

RESOLUTION NO. R-96- 1356

RESOLUTION APPROVING ZONING PETITION PDD96-48
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF GORMANS FOLIAGE NURSERY AND JAMES AND ANN FICHERA AND
DEBRA FICHERA AND DIANE DOERR AND JOHN AND KATHRYN SCARALIA
BY RONALD KOLINS, ESQ., AGENT
(VIA ANCHO 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 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition PDD96-48 was presented to the Board of County Commissioners at a public hearing conducted on August 22, 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 finding⁶ 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 PDD96-48, the petition of Gormans Foliage Nursery; James and Ann Fichera; Debra Fichera; Diane Doerr; and John and Kathryn Scaralia by Ronald Kolins, Esq., agent, for an Official Zoning Map Amendment from Agricultural Residential (AR) to Residential Planned Unit Development (PUD) 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 August 22, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on September 26, 1996.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Barbara Collier*
COUNTY ATTORNEY

BY: *Joan Hawley*
DEPUTY CLERK

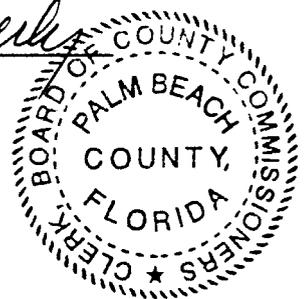


EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

Tracts 4 through 11, inclusive and Tracts 22 through 27, inclusive, Block 79, Palm Beach Farms Co. Plat No. 3, according to the plat thereof as recorded in Plat Book 2, Page 45 of the Public Records of Palm Beach County, Florida.

TOGETHER WITH, Tracts 10 and 11, Block 79, Palm Beach Farms CO. Plat no. 3, according to the map or plat thereof as recorded in Plat Book 2, Page 45 of the Public Records of Palm Beach County, Florida.

EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design approved by the Board of County Commissioners (site plan dated June 28, 1996). 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. ENVIRONMENTAL RESOURCE MANAGEMENT

1. Temporary fencing around the wetland preserve areas shall be installed by the developer and shall be approved by ERM prior to commencement of the removal of any vegetation from the site. (Veg Removal Permit: ERM)

E. ENGINEERING

1. The property owner shall provide for the acquisition of Via Ancho Road by funding the cost of the right-of-way and all associated costs for the acquisition of 80 feet of right of way from Boca Rio Road to the projects east and south property line. This developer shall enter into a written agreement with the Right of Way Acquisition Section prior to November 30, 1996 or, prior to submission of applications for Land Development permits or building permits (including dry models), whichever shall occur first. Notification by the developer shall be given to the Land Development Division. (DATE: MONITORING/DRC APPROVAL ENG)
2. The Property owner shall construct/reconstruct:
 - a) Via Ancho Road from Boca Rio Road west to this projects east property line. Construction shall be to non plan Collector Street Standards minimum 2-12 foot travel lanes.
 - b) At the intersection of Via Ancho Road and Boca Rio Road, a left turn lane west approach, a left turn lane south approach and a right turn lane north approach.
 - c) The south approach to the intersection of Glades Road and Boca Rio Road to provide for: one left turn lane, one thru lane, one right turn lane north bound; the two thru lanes south bound on the departure shall be modified to accept dual left turn lanes from the east approach. These two southbound departure lanes shall merge according to Florida Department of Transportation Standards south of the main entrance to Lakeside Shopping Center (approximately 700 feet south of Glades Road).

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the 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. Permits required by

Palm Beach County for this construction shall be obtained prior to the issuance of 75 total building permits. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng)

3. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a) Building Permits for no more than 25 multi-family and 126 single-family housing units until the south approach to the intersection of Glades Road and Boca Rio Road has been modified to include one Left turn lane, one thru lane, one right turn Lane north bound; the two thru lanes south bound on the departure shall be modified to accept dual left turn lanes from the east approach. These two southbound departure lanes shall merge according to Florida Department of Transportation Standards south of the main entrance to Lakeside Shopping Center (approximately 700 feet south of Glades Road). The mix of building permits, phasing, and/or roadway improvements specified herein and listed above, may be adjusted by the County Engineer based upon submittal of a Traffic Study which complies with the Mandatory Traffic Performance Standards in place at the time of the request.

The mix of allowable residential uses listed above may be adjusted 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. (MONITORING - Eng)

F. LAKE WORTH DRAINAGE DISTRICT

1. Simultaneous with the recording of the first plat, the Developer shall convey to the Lake Worth Drainage District by Easement or Quit Claim Deed, the South 2.00 feet of the North 30 feet of Tracts 4,5,6, and 7 and the South 4.00 feet of the North 30 feet of Tracts 8,9,10 and 11 all lying and being in Block 79 according to the plat of THE PALM BEACH FARMS COMPANY PLAT NO. 3 as recorded in Plat Book 2, Pages 45 to 54 incl. for the required right-of-way for Lateral Canal No. 46 (L-46). (PLAT: LWDD)

G. LANDSCAPING - STANDARD

1. All trees required to be planted on site by this approval, except on individual residential lots, shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 3.5 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.
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms required to be planted on site by this approval shall meet the following minimum standards at time of installation:

- a. Palm heights: twelve (12) feet clear trunk;
- b. Clustering: staggered heights twelve (12) to eighteen (18) feet; and
- c. Pruning: minimum six (6) fronds, no clipped or spiked cuts.
- d. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING ALONG EAST PROPERTY LINE (ABUTTING INDUSTRIA';)

- 1. Landscaping and buffering along the east property lines shall be upgraded to include:
 - a. A six (6) foot high opaque wall or fence. (DRC / CO: ZONING / LANDSCAPE)
- 2. ~~The~~ following landscaping requirements shall be installed on the interior side of the required wall or fence:
 - 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 one hundred (100) 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. Twenty-four (24) 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. (DRC / CO: ZONING / LANDSCAPE)

I. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING CANAL)

- 1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. One (1) canopy tree planted the equivalent of every twenty-five (25) linear feet with a maximum spacing of thirty (30) feet on center;
 - b. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of one hundred (100) 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~~ Twenty-four (24) 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. (DRC / CO: ZONING / LANDSCAPE)

J. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING ESCONDIIO IV RESIDENTIAL DEVELOPMENT)

- 1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. A continuous two (2) foot high berm if permitted by the SFWMD;
 - b. A ~~double~~ single row of canopy trees ~~twenty five~~

~~(25) thirty (30) twenty (20) feet on center of which 50% can be planted on the interior side of the berm and the remaining 50% on the exterior side of the berm;~~

- c. One (1) palm or pine tree for each twenty (20) linear feet, with a ~~minimum~~ maximum spacing of ~~— hundred (100) 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
- d. ~~Forty-eight (48) Twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be planted at the top of berm and maintained at a minimum of for eight (48) inches,~~ (DRC / CO: ZONIBG / LANDSCAPE)

K. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING VISTA DEL 30CA RESIDENTIAL DEVELOPMENT)

- 1. Landscaping and buffering along the west property Line not having the cypress stand shall be upgraded to include the following:

- a. A continuous two (2) foot high berm if permitted by SEWMD;
- b. A ~~double~~ single row of canopy trees ~~— thirty (30) twenty (20) feet on center; of which 50% can be planted on the interior side of~~ of the berm;
- c. One (1) palm or pine tree for each twenty (20) linear feet, with a ~~minimum~~ maximum spacing of ~~— hundred (100) 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
- d. ~~Forty-eight (48) Twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be planted at the top of berm and maintained at a minimum of for eight (48) inches,~~ (DRC / CO: ZONING / LANDSCAPE)

- 2. Landscaping and buffering along the west property line (along POD 2) that has the cypress stand, with — exception of the area abutting the west portion of the ~~— shall be upgraded to include the following along the portion of the buffer not located directly in front of the cypress stand.~~

- a. One (1) canopy tree planted every twenty (20) feet on center;
- b. ~~Thirty-six (36) Twenty-~~ four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation.
- c. ~~The standards of Condition L.1 shall be provided along the entire buffer length by the developer, in~~

~~the event the cypress stand area is cleared.~~
(DRC/CO: ZONING/ LANDSCAPE)

3. ~~The cypress stand shall be preserved and subjected to a conservation easement. The conservation easement shall be recorded and submitted to the Palm Beach County Department of Environmental Resources Management prior to final DRC the recording of the first plat. In addition, the standards of Condition L.1 shall be provided along the entire buffer length by the developer, in the event the cypress stand area is cleared. (DRC/CO PLAT: ZONING/LANDSCAPE/ERM)~~

L. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING BOCA LAGO RESIDENTIAL DEVELOPMENT)

1. Landscaping and buffering along the south property line, ~~with the exception of the area abutting the south portion of the cypress stand,~~ shall be upgraded to include the following ~~along the portion of the buffer not located directly in front of the cypress stand.~~
 - a. A continuous two (2) ~~feet~~ high berm;
 - b. A ~~double single~~ row of canopy trees ~~twenty-five (25) thirty (30)~~ (20) feet on center of which ~~50% can be planted on the interior side of the berm and the remaining 50% on the exterior side of the berm;~~
 - c. One (1) palm or pine tree for each twenty (20) linear feet, with a ~~minimum maximum~~ spacing of. ~~hundred (100) 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
 - d. ~~Forty-eight (48) Twenty-four (24)~~ inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be planted at the top of berm ~~and maintained at a minimum of forty-eight (48) inches.~~ (DRC/CO: ZONING/LANDSCAPE)
2. ~~The cypress stand shall be preserved and subjected to a conservation easement. The conservation easement shall be recorded and submitted to the Palm Beach County Department of Environmental Resources Management prior to final DRC the recording of the first plat. In addition, the standards of Condition L.1 M.1 shall be provided along the entire buffer length by the developer, in the event the cypress stand area is cleared. (DRC/CO PLAT: ZONING/ LANDSCAPE/ERM)~~

M. LANDSCAPE EASEMENTS

1. ~~Simultaneous with recording of the first plat, and shown on the plat shall be Prior to final DRC the petitioner shall record in the public records, in a form acceptable to Palm Beach County, documentation stating that the additional fifteen (15) foot landscape easements proposed by the petitioner which shall be free of structures such as fences, buildings, decks, patios, pools, and screen enclosures and shall be used for the sole purpose of landscaping/buffering. (PLAT: ZONING - Eng)~~

N. 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 / Erg / Planning)

O. PLANNED UNIT DEVELOPMENT

1. Street lights shall be provided pursuant to Section 6.8.A.23.d(1) of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
2. Street trees shall be planted in or adjacent to all rights-of-way, pursuant to Section 6.8.A.23.d(3) of the ULDC, subject to approval by the County Engineer. (CO: LANDSCAPE - Eng)
3. Street bike lanes shall be provided in or adjacent to all rights-of-way over fifty (50) feet in width, pursuant to Section 6.8.A.23.d(4) of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
4. All utilities shall be underground, pursuant to Section 6.8.A.23.d(5) of the ULDC. (PLAT: ENG - Zoning)
5. 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, among other things, provide for: formation of a single "master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.

The property shall not be subjected to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the issuance of the first building permit, or recordation of the first plat for any portion of the planned development, whichever occurs first. (BLDG PERMIT / PLAT: BLDG / ENG - Co Attorney)

6. Prior to final site plan certification, the site plan shall be revised to reflect a minimum 50 foot setback from the P.U.D. property line and 80 foot rights-of-way to the inside edge of all lake maintenance easements. (DRC: ZONING)

P. PREM

1. The property owner shall provide Palm Beach County Board of County Commissioners with a warranty deed by September 1, 1997 for a 1.38 acre civic site, in a location and form acceptable to Facilities, Development & Operations Department (FDO), and the County Attorney's office. Developer to Plat and dedicate the Civic site to Palm Beach County prior to conveying the deed, and shall have satisfied each of the following conditions prior to

deed conveyance.

- a. Developer to provide a title policy insuring marketable title to Palm Beach County for the civic site. Policy is subject to Property & Real Estate Management Department's (PREM) and County Attorney's approval. The title policy to be insured to Palm Beach County for a dollar value based on current market appraisal of the proposed civic site. The appraisal to be obtained by the Developer. The County to have the option, at their discretion, to release all or part of the Declarations of Covenants and Conditions of the P.U.D., as it would apply to the civic site.
 - b. All ad valorem real estate taxes and assessments for the year of closing shall be pro-rated at the day of acceptance of the deed for the civic site; acceptance date to be determined by PREM and the County Attorney's Office after receiving Board approval.
 - c. Civic site to be free and clear of all trash and debris at the time of acceptance of the warranty deed.
 - d. Developer shall provide all retention, detention, and drainage required for any future development of the proposed civic site by the County. Developer shall specifically address the following issues:
 - 1) The discharge of surface water from the proposed civic site into the Developer's water retention basins.
 - 2) As easement across Developer's property from the proposed civic site to the retention basins, if required.
 - e. By acceptance of these conditions developer agrees to allow the County to perform any on site inspections deemed appropriate to support the acquisition of the civic site.
 - f. Developer to prepare civic site to buildable grade under the direction of the Facilities Development & Operations Department.
 - g. Developer to provide water and sewer stubbed out to the property line. (DATE: MONITORING - PREM)
2. The property owner shall provide the County with a certified survey of the proposed civic site by June 1, 1997. Survey shall reflect the boundary and topographical areas of the site and the surveyor shall use the following criteria:
- a. The survey shall meet Minimum Technical Standards for a Boundary Survey as prescribed by F.A.C. 21HH.6.
 - b. If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided.
 - c. The survey should include a location of any proposed water retention area that will border the

civic site.

Survey is also subject to the County's approval of any proposed or existing easements within the proposed civic site. (DATE: MONITORING - PREM)

3. The property owner shall provide PREM with an Environmental Assessment of the proposed civic site by June 1, 1997. The minimum assessment which is required is commonly called a "Phase I Audit". The audit shall describe the environmental conditions of the property and identify the past and current land use.

The assessment will include but not be limited to the following:

- a) Review of property abstracts for all historical ownership data for evidence of current and past land use of the proposed civic site.
- b) Review of local, state, and federal regulatory agency's enforcement and permitting records for indication of prior groundwater or soil contamination. Also, a review of the neighboring property that borders the proposed civic site will be required. The review shall include, but not be limited to, Palm Beach County Environmental Resources Management Department Records, and Florida Department of Regulation Records.

The assessment shall reflect whether the civic site or any bordering property is on the following lists:

- 1) EPA's National Priorities list (WPL)
 - 2) Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA)
 - 3) Hazardous Waste Data Management System List (HWDMS).
- c) Review of current and historical aerial photographs of the proposed civic site. Provide a recent aerial showing site and surrounding properties.
 - d) The results of an on-site survey to describe site conditions and to identify potential area of contamination.
 - e) Review of Wellfield Protection Zone maps to determine if property is located in a Wellfield Zone. (DATE: MONITORING - PREM)
4. Prior to June 1, 1997, the Petitioner may request to exchange the required on-site dedication of land for cash of equal value or off-site land equal in acreage, however, this option shall be used only upon County approval. In addition, should the off-site land option be chosen, each PREM condition listed in numbers 1, 2 & 3 above will also apply. If the land off-site is of less cash value than the on-site dedication the petitioner shall contribute cash equal to the difference in values. Valuation of the on-site and off-site land shall be subject to the County appraisal process and be at the cost of the petitioner. If off-site land or cash contribution is accepted by Palm Beach County, the

petitioner shall be deemed to have satisfied the intent of ULDC 6.8B.6a (2). (DATE: MONITORING - PREM)

Q. SCHOOL BOARD

1. The petitioner shall post in a clear and visible location in all sales offices and model homes a sign provided by the School Board of Palm Beach County which indicates that school age children in the development may not be assigned to the most proximate public school because of overcrowding, racial balancing, or other School Board policies. (ONGOING: SCHOOL BOARD)

R. 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)