

RESOLUTION NO. R-96- 995

RESOLUTION APPROVING ZONING PETITION PDD95-101
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF R-L PARTNERS
BY ROBERT BENTZ, AGENT
LAKE CHARLESTON SHOPPING CENTER

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 PDD95-101 was presented to the Board of County Commissioners at a public hearing conducted on June 24, 1996; 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) 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) 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 Unified 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 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 PDD95-101, the petition of R-L PARTNERS by Robert Bentz, agent, for an Official Zoning Map Amendment from the Agricultural Residential (AR) Zoning District to the Multiple Use Planned Development District (MUPD) Zoning District with requested uses for self service storage, convenience store with gas sales and a fast food restaurant, 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 June 24, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on July 25, 1996.

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

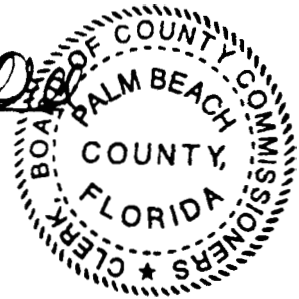


EXHIBIT A
LEGAL DESCRIPTION

PALM BEACH COUNTY RETAIL OUTLET

LAND DESCRIPTION:

A portion of Block 40 AND a portion of the Hiatus lying between the North-South quarter section line of Sections 3 and 10, Township 45 South, Range 42 East, and East line of said Block 40, **PALM BEACH FARMS COMPANY PLAT NO. 3**, of Section 3 and 10, Township 45 South, Range 42 East, according to the plat thereof, as recorded in Plat Book 2, Pages 45 through 54 of the Public Records of Palm Beach County, Florida, more particularly described as follows:

BEGINNING at the Northeast Corner of the School Tract per the Plat of **LAKE CHARLESTON PLAT NO. 3**, as recorded Plat Book 62, Pages 55 through 68 of the Public Records of Palm Beach County, Florida; thence **N88°52'45"E**, along the South right-of-way of Hypoluxo Road, as recorded in Official Records Book 5897, Page 1776 of the Public Records of Palm Beach County, Florida, 436.07 feet; thence **S87°20'58"E**, 250.88 feet; thence **N87°50'57"E**, 396.20 feet, (the preceding (3) courses being coincident with said South right-of-way line), to a point on the West right-of-way line of Jog Road, as recorded in Official Records Book 5897, page 1784 of the Public Records of Palm Beach County, Florida; thence **S44°26'36"E** along said West right-of-way line, 59.17 feet; thence **S03°15'51"W**, 127.39 feet; thence Southerly, along the arc of a tangent curve concave to the East having a radius of 7,703.44 feet, a central angle of **01°39'42"**, and an arc distance of 223.41 feet; thence tangent to said curve **S01°36'09"W**, 200.70 feet, (the preceding (4) courses described being coincident with said West right-of-way line); thence **N86°45'43"W**, 435.45 feet; thence Westerly along the arc of a tangent curve being concave to the Southeast, having a radius of 263.00 feet, a central angle of **16°47'18"**, and an arc distance of 77.06 feet; thence tangent to said curve **S76°26'59"W**, 484.45 feet; thence Southwesterly along the arc of a tangent curve concave to the Southeast, having a radius of 263.00 feet, a central angle of **26°38'32"**, and an arc distance of 122.29 feet to a point on the East boundary of the Day Care Tract per said Plat of **LAKE CHARLESTON PLAT NO. 3**; thence **N00°53'02"W**, along said East boundary and along the East boundary of said School Tract, 732.13 feet to the **POINT OF BEGINNING**.

Said lands lying and situate in Palm Beach County, Florida, containing 671,828 square feet, (15.42 Acres), more or less.

EXHIBIT B
VICINITY SKETCH

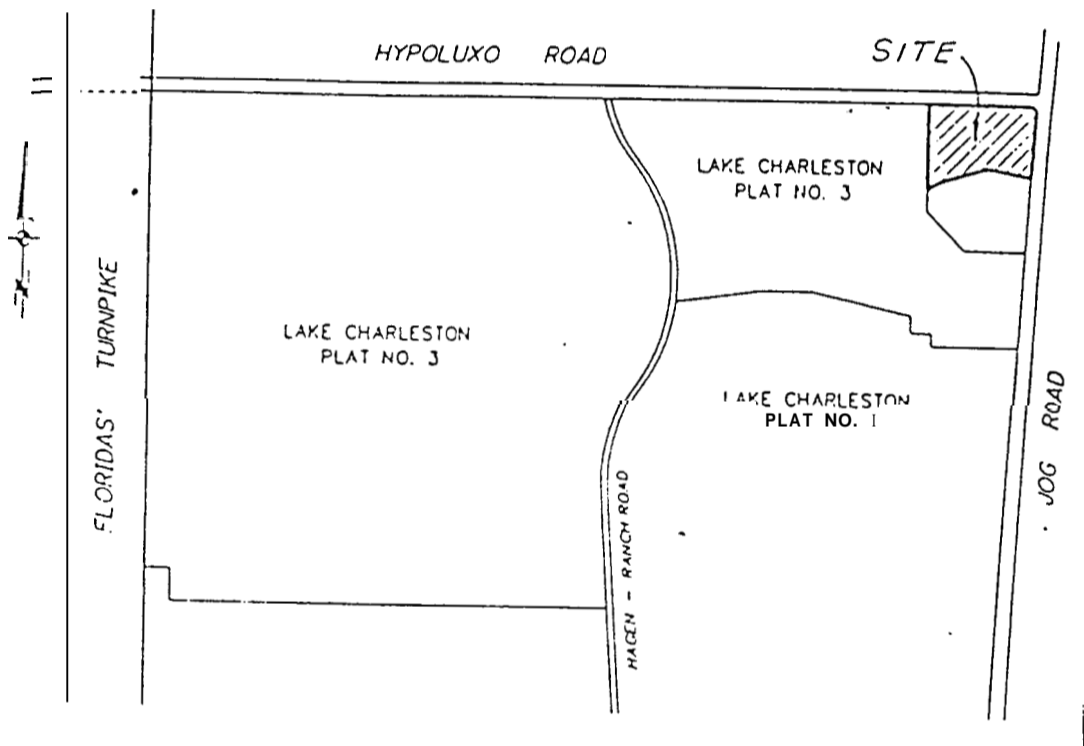


EXHIBIT C

CONDITIONS OF APPROVAL

A. AUTO SERVICE/GAS SALES

1. The car wash facility shall utilize a 100% water recycling system. (BLDG PERMIT: BLDG)
2. Prior to site plan certification, the site plan shall be amended to indicate facilities for the provision of air and water for minor vehicle maintenance. The owner of the service station facility shall provide air and water for minor vehicle maintenance to the public at no charge. (DRC/ONGOING: ZONING/CODE ENF)

B. HEALTH

1. Reasonable precautions shall be taken during development to insure that unconfined particulates (dust particles) from the property do not become a nuisance to neighboring properties. (ONGOING: HEALTH/CODE ENF)

C. LANDSCAPING - STANDARD

1. All trees required to be planted within the perimeter landscape buffers shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 2.75 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. (CO: LANDSCAPE - Zoning)

D. LANDSCAPING - INTERIOR

1. Landscape planting areas shall be provided along the front and side facades of the principal retail structure (Parcel 1). The minimum width of the required landscape planting areas shall be five (5) feet with a combined length of no less than 40% of the total length of the applicable side of the structure. A minimum of one (1) tree or palm for every twenty (20) linear feet and appropriate ground cover shall be installed in the planting areas. (CO: LANDSCAPE)
2. Landscaped divider medians with at grade bicycle and pedestrian cuts shall be provided within all driveways over thirty (30) feet in width providing ingress or egress to the site. The minimum width of this median shall be six (6) feet. The minimum length of this median shall be twenty five (25) feet. A minimum width of five (5) feet of landscaped area shall be provided. One tree and appropriate ground cover shall be planted for each twenty (20) linear feet of the divider median. (DRC / CO: ZONING / LANDSCAPE)

E. ENGINEERING

1. Prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed additional right of way for the construction of a right turn lane west approach on Hypoluxo Road at the project's main

entrance road. This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. This additional r-o-w shall be free of all encumbrances and encroachments and include "Corner Clips" where appropriate as determined by the County Engineer. Property owner 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. (BLDG PERMIT: MONITORING -Eng)

2. 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 3200 square feet of gross floor area shall not be issued until construction has begun for Jog Road as a 6 lane facility from Hypoluxo Road to Boynton Beach Boulevard plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - Eng) [Note: contract has been let.]

b) Building Permits for more than 75,000 square feet of gross floor area (excluding the drug store drive thru) shall not be issued until construction has begun for the construction of a right turn lane east approach and a right turn lane west approach on Gateway Boulevard at Military Trail plus the appropriate paved tapers. The square footage listed above may be adjusted by the County Engineer based upon an approved traffic study submitted to and approved by the County Engineer. (BLDG PERMIT: MONITORING - Eng)

3. The property owner shall reconstruct the median opening on Hypoluxo Road adjacent to this site to include closing the existing median opening, constructing a new median opening and a left turn lane east approach and a separate right turn lane west approach at the project's middle entrance onto Hypoluxo Road. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations. 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. (CO: MONITORING - Eng)

4. Prior to November 23, 1996, the developer shall provide to the County Attorney and the County Engineer a copy of a recorded document of conveyance which shall evidence the transfer of fee simple interest of the property underlying the Project to an individual or entity which is not the "same person" as described in the definition of "Project" in Article 15 of the ULDC. In the event the developer fails to satisfy this condition, a stop work order shall immediately be issued, the traffic capacity reservation evidenced by the Conditional Certificate of Concurrence shall be void until such time as the developer submits an amended traffic impact study which treats the project and the Lake Charleston PUD as one Project. Thereafter, the Certificate of Occupancy and the Development Order shall be amended to reflect any changes in the conditions required for the project to meet the Traffic Performance Standards in existence at the time of the revised traffic study before the stop work order may be revoked. (DATE: MONITORING - Co Att/Eng)

5. LANDSCAPE WITHIN MEDIAN

- A. Prior to issuance of a building permit, the property owner 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, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards, and shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng)
- B. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy. (CO: MONITORING - Eng)
- C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (CO: MONITORING - Eng)

F. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the south property line shall be upgraded to include:
- a. A six foot high opaque concrete wall extending from the western corner of the property line to Jog Road. Should the optional access be utilized, the concrete wall will terminate at the access drive and continue along the buffer adjacent to the access drive. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (CO: LANDSCAPE - Zoning)
2. The following landscaping requirements shall be installed on the exterior side of the required wall:
- a. One (1) canopy tree planted every twenty (20) feet on center;
- b. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and

c. Thirty (30) 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 forty-eight (48) inches. (CO: LANDSCAPE-Zoning)

3. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE-Zoning)

4. A three (3) foot high berm shall be located nine (9) feet from the interior side of the landscape buffer. The required concrete wall is to be located on the top of the three (3) foot high berm. (CO: LANDSCAPE - Zoning)

G. LANDSCAPING ALONG NORTH AND EAST PROPERTY LINES (ABUTTING RIGHT-OF-WAY)

1. Landscaping and buffering along the north and east property lines shall be upgraded to include one (1) palm or pine tree for each twenty (20) linear feet of frontage, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may supersede the requirement for a canopy or shade tree. (CO: LANDSCAPE)

H. LIGHTING

1. All outdoor lighting fixtures shall not exceed thirty (30) feet in height, measured from finished grade to highest point. (CO: BLDG-Zoning)

I. MASS TRANSIT

1. Prior to final certification of the master plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate bus access and/or a bus stop(s) on or adjacent to the subject property. Bus access and/or bus stops shall be located and constructed by the petitioner in a manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer.

The petitioner shall dedicate additional right-of-way to accommodate this requirement, if requested by the County Engineer. Bus stops, if required, shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use, and bicycle rack. (DRC: ZONING - School Board/Eng/Planning)

2. The property owner shall negotiate, in good faith, a contract for a proportionate share of the cost of operation and maintenance of mass transit generated by this projects identifiable impacts. This condition shall remain in effect until June 24, 1997. (DATE: MONITORING - Eng)

J. MUPD

1. Total gross floor area shall be limited to a maximum of 164,000 square feet. Expansion shall be limited to five per cent (5%) or 1,000 square feet, whichever is less. (DRC: ZONING)

2. To ensure consistency with the preliminary development plan dated 3/1/96 presented to the Board of County Commissioners, no more than twenty-five (25) percent of the total approved square footage or other area indicated as being covered by structures shall be relocated to portions of the site not previously covered. (DRC: ZONING)
3. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings and signage. The covenant shall be recorded in a form and manner acceptable to the County Attorney. (DRC: ZONING)
4. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Executive Director of PZCB. (DRC: ZONING)
5. All air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color, character and architectural style of the principle structure. (CO: BLDG)

K. PARKING

1. All delivery and/or loading areas shall be screened from view from the south property line by a twelve (12) foot high wing wall, measured from finished grade to highest point. The wing wall shall be constructed in a manner consistent with the color, character and architectural style of the principle structure. (CO: BLDG - Zoning)
2. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading and delivery areas. (ONGOING: CODE ENF)
3. Prior to site plan certification by the Development Review Committee (DRC), the site plan shall be amended to include shopping cart storage and retrieval corrals in all parking areas. (DRC: ZONING)
4. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall be screened from view, shall not be located within fifty (50) feet of the south property line and shall be confined to the areas designated on the certified site plan. (CO: BLDG-Zoning)

L. SIGNS

1. Point of purchase and/or freestanding signs fronting on Hypoluxo Road and Jog Road, excluding out parcels, shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - fifteen (15) feet;
 - b. Maximum sign face area per side - 150 square feet;

- c. Maximum number of signs - one (1) per right-of-way;
 - d. Style - monument style only. (CO: BLDG)
2. Point of purchase and/or freestanding signs for each out parcel shall be limited as follows:
- a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. Maximum sign face area per side - 50 square feet;
 - c. Maximum number of signs - one (1) per out parcel (total of three);
 - d. Style - monument style only. (CO: BLDG)

M. USE LIMITATION

1. Requested uses on the site shall be limited as follows:
- a. 2,200 square foot convenience store with gas sales and a 650 square foot accessory car wash;
 - b. 3,500 square foot fast food restaurant; and,
 - c. 59,660 square feet of self service storage use with a security quarter for a total of 164,000 square feet.

Minor adjustments to square footage are subject to provisions of the ULDC and conditions of approval. (DRC: ZONING)

2. Open storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF)

N. 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; 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.

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)