07'04"E. ALONG THE EAST LINE OF TRACT 11, A DISTANCE OF 659.59 FEET TO THE SOUTHEAST CORNER OF TRACT 11;
- 7.) N.89° 00'57"E. ALONG THE NORTH LINE OF TRACT 15, A DISTANCE OF 660.51 FEET TO THE NORTHEAST CORNER OF TRACT 15;
- 8.) S.01° 07'49"E. ALONG THE EAST LINE OF TRACT 15, A DISTANCE OF 459.72 FEET;
- 9.) N.89° 00'53"E. ALONG A LINE 200 FEET (MEASURED PERPENDICULAR) NORTH OF AND PARALLEL WITH THE SOUTH LINE OF TRACT 16, A DISTANCE OF 302.46 FEET TO THE WEST RIGHT-OF-WAY LINE OF U.S. 441 (STATE ROAD No. 7) AS RECORDED IN OFFICIAL RECORD BOOK 10507, PAGE 1304, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.
- 10.) S.01° 28'04"W. ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 49.52 FEET;
- 11.) S.01° 28'20"W. ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 150.66 FEET TO THE
THE
POINT OF BEGINNING.

CONTAINING 2,346,337 SQUARE FEET (53,864 ACRES).

TOGETHER WITH THE SOUTH 6.27 FEET OF THE NORTH 47 FEET OF TRACTS 17 THROUGH 20 INCLUSIVE, BLOCK 35, PALM BEACH FARMS COMPANY PLAT NO. 3 ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT

EXHIBIT A
LEGAL DESCRIPTION

BOOK 2, PAGE 45, LESS THE RIGHT OF WAY FOR LAKE WORTH DRAINAGE DISTRICT IN CHANCERY CASE 407 (THE EAST LINE OF SAID RIGHT OF WAY BEING A LINE PARALLEL WITH AND 55.31 FEET EAST OF THE NORTH-SOUTH QUARTER SECTION LINE OF SECTION 36), AND LESS THE RIGHT OF WAY FOR U.S. HIGHWAY 441 (STATE ROAD 7) AS IN OFFICIAL RECORD BOOK 10507, PAGE 1304, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 15,010 SQUARE FEET (0.345 ACRES).

THE TOTAL AREA OF THE ABOVE DESCRIBED PROPERTY BEING 2,361,347 SQUARE FEET (54.209 ACRES).

EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved preliminary development plan is dated August 22, 2000 and conceptual site plan is dated July 14, 2000. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)

B. LANDSCAPING - STANDARD

1. Fifty (50%) percent of all perimeter canopy trees required to be planted on the site by this approval shall meet the following minimum standards at installation:
 - a. tree height: fourteen (14) feet
 - b. trunk diameter: 3.5 inches measured 4.5 feet above grade;
 - c. canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms required to be planted on site by this approval, except on individual residential lots, shall meet the following minimum standards at installation:
 - a. palm heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and
 - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
3. All internal PUD buffers between pods shall be approved by the Development Review Committee (DRC) in accordance with the ULDC, unless otherwise stated herein. (DRC: ZONING)

C. LANDSCAPING ALONG THE NORTH, THE SOUTH 459 FEET OF THE EAST PROPERTY LINES AND THE PORTION FRONTING SR7/US441

1. Landscaping and buffering along the north, the south 459 feet of the east property line and the portion fronting SR7/US441 shall be upgraded to include:
 - a. a minimum twenty (20)' foot wide landscape buffer strip, no width reductions or easement encroachments shall be permitted;
 - b. a three (3) foot high continuous berm, measured from the top of the curb, shall be installed within the northern buffer;
 - c. one (1) canopy tree planted every thirty (30) feet on center;
 - d. one (1) palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms or pines may not supersede the requirement for canopy tree in that location;

- e. twenty four (24) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

D. LANDSCAPING ALONG THE SOUTH, WEST PROPERTY LINES AND THE NORTH 659 FEET OF EAST PROPERTY LINE

- 1. Landscaping and buffering along the south, west property lines and the north 659 feet of east shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip, no width reductions or easement encroachments shall be permitted;
 - b. a two (2) foot high continuous berm measured from the top of the curb;
 - c. one (1) canopy tree planted every thirty (30) feet on center;
 - d. one (1) palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms or pines may not supersede the requirement for canopy tree in that location;
 - e. twenty four (24) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

E. ENGINEERING

- 1. 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 108 single dwelling units and 1740 square feet retail shall not be issued until construction has begun for the 4 laning of Lantana Road as a 4 lane section from Lyons Road to SR 7 plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)

The mix of allowable residential dwelling units and commercial square feet, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (TPS)

- 2. The Property owner shall construct:
 - a) Right turn lane north approach on SR 7 at the projects entrance road;
 - b) Adjust the median opening and associated left turn lanes on SR 7 to align with the project's proposed entrance road in accordance with the Florida Department of Transportation approval
 - A) This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required-right-of-way.
 - B) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
 - C) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

3. The property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for 52nd Place an additional 25 feet (40 feet from centerline). All right of way shall be conveyed prior to the issuance of the first Building Permit or prior to December 1, 2001 whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING-Eng)

F. PLANNED UNIT DEVELOPMENT

1. Decorative street lights shall be provided pursuant to Section 6.8.A of the ULDC, subject to approval by the County or City Engineer. (CO: BLDG - Eng)
2. Street trees shall be planted within or adjacent to streets fifty (50) feet in width or greater, pursuant to Section 6.8.A.16.c(3) of the ULDC and subject to approval by the County Engineer. (CO: LANDSCAPE - Eng)
3. Street bike lanes shall be provided in or adjacent to all streets over fifty (50) feet in width, pursuant to Section 6.8.A.16.c(4) of the ULDC and subject to approval by the County Engineer. (CO: BLDG - Eng)
4. All utilities shall be underground, pursuant to Section 6.8.A.16.c(5) of the ULDC. (PLAT: ENG - Zoning)
5. All property included in the legal description of the petition shall be subject 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 subject property, and assessment of all members of the master association for the cost of maintaining all common areas.

The property shall not be subjected to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: ENG - Co Att)

6. Pavers or decorative pavement shall be provided for the driveways of all units (DRC: ZONING)
7. Prior to final site plan certification by the Development Review Committee (DRC), the site plan shall be amended to show
 - a. a focal point at the terminus of internal roadway, access tract, residential street (including T-intersections), roundabout, open space adjacent to round-about or cul-de-sac. This focal point shall be pedestrian oriented public areas and shall be in the form of a plaza, fountain, arcade, accent landscaping with lighting or any other site element or architectural design acceptable to the Zoning Division;
 - b. a minimum twenty-five (25) % of the single family lots shall be provided with semi-circular driveway (DRC: ZONING)

8. No flexible regulations, administrative deviations, setback reductions shall be permitted. (DRC: ZONING)
9. Recreation uses provided in accordance with Section 6.8.B.4.A.(6)(b)(i) of the ULDC shall be located on a minimum of 0.1 acre and shall be located as shown on the Conceptual Site Plan dated July 14, 2000. Such recreation uses shall have a direct connection to the pedestrian system within the project and include a tot lot, gazebo, fitness station, rest station, or similar recreation amenity subject to approval of the Zoning Division. These recreation areas shall not be used towards the Parks and Recreation Department's minimum recreation requirement or be located within land areas designated for drainage, stormwater management or other utility purposes. (DRC/PLAT: ZONING)
10. The location of the recreation parcel and the civic site shall be in accordance to the Conceptual site plan dated July 14, 2000. No modifications shall be permitted without BCC approval. (DRC: ZONING)
11. Drainage easements shall not be permitted along the width and within the rear yards of the back-to-back units. (DRC: ZONING)
12. The number and the types of dwelling unit for each pod shall be limited to what are shown on the Conceptual site plan dated July 14, 2000. No modifications shall be permitted without BCC approval. (DRC: ZONING)

G. MASS TRANSIT

1. A. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING)
- B. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of a building permit for the 1 00th unit. The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (BLDG PERMIT: MONITORING - Eng)

H. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to include notations which shall read "proposed cross access to be paved to the property line for future access to adjacent parcel" at the northern property line along 52nd Place and to the residentially designated parcel at the northeastern/eastern property line. (DRC: PLANNING)

I. SCHOOL BOARD

1. Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to label the school bus stop, turnaround (fifty-five feet in radius) and bus shelter and shall be approved by the School Board. (DRC: SCHOOL BOARD)
2. The property owner shall place a notice of annual boundary school assignments for students from this development. The District will provide an 11" X 17" sign to be posted in a clear and visible location in all sales offices and models with the following:

"Notice to Home Buyers/Tenants"

"School age children may not be assigned to the public school closest to their residences. School Board policies regarding overcrowding or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment (s)." (ONGOING: SCHOOL BOARD)

J. COMPLIANCE

1. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC 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; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment 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)

2. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING -Zoning)