

RESOLUTION NO. R-2000- 1088

RESOLUTION APPROVING ZONING PETITION PDD79-133(A)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT(PDD)
PETITION OF KELLY TRACTOR CO.
BY KIM JURAN, AGENT
(KELLY TRACTOR)

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 PDD79-133(A) was presented to the Board of County Commissioners at a public hearing conducted on July 27, 2000; 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) 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 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 PDD79-133(A), the petition of Kelly Tractor Co. by Kim Juran, agent, for an Official Zoning Map Amendment to a Planned Development District (PDD) from Residential High Density (RH) and General Commercial (CG) to Multiple Use Planned Development (MUPD) with vehicle sales and rental 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 July 27, 2000, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty 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:

Maude Ford Lee, Chair		Aye
Warren Newell, Vice Chair	—	Aye
Karen T. Marcus		Aye
Carol A. Roberts		Aye
Mary McCarty		Aye
Burt Aaronson		Aye
Tony Masilotti		Absent

The Chair thereupon declared that the resolution was duly passed and adopted on July 27, 2000.

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

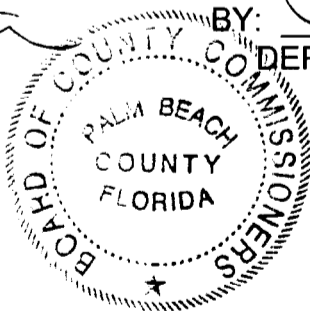


EXHIBIT A
LEGAL DESCRIPTION

THE WEST 320.00 FEET OF THE EAST 1957.89 FEET OF THE NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 26, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE RIGHT-OF-WAY FOR OKEECHOBEE BOULEVARD (STATE ROAD 704) AND THE RIGHT-OF-WAY FOR ELMHURST STREET.

TOGETHER WITH:

THE SOUTH 571 FEET OF THE NORTH 630 FEET OF THE EAST 300 FEET OF THE WEST 660 FEET OF THE EAST 1997.89 FEET OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 26, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. SUBJECT TO EASEMENTS IN FAVOR OF THE LAKE WORTH DRAINAGE DISTRICT SET FORTH IN OFFICIAL RECORD BOOK 56 AT PAGE 497 AND IN OFFICIAL RECORD BOOK 2387 AT PAGE 38.

CONTAINING 571,603 SQUARE FEET / 13.122 ACRES, MORE OR LESS.

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

EXHIBIT B
VICINITY SKETCH

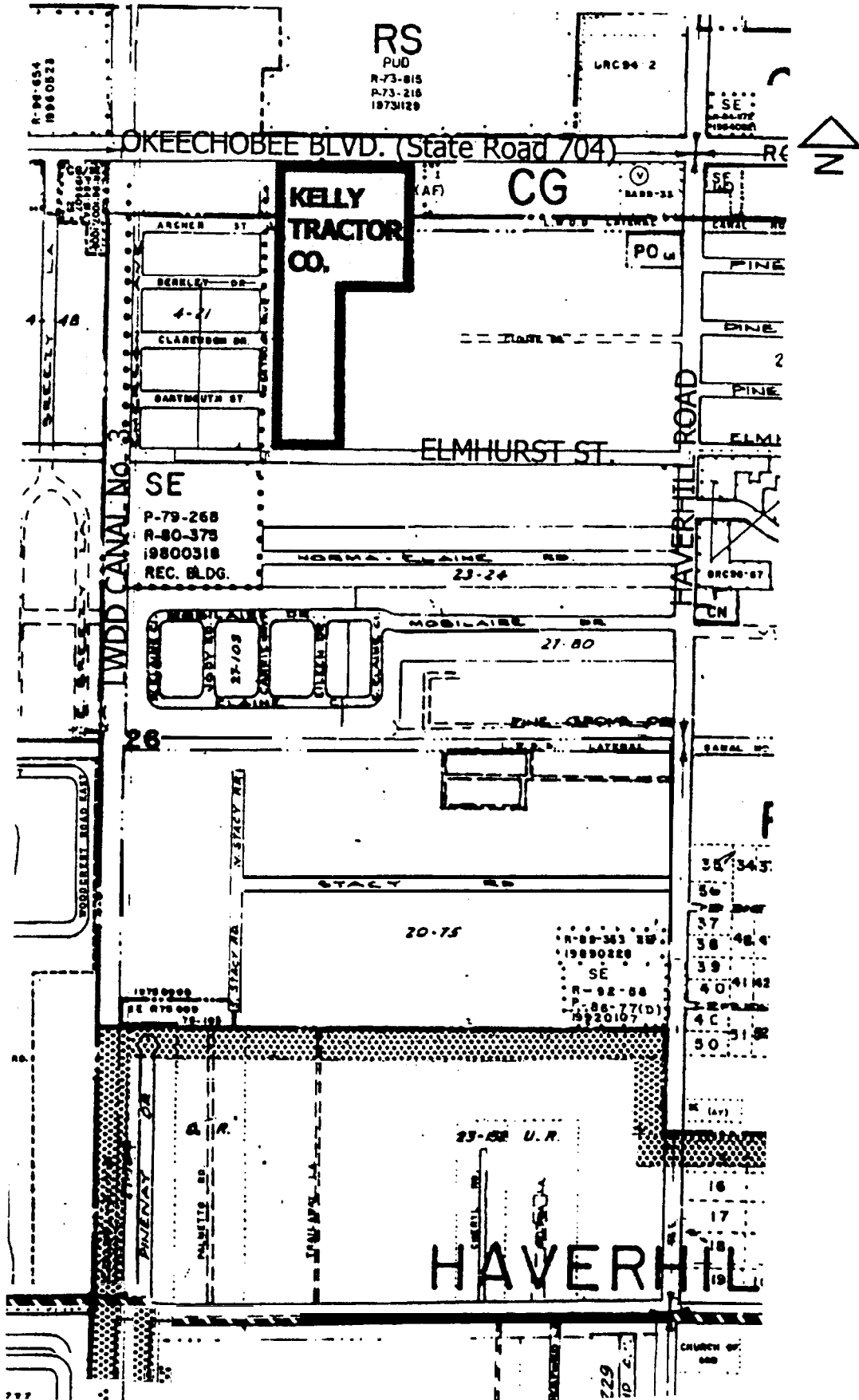


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Conditions contained in Resolution R-73-0391, granting approval of Petition 73-064, and R-75-026, granting approval of Petition 74-I 85, and Resolution 79-924, Petition 79-133 are hereby revoked. (MONITORING)
2. Development of the site is limited to the use and site design as approved by the Board of County Commissioners. The approved site plan is dated June 5, 2000. 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)

B. ARCHITECTURAL CONTROL

1. Prior to commencement of each phase, the petitioner shall submit architectural elevations to the Architectural Review Section of the Zoning Division for review. Development shall be consistent with the approved architectural elevations for that phase. (DRC: BLDG PERMIT - Zoning)

C. LANDSCAPING - INTERIOR

1. The petitioner shall provide a minimum of one (1) interior landscape island for every twelve (12) parking space interval designated as customer/service, display and employee parking spaces.(DRC: ZONING)

D. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING R-O-W)

1. Landscaping and buffering along the Okeechobee Boulevard property line shall be upgraded to include:
 - a. A minimum twenty (20) foot wide landscape buffer strip;
 - b. One (1) canopy tree planted every thirty (30) feet on center. A group of three (3) or more palm or pine trees may supersede the requirement of the canopy trees 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 thirty-six (36)inches. (CO: LANDSCAPE)

E. ENGINEERING

1. Prior to August 1, 2001 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for **Elmhurst** Street, 40 feet from centerline along the project's entire frontage, free of all encumbrances and encroachments. 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. Right-of-way conveyances shall also include "Corner Clips" where appropriate at intersections as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING-Eng)

2. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Elmhurst Street (Westgate Ave. extension) to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT:MONITORING-Eng)
3. LANDSCAPE WITHIN MEDIAN OF STATE ROAD 704
 - 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 the adjacent median of Okeechobee Boulevard Right-of-Ways. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department latest revision to the Streetscape Standards. The property owner shall also be responsible for supplementing any existing landscape material previously planted in this median and all new landscape material 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 landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing 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 prior to the issuance of a certificate of occupancy. (CO: MONITORING-Eng)
 - c. If the County does not assume maintenance responsibility, then appropriate property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING-Eng)

4. 'CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF OKEECHOBEE BOULEVARD
 - 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 provide cutouts within the concrete median of Okeechobee Boulevard Right-of-Way. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, concrete median cutout, Landscape Installation and Maintenance, Removal, and Indemnification Agreements. When landscape cutouts are permitted by the Florida Department of Transportation, landscaping shall, consist of Landscape Material approved by the County Engineer. All new landscape material shall be consistent with any 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, the cost of Cutting out the concrete median and the Landscape material shall be funded at the property owners expense. All existing 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 prior to the issuance of a certificate of occupancy. (CO:MONITORING - Eng)
 - c. Declaration of Covenants and Restriction Documents evidencing this obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit. (BLDG.PERMIT:MONITORING - Eng)

F. HEALTH

1. Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENF)
2. The owner, occupant or tenant of this facility shall participate in an oil-recycling program, which ensures proper re-use or disposal of any waste oil. (ONGOING: HEALTH/CODE ENFORCEMENT)

G. LANDSCAPE PHASING

1. The landscaping shall be installed according to phases, as indicated on site plan dated July 14, 2000, and shall be completed prior to the issuance of the Certificate of Occupancy for each building of the specified phase.

H. SIGNAGE

1. No off-premise signs shall be permitted on the site. (ONGOING: CODE ENF)
2. All point of purchase or freestanding signs fronting on Okeechobee Boulevard 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 - 100 square feet;
 - c. Style - monument style only; and
 - d. Maximum number of signs - two (2) (BLDG PERMIT - Zoning)
3. All directional signs shall be limited to a maximum height of four (4) feet. (BLDG PERMIT - Zoning)

I. USE LIMITATIONS

1. Vehicles shall be parked or displayed only in the areas designated on the certified site plan for parking/display. (ONGOING: CODE ENF - Zoning)
2. No advertising flags, foreign flags, pennants, banners, streamers, balloons, objects, gimmicks or similar signs designed to attract the attention of the general public shall be permitted outdoors on any building, vehicle or wall. (ONGOING: CODE ENF - Zoning)
3. No barbed or razorwire shall be permitted on the site. (CO/ONGOING: BLDG -Zoning/CODE ENF)

J. 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 majority vote of the Code Enforcement Board 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 Section 5.8 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. (MONITORING)