

RESOLUTION NO. R-2004- 2033

RESOLUTION APPROVING ZONING PETITION PDD2004-014  
OFFICIAL ZONING MAP AMENDMENT  
TO A PLANNED DEVELOPMENT DISTRICT (PDD)  
PETITION OF GORDON WPB INC.  
BY LAND DESIGN SOUTH, AGENT  
(FAIRWAY LAKE 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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), have been satisfied; and

WHEREAS, Zoning Petition PDD2004-014 was presented to the Board of County Commissioners at a public hearing conducted on September 30, 2004; 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 has considered the findings in the staff report and 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 2.K.3.b (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 PDD2004-014, the petition of Gordon WPB Inc. by Land Design South, agent, for an Official Zoning Map Amendment to a Planned Development District from the Agricultural Residential Zoning District to the Residential Planned Unit Development 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 September 30, 2004, 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 KOONS and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	-	<b>AYE</b>
Tony Masilotti, Vice Chairman	-	<b>AYE</b>
Jeff Koons	-	<b>AYE</b>
Warren H. Newell	-	<b>AYE</b>
Mary McCarty	-	<b>AYE</b>
Burt Aaronson	-	<b>AYE</b>
Addie L. Greene	-	<b>AYE</b>

The Chair thereupon declared that the resolution was duly passed and adopted on September 30, 2004.

Filed with the Clerk of the Board of County Commissioners on 9th day of NOVEMBER, 2004.

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

A parcel of land in the Northwest Quarter of Section 35, Township 43 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

BEGINNING at the Northeast corner of Lot 9, Block A, WOODED ACRES, as same is recorded in Plat Book 36, at Page 140, Public Records of Palm Beach County, Florida, run thence South 00 degrees, 02 minutes, 51 seconds West along the East line of said Block "A" 587.02 feet; thence South 23 degrees, 36 minutes, 00 seconds West along the Easterly line of Block "A" 591.01 feet; thence South along the East line of Block "A" 381.38 feet; thence North 89 degrees, 17 minutes, 47 seconds East along the North line of Lots 37 through 49, Block "A", a distance of 1035.93 feet to a point in the West line of 4th Addition to Plat of LAKE BELVEDERE ESTATES as recorded in Plat Book 27, at Page 9, Public Records of Palm Beach County; thence North 00 degrees, 02 minutes, 51 seconds East along the West line of said 4th Addition and along the West line of the 3rd Addition and 1st Addition to Plat of LAKE BELVEDERE ESTATES as recorded in Plat Book 26, Page 67 and Plat Book 26, Page 185, respectively, Public Records of Palm Beach County, 1562.89 feet to a point in a line 20.0 feet (as measured at right angles) Southerly from and parallel to the North line of aforesaid Section 35, said line also being the South Right-of-Way line of a 20.0 foot platted road Right-of-Way as shown on MODEL LAND COMPANY PLAT OF SUBDIVISION of said Section 35, as recorded in Plat Book 5, at Page 77, Public Records of Palm Beach County; thence South 89 degrees, 05 minutes, 40 seconds West along said Right-of-Way line 800.11 feet to a point in the Northerly prolongation of the East line of Block "A" of WOODED ACRES; thence South 00 degrees, 02 minutes, 51 seconds East 53.0 feet to the POINT OF BEGINNING.

Less the North 53.00 feet of the above described parcel.

Together with those certain rights arising out of that certain Paving, Piping and Parking Easement Agreement as recorded in Official Records Book 6588, Page 926, as amended by Amendment to Paving, Piping and Parking Easement Agreement recorded in Official Records Book 6937, Page 1889, of the Public Records of Palm Beach County, Florida.

CONTAINING 31.22 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### A. ALL PETITIONS

1. Development of the site is limited to the uses as approved by the Board of County Commissioners. The approved master/regulating plans are dated April 19, 2004. 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)
2. Hours of construction operation shall be limited to 7:30 a.m. to 7:00 p.m. Monday through Friday, and 9:00 a.m. to 7:00 p.m. Saturday. Construction shall not be permitted on Sunday. (ONGOING:CODE ENF-Zoning)

#### B. LANDSCAPING ALONG THE NORTH PROPERTY LINE (BELVEDERE ROAD FRONTAGE)

1. In addition to code requirements, landscaping and buffering along the north property line shall be upgraded to include:
  - a. a minimum of one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

#### C. LANDSCAPING ALONG THE SOUTH, EAST AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the south, east and west property lines shall be upgraded to include:
  - a. a minimum ten (10) foot wide landscape buffer strip. A maximum of five (5) feet easement encroachment shall be permitted;
  - b. a six (6) foot high opaque concrete screen panel wall. The northwest section of the wall within the west buffer, shall continue westward to abut the west property line;
  - c. one (1) canopy tree planted for each twenty (20) linear feet of the property line, alternating on both sides of the wall; and,
  - d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters, alternating on both sides of the wall. (BLDG PERMIT: LANDSCAPE - Zoning)
2. The following landscaping requirements shall be installed on the interior side of the required wall:
  - a. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation. (BLDG PERMIT: LANDSCAPE - Zoning)
3. Along the exterior side of the required wall, the property owner shall install a continuous row of thirty-six (36) inch high shrub or hedge material. Vines shall be planted at four (4) feet on center, and shall be maintained to cover the exterior side of this wall. (BLDG PERMIT: LANDSCAPE - Zoning)

#### D. PLANNED UNIT DEVELOPMENT

1. Street trees shall be required within the street tracts or right-of-ways of the subject development consistent with the requirements of the Engineering Department, and the following criteria:
  - a. along one side of all internal PUD streets, forty (40) feet in width or greater;
  - b. along both sides of all internal PUD streets, fifty (50) feet in width or greater; and,
  - c. all Final Subdivision Applications shall include roadway cross-section sketches showing street trees. (DRO: ZONING/ENG - Zoning)
2. Prior to the recordation of the first plat, 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 include the following:
  - a. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents.(PLAT:ENG/COUNTY ATTY - Zoning)
3. Decorative paving treatment such as stamped concrete or concrete paving blocks shall be installed along the following areas and consist of the following minimum requirements:
  - a. main access point – a minimum of 10,000 square feet;
  - b. T-intersections – a minimum of 2,500 square feet each; and,
  - c. 2 locations along internal access driveway (adjacent to drainage easement area) – a minimum of 1,200 square feet each. (DRO/CO:DRO/LANDSCAPE-Zoning)
4. A focal point/design features shall be located in areas indicated on the Conceptual site plan dated April 19, 2004, and shall consist of the following in each location:
  - a. median in the main access point – one (1) fountain;
  - b. median in front of the club house – one (1) fountain;
  - c. lake – two (2) fountains;
  - d. four (4) units abutting T-intersections– designed with side loaded garage;
  - e. recreation area - one (1) gazebo and one (1) set of trellis; and,
  - f. open space area – one (1) set of trellis. (DRO/CO:DRO/LANDSCAPE-Zoning)

#### E. ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
  - a. No Building Permits for the site may be issued after June 16, 2007. A time extension for this condition may be approved 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. This extension request shall be made pursuant to the requirements of Article 2 Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)
2. The Property owner shall close the existing median opening and construct a left turn lane east approach on Belvedere Road at the Project's Entrance 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 and acquisition of any additional required right-of-way.

- a. 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)
- b. Construction for this improvement shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

3. LANDSCAPE WITHIN THE MEDIAN OF BELVEDERE ROAD

The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Belvedere Road. This landscaping and irrigation shall strictly conform with the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below.

- a) The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)
- b) All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)
- c) At petitioners option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner. (ONGOING:ENG)
- d) Also, prior to the issuance of a Building Permit, and at the option of the petitioner, the petitioner may make a contribution to the Countys Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment, for the Countys installation of landscaping and irrigation on qualifying thoroughfares shall be based on the projects front footage along Belvedere Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGONG-ENGINEERING)

4. The property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed to provide for 110 feet right of way for Belvedere Road. This additional right of way, 2.8 feet, shall be located south of the ultimate south right of way line of the Lake Worth Drainage District L-48 Canal. Right of way shall be conveyed on or before December 1, 2004 or prior to the issuance of the first Building Permit whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and

encroachments. The 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. (DATE/BLDG. PERMIT: MONITORING-Eng)

5. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING:ENG)
6. On or before January 1, 2005, the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Belvedere Road along the property frontage; and up to a maximum of an additional 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage 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 as required by and approved by the County Engineer. Elevation and location of the entire drainage system 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. (DATE:MONITORING-Eng)
7. Prior to approval of the final subdivision plan by the Development Review Officer (DRO) for the site, the property owner shall provide a drainage study approved by County Engineer for this site. This drainage study shall incorporate any existing storm water drainage onto this site from any of the adjacent properties. The recommendation contained within this study shall be incorporated into the proposed site plan.
  - a. Design and Construction of the proposed perimeter wall and berm for this site shall incorporate and include historical drainage from the existing single-family lots adjacent to this site. If required, drainage from the adjacent lots shall be incorporated into the drainage system of the Planned Unit Development. (DRO:ENG-Eng)
8. Internal streets within Lake Belvedere Estates shall not be used during the construction of the PUD. (ONGOING:CODE ENF-Eng)

F. PLANNING

1. The petitioner shall include in homeowners documents as well as written sales brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying future residents of the PUD, the PUD's existence in the Palm Beach International Airport Flight Path and that residents may experience some airport related noise. The developer/property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of the Planning, Zoning and Building Department beginning on January 1, 2005 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the homeowners association. (ONGOING: MONITORING-Planning)



2. Prior to final master plan approval by the Development Review Officer (DRO), the notation for a five (5) foot mulch pathway along the lake shall remain on the master plan as indicated on the master plan dated April 13, 2004. In addition, the master plan shall contain a pedestrian connection from the mulch pathway to the recreation area, clubhouse, and private civic area. (DRO:PLANNING)

G. SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service 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)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the property owner in a location and manner acceptable to the Palm Beach County School Board and the County Engineer. Provisions for the bus shelter shall include, at a minimum, a covered area and a continuous paved pedestrian from the subject property or use to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: SCHOOL BOARD/ENG – School Board.)

H. COMPLIANCE

1. 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)
2. 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 Code Enforcement Special Master 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 Article 2.E 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. (ONGOING: MONITORING - Zoning)