

RESOLUTION NO. R- 89-954

RESOLUTION APPROVING ZONING PETITION NO. 84-98(A)  
SPECIAL EXCEPTION PETITION OF HUGH JANOW, TRUSTEE

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 Ordinance No. 73-2 have been satisfied: and

WHEREAS, Petition No. 84-98(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on May 27, 1988; and

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

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 84-98(A) the petition of HUGH JANOW, TRUSTEE, by F. Martin Perry, Agent, for a SPECIAL EXCEPTION TO AMEND THE MASTER PLAN FOR ORANGE POINT PLANNED UNIT DEVELOPMENT TO CHANGE THE BOUNDARIES OF THE DEVELOPMENT BY: 1] DELETING 94 ACRES FROM THE PLANNED UNIT DEVELOPMENT IN THE NORTHEAST QUADRANT OF SECTION NO. 26: 23 ADDING 112 ACRES TO THE PLANNED UNIT DEVELOPMENT IN THE NORTHWEST QUADRANT OF SECTION 26 on a parcel of land in the Southerly portion of Section 23, Township 44 South, Range 41 East, being more particularly described as follows:

Commencing at the Northwest corner of Section 23; thence South 00 degrees 18' 37" East (state plane grid bearing datum) along the Easterly line of the Acme Drainage District's Canal Right-of-Way as recorded in Official Record Book 1548, page 388, 2605.43 feet to the point of beginning; thence South 00 degrees 18' 37" East along said line 2826.26 feet to a point 228.05 feet East of the Southwest corner of Section 23, and 4.85 feet North of the South line of Section 23; thence South 88 degrees 31' 54" East, 5273.93 feet to a point on the East line of Section 23, and 11.45 feet North of the Southeast corner of Section 23; thence

North 00 degrees 33' 33" West along the East line of said Section, 2712.62 feet to the East 1/4 corner of Section 23; thence North 02 degrees 15' 48" East along said East line, 88.08 feet; thence North 88 degrees 14' 59" West, 5266.96 feet to the Point of Beginning.

Together with a parcel in Section 26, Township 44 South, Range 41 East, being more particularly described as follows:

Beginning at the Southwest corner of Section 26: thence South 88 degrees 28' 00" East (state plane grid bearing datum) along the South line of said Section, 5408.17 feet to a point on a line that is 37.5 feet West of and parallel with the East line of Section 26; thence North 02 degrees 39' 49" East along said parallel line, 2740.73 feet to the South line of a parcel as described in O.R.B. 986, page 210; thence North 88 degrees 57' 19" West along the South line of said parcel, 1534.53 feet to the Southeast corner thereof: thence North 02 degrees 39' 49" East along the West line of said parcel, 2674.91 feet to a point on the South line of a parcel as described in Official Record Book (O.R.B) 3203, page 1846, as Parcel III; thence North 88 degrees 31' 54" West along said South line, 3694.94 feet to the West line of the Acme Drainage District's canal Right-of-way as monumented and described in O.R.B 1921, page 1331, of said public records: thence South 04 degrees 33' 44" West along said East line, 5404.86 feet to the Point of Beginning, together with all of Section 34, Township 44 South, Range 41 East.

All the above parcels subject to the Acme Drainage District Canal reservations as recorded in Deed Book 1037, pages 686-692; and being located on the north and south sides of the proposed Lake Worth Road Extension, approximately 1.3 miles west of State Road 7 (U.S 441), in a RE-Residential Estate Zoning District, was approved as advertised, subject to the following conditions:

1. The developer shall comply with all previous conditions of approval unless expressly modified herein.
2. All property included in the legal description of this petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's Office which shall provide, among other things, for: Formation of a single "master" property owner's association, and automatic membership in the "master" association by any party holding title to any portion of the property included in the PUD.
3. The equestrian trials shall not be permitted to encroach the required twenty-five (25) foot buffer.
4. The proposed ten (10) acre equestrian pod located in the southwest corner of Section 26 shall be designated as an equestrian facility and shall be limited to a maximum of two (2) acres of equestrian related commercial use.
5. Prior to master plan certification the master plan shall be amended to indicate:

- a. **The minimum tree planting requirement;**
  - b. Minimum native tree planting requirement; and
  - c. How the minimum native tree planting requirement will be satisfied and incorporated into the project design.
6. Condition No. 11,b of Zoning Petition No. 84-98, Resolution No. R-1834 which states:

"11. b. Commercial pods located in the immediate vicinity of the school site shall be cooperatively agreed upon by the School Board and the petitioner, in efforts to minimize attractive nuisances to students."

Is hereby amended to read as follows:

"The petitioner shall consult with the School Board prior to considering the commercial uses that may be permitted on the **one (1)** acre commercial pod located on Lake Worth Road."

7. Condition No. 4 of Zoning Petition No. 84-98, Resolution No. R-1834, which presently states:

"4. A. Developer shall provide construction plans for an additional 4-lane bridge over LWDD E-1 Canal per C.E. approval. The plan section shall include sidewalks. In addition, construction plans shall be submitted for the following turn lanes at the intersection of Lake Worth Rd. & S.R. 7:

- a. Dual left turn lanes, north approach
- b. dual left turn lanes, south approach
- c. dual left turn lanes, east approach
- d. Dual left turn lanes, west approach
- e. right turn lanes, north approach
- f. right turn lanes, south approach
- g. right turn lanes, east approach
- h. right turn lanes, west approach

These plans shall be completed within 12 months of Special Exception approval or prior to issuance of 101st Building Permit, whichever shall first occur.

- B. Developer shall construct an additional 4-lane bridge over LWDD E-1 Canal on Lake Worth Road per County Engineer's approval. This construction shall also include turn lanes at the intersection of Lake Worth Road & S.R. 7 as required in this condition in the previous paragraph as outlined below. This

construction shall be for a **400 foot** full section, plus the appropriate transitions to the existing two lanes.

- a. Dual left turn lanes, north approach
- b. dual left turn lanes, south approach
- c. dual left turn lanes, east approach
- d. Dual left turn lanes, west approach
- e. right turn lanes, north approach
- f. right turn lanes, south approach
- g. right turn lanes, east approach
- h. right turn lanes, west approach
- i. Signalization when required as determined by the County Engineer.

This developer shall also be responsible for any and all right-of-way acquisition costs incurred with construction of these turn lanes and bridge construction as outlined above. It is the intent that the right of shall be acquired as shown on the Thoroughfare R/W Protection Map "Special Intersections", Palm Beach County will acquire this right-of way at the developer's expense. This construction shall be completed within **24** months of Special Exception approval or prior to issuance of **200** Building Permits, whichever shall first occur. This Petitioner shall also be required to post surety in the form of a Clean Irrevocable letter of credit within **6** months of Special Exception approval or prior to issuance of a building permit. The amount of this letter of credit shall be based upon a certified cost estimate by the developer's engineer for required plans and construction for improvements of Lake Worth Rd. & S.R. 7."

Is hereby amended to read as follows:

- "4. A. Developer shall provide construction plans for an 8-lane bridge over LWDD E-1 Canal per C.E. approval. The plan section shall include sidewalks. In addition, construction plans shall be submitted for the following turn lanes at the intersection of Lake Worth Rd. & S.R. 7:

- 1) Dual left turn lanes, north approach
- 2) Dual left turn lanes, south approach
- 3) Dual left turn lanes, east approach
- 4) Dual left turn lanes, west approach
- 5) Right turn lanes, north approach
- 6) Right turn lanes, south approach

- 7) Right turn lanes, east approach
- 8) Right turn lanes, west approach

These plans shall be completed prior to June 15, 1988, or prior to the certification of the master plan, whichever shall first occur.

- B. Developer shall **construct** the improvements as shown in the construction plans presently under review by the County Engineer over LWDD E-1 Canal on Lake Worth Road per the County Engineer's approval. This construction shall also include turn lanes at the intersection of **Lake** Worth Road & S.R. 7 as required in this condition in the previous paragraph as outlined below. This construction shall be for a **400** foot full section, **plus** the appropriate transitions to the existing two lanes. Construction shall commence prior to August 1, 1988 and shall be completed prior to June 1, 1989.

- 1) Dual left turn lanes, north approach
- 2) Dual left turn lanes, south approach
- 3) Dual left turn lanes, east approach
- 4) Dual left turn lanes, west approach
- 5) Right turn lanes, north approach
- 6) Right turn lanes, south approach
- 7) Right turn lanes, east approach
- 8) Right turn lanes, west approach
- 9) Signalization when required as determined **by** the County Engineer.

This developer shall also be responsible for any and all right-of-way acquisition **costs** incurred with construction of these turn lanes and bridge construction as outlined above. It **is** the intent that the right-of-way shall be acquired as shown on the Thoroughfare Right-of-Way Protection Map "Special Intersections". Palm Beach County will acquire this right-of-way at the developer's expense. This construction shall be completed prior to the construction schedule as presented to Palm Beach County, and agreed upon by the developer. This **Petitioner** shall also be required **to** post surety in the form of a clean irrevocable letter of credit for the above offsite road improvements prior to June 16, 1988. The amount of this letter of credit shall be

based upon a certified cost estimate by the developer's engineer for required plans and construction for improvements of Lake Worth Rd. & S.R. 7 and update annually. Surety for any and all remaining off-site improvements shall be posted prior to August 1, 1988, or prior to certification of any site plan, whichever of the two shall first occur."

8. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
9. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
10. The 11 acre commercial pod shall provide a minimum thirty-five (35) foot landscape buffer along their entire perimeter, supplemented with a berm and hedge combination to reach a combined height of six (6) feet, with native ten (10) to twelve (12) foot canopy trees planted a maximum of twenty (20) feet on center.
11. Condition No. 2 of Resolution No. R-1834, Zoning Petition No. 84-98, which presently states:

"2. Petitioner shall convey for the ultimate right-of-way of:

- a. Lake Worth Road, 120 foot on an alignment approved by the County Engineer.
- b. South Road, 80 feet at right-of-way.

All rights of way shall be conveyed within 90 days of approval and conveyances must be accepted by Palm Beach County prior to issuance of the first building permit."

Is hereby amended to read as follows:

"Petitioner shall convey for the ultimate right-of-way of:

- a. Lake Worth Road, 120 foot on an alignment approved by the County Engineer.
- b. South Road, 80 feet at right-of-way.

Approval and conveyances must be accepted by Palm Beach County prior to July 1, 1988, or prior to certification of the master plan, whichever shall first occur."

12. All thoroughfares and collector roads shall be built to Palm Beach County Thoroughfare Plan Standards as they presently exist, or as they may be amended from time to time.

13. Any right-of-way required for the construction of South Road (to Palm Beach County Thoroughfare Plan Standards) shall be funded in its entirety by this property owner. Said right-of-way shall be acquired concurrent with approval of the construction plans by Palm Beach County.
14. Property owner shall fund the cost of signalization at any of the project's entrances onto either South Road or Lake Worth Road including the school site.
15. The property owner shall disclose to perspective home buyers the future existence of Lake Worth Road from State Road 7 to Wellington as a future six-lane highway and the existence of Florida Power and Light's transmission lines which traverse the property. Disclosure shall be made in sales brochures and literature.
16. Use of the 11 acre commercial site shall be limited to equestrian related commercial uses such as tack shops, commercial stables, feed and grain sales, and no general retail land uses shall be permitted on the site. There shall be no commercial signage on any public road advertising the development which would attract patrons from outside the development.
17. The land area of the planned unit development north of proposed Lake Worth Road shall not receive master plan certification until a site visit has been conducted to determine the viability and significance of the wetland areas located in the north portion of the project. To the greatest extent possible viable wetland areas shall be preserved and incorporated into the project's open space and surface water management systems. If the wetland areas are viable, the boundaries shall be incorporated into the project's vegetation removal permit and a conservation easement shall be established for those areas. The conservation easement shall be platted as such and incorporated into the project design and may be used for storm water management and passive recreation areas. A recommendation on the viability of wetland areas shall be made to the Zoning Director by representatives from the Zoning Division, Planning Division, Department of Environmental Resources Management, South Florida Water Management District and representative(s) of the developer.
18. Condition No. 3(a) of Resolution No. R-1834, Zoning Petition No. 84-98, which presently states:
  - #3. Developer shall construct:
    - a) South Road from existing limits of paving west to the project's westernmost access drive in Section 34 concurrent with the construction of the project's entrance roads

onto south Road or upon notification by the County Engineer to provide paved continuity for South Road."

Is hereby amended to read as follows:

"Developer shall construct:

- a) South Road from existing limits of paving west to the project's westernmost access drive, or any other driveways, in Section 34 concurrent with the construction of the project's entrance roads onto South Road or upon notification by the County Engineer to provide paved continuity for South Road."

- 19. Failure to comply with the conditions herein may result in 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. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Violations of the conditions herein shall constitute violation of the Palm Beach County Zoning Code.

Commissioner Marcus moved for approval of the petition. The motion was seconded by Commissioner Elmquist and, upon being put to a vote, the vote was as follows:

Carol A. Roberts	--	Aye
Carol J. Elmquist	--	Aye
Karen T. Marcus	--	Aye
Dorothy Wilken	--	Absent
James Watt	--	Aye

The foregoing resolution was declared duly passed and adopted this 23rd day of May, 1989 confirming action of May 27, 1988.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: *Baker Atteum*  
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: *James Hardy*  
DEPUTY CLERK

