

RESOLUTION NO. R-93- 343

RESOLUTION APPROVING ZONING PETITION NO. 79-177(D)  
SPECIAL EXCEPTION PETITION OF:  
FEDERAL DEPOSIT INSURANCE CORPORATION

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. 79-177(D) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on August 27, 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. 79-177(D), the petition of FEDERAL DEPOSIT INSURANCE CORPORATION, by Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION to AMEND THE RAINBOW LAKES PUD MASTER PLAN TO INCREASE ACREAGE AND DWELLING UNITS on a parcel of land lying in Tract 5 through 8, inclusive, and Tracts 17 through 20, inclusive of Boynton Gardens, a subdivision of Section 23, Township 45 South, Range 42 East, according to the Plat thereof on file in the office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 6, Page 23, together with all rights title and interest to the roadway 30.00 feet in width contiguous to the south line of Tracts 5 through 8, inclusive, and the North line of Tracts 17 through 20 inclusive, of said Boynton Gardens, a subdivision, LESS, however, the portion thereof lying within 75.00 feet of each side of the North-South quarter line of said Section 23, also, LESS the South 50.00 feet of said Tracts 17 through 20 inclusive; TOGETHER with that portion of the 15 foot road right-of-way whose south line is contiguous with the north line of Tract 5 through 8, inclusive of said Boynton Gardens, LESS and except the east 35.00 feet of said 15 foot road right-of-way, and being located on the E. side of Jog

Road, W. of Military Trail, S. of LWDD Lateral Canal No. 22, in the RTS Zoning District, was approved on August 27, 1992, as advertised, subject to the following conditions:

A. ALL PETITIONS

1. Condition No. 2 of Resolution 85-243, Zoning Petition No. 79-177(B) which currently states:

"The Developer shall comply with all previously approved conditions of Petition No. 79-177, except for Conditions No. 1, 2C and 5, which have been revised."

Is hereby deleted.

2. Condition No. 2 of Resolution 87-14, Zoning Petition No. 79-177(C) which currently states:

"The petitioner shall continue to be bound by all previously approved conditions unless modified herein."

Is hereby amended to state:

"All previous conditions of approval applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines for Zoning Code Section 402.9 compliance, as amended, unless expressly modified."  
(MONITORING)

3. Condition No. 1 of Resolution 85-243, Zoning Petition No. 79-177(B), which currently states:

"Prior to certification of the site plan by the Site Plan Review Committee, the site plan shall be amended to reflect the required 25 foot buffer around the entire perimeter of the PUD." (ZONING)

Is hereby deleted.

B. 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)

C. CIVIC SITE DEDICATION

1. Petitioner must dedicate the civic site to Palm Beach County, without cost, within ninety (90) days of the filing of the first plat. (Previously Condition No. 7 of Resolution 79-1248, Zoning Petition No. 79-177) (PREM/SCHOOL BOARD)
2. The Developer shall provide the minimum recreation area and amenities for each housing pod as shown on the

approved Master Plan (Exhibit No. 40). (Previously Condition No. 1 of Resolution 87-14, Zoning Petition No. 79-177(C)) (ZONING)

D. HEALTH

1. Water service and sewer service are available to the property. Therefore, no potable well and/or on site sewage disposal system shall be permitted on the site. (HEALTH - Building)

E. ENGINEERING

1. Petitioner shall convey to Palm Beach County:
  - a. Sixty (60) feet from centerline for the ultimate right-of-way for Military Trail.
  - b. One hundred eighty (108) feet for the ultimate right-of-way for N.W. 22nd Avenue through the project's limits.
  - c. Sixty (60) feet from centerline for the ultimate right-of-way for Jog Road. (Previously Condition No. 1 of Resolution 79-1248, Zoning Petition No. 79-177.) (ENGINEERING)
2. Condition No. 1 of the previous approval shall be revised to reflect the following: All right-of-way conveyances which were required are to be made within 90 days of project approval. (Previously Condition No. 11 of Resolution 85-243, Zoning Petition No. 79-177(B).) (MONITORING - ENGINEERING)
3. Petitioner shall construct:
  - a. A pedestrian or bicycle crossing across the L.W.D.D. E-3 Canal, other than N.W. 22nd Avenue.
  - b. N.W. 22nd Avenue to two-lane section through the project's limits, as determined by the County Engineer.
  - c. Jog Road from the southern terminus of LeChalet PUD to the project's south property line.
  - d. Right turn lane, north approach, on Military Trail at N.W. 22nd Avenue.
  - e. Left turn lane, south approach, on Military Trail at N.W. 22nd Avenue.
  - f. Left turn lane, south approach, on Military Trail at south entrance road.
  - g. Left turn lane, east approach, on N.W. 22nd Avenue at both project entrances.
  - h. Left turn lane, east approach, on N.W. 22nd Avenue at Jog Road.
  - i. Right turn lane, south approach, on Jog Road at N.W. 22nd Avenue.
  - j. Left turn lane, north approach, on Jog Road at the southern entrance.
  - k. Right turn lane, west approach, on N.W. 22nd Avenue at Military Trail.
  - l. Left turn lane, west approach, on N.W. 22nd at Military Trail. (Previously Condition No. 2 of Resolution 79-1248, Zoning Petition No. 79-177.) (ENGINEERING)
4. Condition No. 2C of previous approval shall be revised to read as follows: Petitioner shall construct Jog Road as a two-lane section from the southern terminus of Parkwalk, PUD (f.k.a. Le Chalet, PUD) to this project's

south property line when required by the county engineer for continuity. (Previously Condition No. 12 of Resolution 85-243, Zoning Petition No. 79-177(B).) (ENGINEERING)

5. Condition No. 2.a of Resolution No. R-87-14, Zoning Petition No. 79-177(C), which currently states:

"Petitioner shall construct:

- a. A pedestrian or bicycle crossing across the L.W.D.D. E-3 Canal, other than N.W. 22nd Avenue."

Is hereby deleted.

6. Petitioner shall have the alignment of N.W. 22nd Avenue at the intersections with Military Trail and Jog Road approved by the County Engineer. (Previously Condition No. 3 of Resolution 79-1248, Zoning Petition No. 79-177.) (ENGINEERING)
7. Petitioner shall signalize the intersection of N.W. 22nd Avenue and Military Trail when warranted, as determined by the County Engineer. (Previously Condition No. 4 of Resolution 79-1248, Zoning Petition No. 79-177.) (ENGINEERING)
8. Condition No. 5 of Resolution 79-1248, Zoning Petition No. 79-177, which currently states:

"Petitioner shall contribute Two Hundred Three Thousand Six Hundred Nine Dollar (\$203,609.00) toward the cost of meeting this project's direct and identifiable traffic impact, to be paid at the time of issuance of a building permit(s). The fee schedule for this project has been calculated in accordance with Ordinance 79-7 as follows:

Residential	\$179.31/d.u.
Clubhouse	\$185.00
Commercial	\$625.00

This condition shall fulfill the developer's requirement according to the "Fair Share Contribution for Road Improvements Ordinance" N. 79-7 adopted by the Board of County Commissioners on June 19, 1979."

Is hereby deleted.

9. Condition No. 13 of Resolution 85-243, Zoning Petition No. 79-177(B) which currently states:

"Condition No. 5 of previous approval shall be revised to read as follows: 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. Presently the fair Share Fee for this project is \$179.31 per unit."

Is hereby deleted.

10. 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 is \$1,650 per approved single family dwelling unit (10 trips X \$165.00 per trip) and is paid at the time of the Building Permit. (IMPACT FEE COORDINATOR)

11. The right-of-way for Lateral Canals No. 21 and 22, Boynton Canal and Equalizing Canal No. 3 is required as follows:

L-21: A parcel of land adjacent to the north line of the SE 1/4 of Section 15 measuring 50 feet in width at the east end and 80 feet in width at the west end, and also the north 40 feet of the SW 1/4 of Section 14, and also the north 65 feet of the SE 1/4 of Section 14.

L-22: The south 20 feet of the SE 1/4 of Section 15; the north 60 feet of the NE 1/4 of Section 22; the south 20 feet of Section 14; the north 45 feet of Tracts 9 to 12 inclusive of Boynton Gardens; the north 60 feet of the NE 1/4 of Section 23.

Boynton Canal: An additional 50 feet lying north of and adjacent to the existing Right-of-way line of Boynton Canal.

E-3: The east 67.5 feet of SW 1/4 of Section 14; the west 67.5 feet of the SE 1/4 of Section 14; the west 27.5 feet of Tracts 4 and 21 of Boynton Gardens.

All of the above lying and being in 45/42, Palm Beach County, Florida. The right-of-way will be accepted by Quit Claim Deed or Easement (on our form), which ever the owner prefers. (Previously Condition No. 6 of Resolution 79-1248, Zoning Petition No. 79-177.) (LWDD)

12. Prior to the issuance of a land development permit for any area west of the E-3 Canal, adequate central sewage and water provisions must be available and certified by the Health Department. The developer must comply fully with the agreement between Palm Beach County and the existing utility. (Previously Condition No. 9 of Resolution 79-1248, Zoning Petition No. 79-177.) (ENGINEERING - HEALTH)

13. The petitioner shall provide funds to Palm Beach County as required for the County to purchase any missing right-of-way necessary to provide a 120' section for Military Trail from Old Boynton Road to the north property line of this project. Fifty thousand dollars shall be provided to Palm Beach County within 90 days of the date of approval. Additional funds shall be provided as necessary upon request; however, these funds required for right-of-way purchase shall not exceed \$100,000.00. (Previously Condition No. 5 of Resolution 85-243, Zoning Petition No. 79-177 (B).) (MONITORING - ENGINEERING)

14. The developer shall provide to Palm Beach County a letter of credit in the amount of \$1,000,000 within 90 days of development approval. This letter of credit may be drawn as required to construct Military Trail by Palm Beach County between Old Boynton Road and the North property

line of this project. (Previously Condition No. 6 of Resolution 85-243, Zoning Petition No. 79-177(B).) (MONITORING - ENGINEERING)

15. Using funds provided by this development, as well as other funds available, Palm Beach County will purchase the necessary right-of-way and construct Military Trail as a four-lane roadway from Old Boynton Road to the north property line of this development within two years of development approval. (Previously Condition No. 7 of Resolution 85-243, Zoning Petition No. 79-177(B).) (ENGINEERING)
16. The property owner shall provide Palm Beach County with a road drainage easement through this projects internal lake system to legal positive outfall for the road drainage of N.W. 22nd Avenue, Military Trail and Jog Road. This drainage easement shall be subject to all governmental agency requirements. (Previously Condition No. 9 of Resolution 85-243, Zoning Petition No. 79-177(B).) (ENGINEERING)
17. Legal access, per the County Engineer and the County Attorney's office, to the not included parcel shall be provided by this petitioner prior to the filing of the next plat for this Planned Unit Development. (Previously Condition No. 10 of Resolution 85-243, Zoning Petition No. 79-177(B).) (ENGINEERING - COUNTY ATTORNEY)
18. 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)
19. In conjunction with the filing of a subsequent plat, the petitioner shall install all appropriate speed limit signage and paving markings in accordance with the requirements of the County Engineer. (ENGINEERING/ZONING)

**F. 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 the adjacent median of Military Trail, abutting Tartan Lakes PUD. 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 singularly 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>Ground cover:</u>
Laurel Oak	Wedilia
Live Oak	Bahia Grass
Slash Pine	
Sabal Palmetto	

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. (ZONING - ENGINEERING)
2. 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 Homeowners'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. (BUILDING/ENGINEERING - ZONING)
  3. 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)
  4. Prior to recordation of any subsequent plat, the petitioner shall contribute an amount equal to the pro rata share based on linear footage of the cost of installation of the requirements of Conditions F.1. to Palm Beach County for road beautification purposes. (ENGINEERING)

G. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Reasonable precautions shall be exercised during site development to insure that unconfined particulate (dust particles) from this property do not become a nuisance to neighboring properties. (Previously Condition No. 3 of Resolution 85-243, Zoning Petition No. 79-177(B).) (HEALTH\ERM - ZONING)
2. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. (Previously Condition No. 4 of Resolution 85-243, Zoning Petition No. 79-177(B).) (ERM)

3. All new excavated lakes shall possess a littoral shelf area. A littoral shelf shall be, at a minimum, an area equivalent to eight (8) square feet per linear foot of shoreline. Any areas of planted littoral zone shall not be steeper than six (6) feet horizontal to one (1) foot vertical. The maximum depth of the planted area shall be minus three (- 3) feet from **OHW**. The littoral zone shall be provided with a minimum of three (3) inches of topsoil to promote vegetative growth. The littoral zone shall be planted with appropriate native wetland vegetation, spaced not more than three (3) feet on center or as approved by ERM.
  - a. A littoral shelf planting plan and maintenance plan shall be submitted to the Dept. of Environmental Resources Management concurrent with DRC Final 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. (ERM)
  - b. Prior to the issuance of a Certificate of occupancy and within three working days of the completion of littoral plantings ERM shall be notified. This planting shall not be credited as compensation required by wetland permits. (ERM/BUILDING)

#### H. PROPERTY OWNERS ASSOCIATION

1. Prior to site plan certification, the Property Owners Association document shall be amended to include the additional activities. All property included within the 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)

#### I. RECREATION PARCEL

1. The petitioner shall submit for review and approval by the Development Review Committee a detailed site plan for the recreation area within Parcel F in accordance with all applicable code and application requirements. The recreation parcel shall be developed in accordance with the approved site plan prior to the issuance of the certificate of occupancy for the 45th home within Parcel F. (BUILDING - Zoning)

#### J. SCHOOL BOARD

1. Petitioner shall show a minimum 15 acre elementary school site on the PUD Master Plan. (Previously Condition No. 14 of Resolution 85-243, Zoning Petition NO. 79-177(B).) (ZONING/SCHOOL BOARD)



2. Petitioner shall donate the 15 acre school site to the School Board of Palm Beach County. (Previously Condition No. 15 of Resolution 85-243, Zoning Petition No. 79-177 (B).) (SCHOOL BOARD)
3. Conveyance of the site to the School Board of Palm Beach County, (Warranty deed - no reverter, affidavit of no liens, site survey, title insurance commitment, title policy, closing statement to fit the transaction, copies of PUD documents) shall be delivered to the School Board within three (3) months of the effective date of the resolution of approval of the PUD by the Board of County Commission, Palm Beach county. (Previously Condition No. 16 of Resolution 85-243, Zoning Petition No. 79-177 (B).) (SCHOOL BOARD)
4. Petitioner shall be responsible for the school site, building footprint area to be at developable grade elevation prior to School Board construction. (Previously Condition No. 17 of Resolution 85-243, Zoning Petition No. 79-177 (B).) (SCHOOL BOARD)
5. Petitioner shall provide both primary and secondary access to the site from adjacent roadways. (Curb cuts, and proper left and right turning lanes in accordance to County Engineer guidelines). (Previously Condition No. 18 of Resolution 85-243, Zoning Petition No. 79-177 (B).) (ENGINEERING)
6. Utilities (sewer and water) shall be brought to the school site property line. (Previously Condition No. 19 of Resolution 85-243, Zoning Petition No. 79-177 (B).) (ENGINEERING)
7. Petitioner shall be responsible for an approved PUD surface water retention area design to accommodate the 15 acre school site drainage. This retention area will be relocated within the PUD and not on the school site acreage. (Previously Condition No. 20 of Resolution 85-243, Zoning Petition No. 79-177 (B).) (ENGINEERING)
8. Pedestrian signalization to and from the school site shall be installed by the petitioner when warranted by both School Board and County Engineers. (Previously Condition No. 20 of Resolution 85-243, Zoning Petition No. 79-177 (B).) (ENGINEERING)
9. All sales and notice literature and purchase agreements for all property within the 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)
10. Prior to master plan certification, the petitioner 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. (ZONING/SCHOOL BOARD)

K. USE LIMITATION

1. The developer shall be allowed no more than 1131 dwelling unit permits for two years from the date of development approval or until such time as both Boynton Beach Boulevard from Military Trail to Congress Avenue and Military Trail from Steiner Road to West Atlantic Avenue are four-lanes, whichever shall first occur. (Previously Condition No. 8 of Resolution 85-243, Zoning Petition No. 79-177(B).) (BUILDING - ENGINEERING)

L. 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 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	--	aye
Burt Aaronson	--	aye
Maude Ford Lee	--	aye
Karen T. Marcus	--	aye
Warren H. Newell	--	aye
Carol A. Roberts	--	aye

The Chair thereupon declared the resolution was duly passed and adopted this 16th day of March, 1993.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK