

RESOLUTION NO. R-89- 1153

RESOLUTION APPROVING ZONING PETITION NO. 73-85(B)
SPECIAL EXCEPTION PETITION OF MARKBOROUGH PROPERTIES LTD.

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. 73-85(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on December 29, 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. 73-85(B) the petition of MARKBOROUGH PROPERTIES LTD., by Alan J. Ciklin, Agent, for a SPECIAL EXCEPTION TO AMEND THE MASTER PLAN FOR BOCA POINTE PUD (PETITION NOS. 73-85 AND 73-85(A) TO CHANGE THE DESIGNATION OF TRACT "R" FROM A CIVIC SITE (SCHOOL) TO RESIDENTIAL AND TO PERMIT 35 CATEGORY A DWELLING UNITS AND TO INCREASE THE DENSITY on a parcel of land in Sections 27, 28, 33, 34 Township 47 South, Range 42 East, more particularly described as follows: Boca Pointe No. 1, as recorded in Plat Book 42, Pages 141 through 143 inclusive: Boca Pointe No. 2, as recorded Plat Book 47, Pages 26 and 27, Boca Pointe No. 3, as recorded in Plat Book 46, Pages 123 through 125 inclusive; Boca Pointe No. 4, as recorded in Plat Book 43, Pages 194 through 196 inclusive and Escantada, as recorded in Plat Book 46, Page 104 thru 106 inclusive., being located on the north and south sides of S.W. 18th Street and on the east and west sides of Powerline Road, bounded on the west by Florida's Turnpike (Sunshine State Parkway) and on the south by the Hillsboro Canal, in a RS-Single Family Residential Zoning District, was approved as advertised, subject to the following conditions:

1. The petitioner shall comply with all previous conditions of approval, unless expressly modified herein.
2. Prior to certification, the master plan shall be amended to indicate the following:
 - a. Revised tabular information indicating: i) Corrected dwelling unit count: ii) Correct acreage for civic uses: and, iii) Correct density calculations for all proposed residential, congregate living facility and nursing home uses;
 - b. All existing native vegetation to be preserved:
 - c. Required twenty-five (25) foot perimeter buffer along the eastern property line of Tract R:
 - d. Access points to all interior development pods within the planned unit development: and
 - e. Location of Canary Palm Drive adjacent to the eastern property line.
3. The petitioner may exchange the required on-site dedication of land for civic uses either by conveying fee simple title for a parcel of land off-site equal in acreage or cash of equal value. In addition, in the event that the off-site land dedication is of less cash value than the on-site dedication, petitioner shall also contribute an amount in cash equal to the difference between the value of the on-site and off-site land dedications. The value of the land shall be based upon its value as a civic site. This contribution shall be used to offset the identifiable impacts directly attributable to this project. If an off-site land or cash contribution is accepted by Palm Beach County, the petitioner shall be deemed to have satisfied the intent of Zoning Code Section 500.21.H."

Prior to Master Plan Certification for the change in land use designation of Tract R, the petitioner shall submit documentation indicating compliance with this condition regarding the civic site. Compliance and sufficiency of this documentation shall be subject to approval by the Zoning Division and County Attorney.

4. The developer shall preserve existing native vegetation on site and shall incorporate the vegetation into the project design. Clearing shall be limited to the developable area, retention areas, right-of-way and building pods. Areas of existing vegetation to be preserved shall be shown upon the approved development plan prior to Site Plan Review Committee certification. These preservation areas shall receive appropriate protection from damage and disturbance in accordance

with Section 500.36 of the Zoning Code during the site development and construction phase.

5. Prior to master plan certification the petitioner shall coordinate tabular information revisions with the petitioner of record for Petition No. 73-85(C). The land use, and respective tabular changes for Tracts "R" and "D" shall be coordinated to indicate the most current information for both approvals. In the event that Petition No. 73-85(C) is postponed at the Planning Commission or respective Board of County Commissioners Public Hearings, beyond the date that the petitioner for Petition 73-85(B) is requesting final certification at Site Planning Review Committee Meeting, this condition shall not apply.
6. Tract "R" shall be limited to thirty-five (35) single family detached type units with a maximum density of 4.37 dwelling units per acre.
7. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
8. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
9. The petitioner 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.
10. Prior to Master Plan approval, the petitioner shall update Boca Pointe's Master Plan to reflect:
 - a. Existing plats of record for the separate tracts including plat name, plat book and page;
 - b. Tract access locations, proposed and existing;
 - c. Right of way widths: and,
 - d. Site plan exhibit number on separate tracts as they receive Site Plan approval.

11. The property owner shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance 73-4 as amended.
12. The petitioner 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.
13. Failure to comply with any conditions of approval 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.
14. Prior to commencement of construction, the property owner shall install a four (4) foot high berm with a masonry wall compatible with the projects entry wall. The berm and wall shall be seven (7) feet above the Marbella Woods grade. The peak of the berm shall be eight (8) feet from Marbella Woods property line. The berm shall be landscaped by owner to "final condition" and shall be maintained by Marbella Woods thereafter.

The property owner shall ensure proper drainage and shall not create a water retention area on Marbella Woods property.
15. If the civic site requirement is not through cash contribution or off site dedication, Site Plan Review Committee may approve a maximum of thirty-five (35) single family detached type units.
16. The Planned Unit Development shall be limited to 4,659 dwelling units.

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

Carol J. Elmquist	--	Aye
Karen T. Marcus	--	Absent
Carol Roberts	--	Aye
Ron Howard	--	Aye
Carole Phillips	--	Aye

The foregoing resolution was declared duly passed and adopted this 13th day of June, 1989 confirming action of December 29, 1988.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY :


COUNTY ATTORNEY

BY:


DEPUTY CLERK

