

RESOLUTION NO. R-94-644

RESOLUTION APPROVING ZONING PETITION **PDD94-12**
OFFICIAL ZONING MAP AMENDMENT (REZONING)
PETITION OF Z.E. TAHERI, TRUSTEE, & MDL LAND PARTNERSHIP

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 Land Development Code (Ordinance **92-20**), have been satisfied; and

WHEREAS, Zoning Petition **PDD94-12** was presented to the Board of County Commissioners at a public hearing conducted on May 26, 1994; 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 Land Development Code;
3. This official zoning **map** amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County 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) 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) 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 Land Development Code, Ordinance 92-20; and,
7. This official zoning **map** amendment (rezoning) 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 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 **PDD94-12**, the petition of Z.E. Taheri, Trustee, & MDL Land Partnership for an OFFICIAL ZONING MAP AMENDMENT (REZONING) **from** the Agricultural Residential (AR) ZONING DISTRICT to the Planned Unit Development (PUD) ZONING DISTRICT, 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 May 26, 1994, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus 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:

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

The Chair thereupon declared that the resolution was duly passed and adopted this 26th day of May, 1994.

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

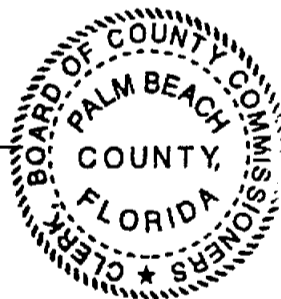


EXHIBIT A
LEGAL DESCRIPTION

DESCRIPTION:

THE EAST ONE HALF (E.1/2) OF THE NORTHEAST ONE QUARTER (N.E.1/4) OF THE NORTHEAST ONE QUARTER (N.E.1/4) OF THE NORTHWEST QUARTER (N.W.1/4) OF THE SECTION 26, TOWNSHIP 46 SOUTH, RANGE 42 EAST, LYING, BEING AND SITUATED IN PALM BEACH COUNTY, FLORIDA.

AND

THE EAST HALF (E.1/2) OF THE SOUTHEAST QUARTER (S.E.1/4) OF THE NORTHWEST QUARTER (N.W.1/4) OF THE NORTHWEST QUARTER (N.W.1/4) AND THE SOUTH HALF (S.1/2) OF THE NORTHEAST QUARTER (N.E.1/4) OF THE NORTHWEST QUARTER (N.W.1/4) ALL IN SECTION 26, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

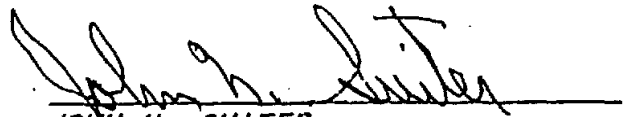

JOHN N. SUITER
LAND SURVEYOR NO. 1314
STATE OF FLORIDA

EXHIBIT B
VICINITY SKETCH

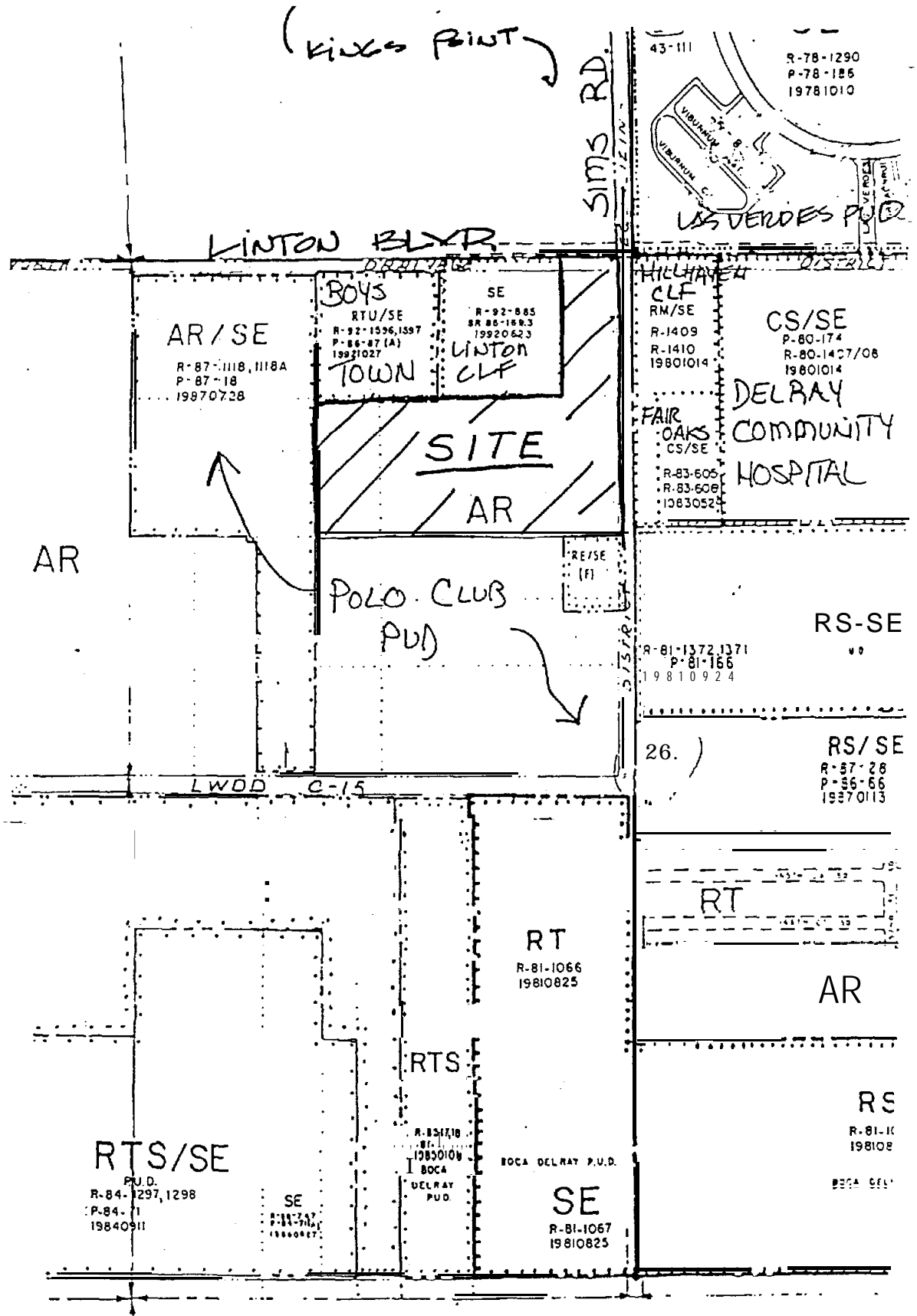


EXHIBIT C

CONDITIONS OF APPROVAL

A. SITE DESIGN

1. Internal median landscaping, subject to permitting by the County Engineer, shall be provided within all internal right-of-ways with medians. Median landscaping shall, at a minimum, include:
 - a. One tree for every thirty (30) feet of median;
 - b. One (1) shrub for every one hundred fifty (150) square feet or one ground cover for every seventy-five (75) feet of median area;
 - c. Lawn area planted by sod; and,
 - d. Detailed median landscaping plans shall be submitted, installed and maintained pursuant to the standards set forth in Article **6.8.23d(2)(a)** of the Palm Beach County Unified Land Development Code. (ENGINEERING/BUILDING)
2. Street trees shall be planted no more than fifty (50) feet on center along both sides of all streets within all platted, private right-of-ways, access tracts, and easements that are interior to the PUD, subject to approval by the County Engineer. All required landscaping shall be installed prior to the release of the performance bond or issuance of a certificate of completion, whichever occurs first, for the road intended to be landscaped. (Building - Engineering)
3. All utilities shall be underground pursuant to Article **6.8.23.d(5)** of the Palm Beach County Unified Land Development Code. (ENGINEERING/BUILDING)

B. LIGHTING

1. Street lights a maximum of twenty-five (25) feet in height shall be installed along all platted access tracts, easements, and privately dedicated right-of-ways. Light fixtures shall be directed away from residences. (Building/ Zoning - Engineering)

C. LANDSCAPING - GENERAL

1. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 3.0 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. (BUILDING/ZONING)

D. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on this site. All existing **onsite** sewage disposal systems must be abandoned in accordance with Chapter **10D-6**, FAC., and Palm Beach County ECR-I. (HEALTH)
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing **onsite** potable water supply **systems** must be abandoned in accordance with Palm Beach County ECR-II. (HEALTH)

E. ENGINEERING

1. Prior to January 1, 1995 or prior to the **recordation** of the first plat, whichever shall first occur, the property owner has voluntarily agreed to convey to Palm Beach County Land Development Division by road **right-of-way** warranty deed additional right of way for Sims Road. Conveyance shall be 80 feet west of the proposed west right of way line for the LWDD E3 Canal from the project's entrance to **Linton** Boulevard, and 60 feet west of the proposed west right of way line for the **LWDD** E3 Canal from the project's entrance to the project's south property line. This right of way 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 **"Safe** Sight Corners" where appropriate at intersections as determined by the County Engineer (MONITORING/BUILDING - Engineering).
2. The Property owner shall construct:
 - a. Sims Road Extension from **Linton** Boulevard south this projects south Entrance. Construction shall be to Collector Street Standards, two 12 **foot** travel lanes.
 - b. Left turn lane south approach on Sims Road at the Projects Entrance Road.

All construction shall be concurrent with the paving and drainage improvements for phase one of the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but not limited to, utility relocations and acquisition of any additional required right-of-way. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BUILDING - Engineering).

3. Prior to January **1**, 1995 or prior to technical compliance by the Land Development Division, whichever shall **first** occur the Property owner shall convey to Palm **Beach** County adequate road drainage easement(s) through the project's internal surface water management **system** to provide legal positive outfall for all runoff from those segments of Sims Road Extension along the **property** frontage. 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, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate 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 by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material (MONITORING - 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 \$1650 per approved single family dwelling unit and \$1155 per approved multi family dwelling unit. (IMPACT FEE COORDINATOR).
5. The property owner shall fund any required signal modifications in conjunction with roadway improvement at the intersection of Sims Road and Linton Boulevard. 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).

F. **PREM**

1. The Petitioner shall convey by Statutory Warranty Deed to the County 2% of the gross area of the Planned Unit Development (.62 acres) in net usable acreage (no buffering or other PUD requirements shall diminish usable acreage), and shall comply with the following conditions prior to deed conveyance:
 - a. Developer shall provide the County with a Statutory Warranty Deed by August 26, 1995 for the .62 acre Civic site, in a location and form acceptable to Facilities, Planning, Design & Construction Department (FPD&C) and the county Attorney's Office. Developer shall plat in accordance with the standards of the ULDC and dedicate the civic site to Palm Beach County prior to conveying the deed.
 - b. Developer shall provide a title policy insuring marketable title, in a manner and form acceptable to Property & Real Estate Management Department (PREM) and County Attorney, to the County for the civic site. At a minimum, the title policy shall be insured to the County for a dollar amount equal to the current market appraisal of the proposed civic site. The appraisal shall be obtained by the Developer. The County shall have the option, at their sole 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.

- c. All ad **valorem** real estate taxes and **assessments** for the year of closing shall be pro-rated to the day of acceptance of the deed for the civic site; acceptance date to be determined by PREM and the County Attorney after receiving approval by the Board of County Commissioners.
- d. Developer shall provide the County with a **certified** survey of the proposed civic site; survey shall at a minimum indicate the property boundary and topographical information of the site. **Surveyor** shall use the following criteria:
 - 1) The survey shall meet minimum technical standards for Boundary Survey as **prescribed** by F.A.C. 21HH.6.
 - 2) If this parcel is a portion of the Palm Beach Farms Plats, sufficient data to **make** mathematical overlay should be provided;
 - 3) **The survey shall** include location of any proposed water retention areas that will border the civic site; and
 - 4) The location of any easements, subject to approval by the County, within the proposed civic site. (MONITORING/PREM)
- 2. Civic site shall be free and clear of all trash and debris at the time of acceptance of the warranty **deed**. (PREM)
- 3. Developer shall provide all retention, detention and drainage required for any future development of the proposed civic site. The Developer agrees to:
 - a. The discharge of surface water from the civic **site** into the Development's drainage system; and,
 - b. An easement, in a manner and form acceptable to the County Attorney and PREM, across the PUD from the proposed civic site to the retention basins, if required. (PREM)
- 4. Developer shall permit the County or its agents to perform any on site inspections deemed **appropriate** to support the acquisition of the civic site. (PREM)
- 5. The Petitioner shall provide the County with an Environmental Assessment of the proposed civic **site**; by May 26, 1995. The minimum required assessment shall be a "Phase I **audit**" as generally referred to. At a minimum, the audit shall describe the environmental condition; of the property and identify the past and current land **use**. The assessment shall 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**. Review of the neighboring property that borders the proposed Civic site. Records to review **shall** include but not be limited to are: Palm Beach County Environmental Resources **Management**

Department (ERM) 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. The petitioner shall provide a recent aerial showing site and surrounding properties.
 - d) Perform on-site survey to describe site **conditions** and to identify areas of contamination.
 - e) Review of Wellfield Protection Zone maps to determine if property is located in a **Wellfield** zone. (Monitoring-ERM/PREM)
6. Developer to prepare civic site to buildable grade, **under** the direction of Facilities, Planning & Design Department. (PREM/Engineering)
7. Developer to provide water and sewer services stubbed out to the property line. (PREM/Engineering)
8. At the County's option, 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 the event the off-site land option is chosen, all **conditions** of approval shall be applicable. 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 Section **6.8-B.6.a(2)(a)(i)** of the ULDC as **amended**. (PREM)

G. COMPLIANCE

1. 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; cease and **desist** 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 Conditional Use and **any/or** zoning which was approved concurrently with the Conditional Use;
 - 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;
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

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 Conditional Use, 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)