

RESOLUTION NO. R- 88-389

AMENDING RESOLUTION NO. R-87-1217

RESOLUTION DENYING ZONING PETITION 87-7: SPECIAL EXCEPTION

WHEREAS, the Board of County Commissioners ("County"), 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 County is statutorily prohibited from approving zoning actions which are not consistent with the Comprehensive Plan ("Comprehensive Plan") and local and development regulations pursuant to §163.3194, Fla. Stat. (1985); 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. 87-7 was presented to the County sitting as the Zoning Authority, at its public hearing conducted on June 25, 1987; and

WHEREAS, the County has considered the evidence and testimony presented by the applicant and other interested parties and the recommendations of the various County review agencies, staff 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, on August 11, 1987, the County adopted Resolution No. R-87-1217, Resolution Denying Zoning Petition 87-7: Special Exception ("Resolution"); and

WHEREAS, on September 10, 1987, petitioner, Delray Training Center ("DTC"), filed its Petition/complaint for Common Law Writ of Certiorari ("Complaint") with the Circuit Court in and for Palm Beach County, Florida in the lawsuit entitled Delray Training Center v. Palm Beach County Board of County Commissioners, Case No. 87-8070 AO ("Lawsuit") for review of the County's Resolution; and

WHEREAS, on November 30, 1987, the County filed its Answer to Petition for Writ of Common Law Certiorari ("Answer"); and

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WHEREAS, in January, 1988, DTC filed its Reply to the County's Answer ("Reply"); and

WHEREAS, on February 18, 1988, the Circuit Court in and for Palm Beach County, Florida, the Honorable Richard Burk presiding, held oral argument on DTC's Complaint; and

WHEREAS, on March 14, 1988 the Court entered an Order pertaining to the lawsuit;

WHEREAS, the Court ordered the County to set forth, within thirty days of the date of the Order, a resolution containing findings of fact and conclusions upon which the County based its action denying the petition of special exception of DTC; and

WHEREAS, in compliance with the Court's Order, the County has adopted this Amending Resolution, Resolution Denying Zoning Petition 87-7: Special Exception ("Amending Resolution"); and

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

1. DTC's Petition for Special Exception is a revision of DTC's previous submittal (Petition 86-126), which was voluntarily withdrawn in or about October, 1986. Like the previous proposal, this proposal is for a Planned Unit Development ("PUD") in the Agricultural Reserve Area ("Reserve") for a site subject to special land use policies set forth in the Comprehensive Plan Area 18, Special Policy No. 3, ("Special Policies"). This proposed development represents no significant change from the earlier proposal which was determined by the County to be inconsistent with the County's Comprehensive Plan. DTC's present proposal is inconsistent with the Comprehensive Plan based on the following findings of fact by the County:

(a) The principal change in DTC's proposal has been to increase the amount of acreage for "equestrian" land uses from 101.5 acres to 166 acres. This was accomplished not by a qualitative change in the development concept, but through the device of combining the golf course with the equestrian trail through the project's mandatory 25 foot perimeter buffer and along the edges of the proposed golf course. Further, the additional acreage was accomplished by designating the project's mandatory civic site as an "equestrian area", despite the fact that DTC failed to demonstrate that such a use is a suitable or desirable use for a civic site. In this respect, we conclude that DTC's revisions have been primarily a cosmetic attempt to circumvent the Reserve and Special Policy prohibitions, and the development remains, in fact, a suburban golf

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course community which is inconsistent with the Comprehensive Plan;

(b) The revised Master Plan submitted by DTC still fails to meet the intent of either the Reserve PUD or the Special Policy requirements of the Comprehensive Plan. Particularly, the meandering of the residential use about the equestrian facility bears no reasonable relationship either to the list of uses allowed in the Reserve area as supplemented by the Special Policy, or to the preservation of the bonafide agricultural potential of the site. In fact, it is obvious that the existing equestrian use was largely disregarded in favor of creating a suburban golf course development;

(c) The dominant feature on the site is the golf course rather than the equestrian facility. This is not consistent with the intent of the Comprehensive Plan for the Reserve or the Special Policy. Particularly, the type of use deemed acceptable by the Comprehensive Plan Reserve Area focuses on the low density, agricultural or "rural" nature of the open space. Thus, hunt clubs, wildlife clubs, fishing camps and, in this instance, the horse training and breeding facility or a polo facility, are examples of uses which take advantage of the natural and undeveloped "rural" nature of the property. A golf course is neither natural nor "rural" in nature; instead it is a relatively intense use of land requiring the substantial alteration of the land and extensive irrigation;

(d) The proposed site fails to properly cluster the residential use in one contiguous part of the PUD;

(e) The erection of the golf course would have a detrimental environmental effect on the site as well as properties adjacent thereto;

(f) Approval of this development with its present concept will set a negative precedent with respect to the integrity and quality of life of the Reserve Area and encourage other property owners in the Reserve Area to seek similar suburban developments;

(g) An approval of this project will set a precedent whereby the Reserve Area will be opened for further suburban P.U.D. development which has never been the intent of designating said area as a "Reserve" area;

2. DTC's proposed site plan fails to comply with the following specific Zoning Code requirements:

(a) The Landscape Code, Section 500.35E (Minimum Landscape Requirements), requires one tree to be preserved or planted for each 1,500 square feet of residential lot area. DTC's site plan does not, as submitted, meet this requirement;

(b) The Zoning Code, Section 500.35F.17 (Standards for Planting and Landscape Materials) requires that each landscape plan submitted shall include a program to eradicate prohibited vegetation. Only partial eradication of prohibited species is proposed by DTC's plan; and

(c) The Vegetation Protection Code, Section 500.36D.3b. (Limits on the Extent of Removal), requires vegetation removal to be limited to that necessary to accomplish the purposes of the removal operation. DTC's site plan does not indicate what vegetation shall be removed.

3. Petitioner DTC failed to meet its burden of showing consistency and compliance with Chapter 163, the County's Comprehensive Plan or applicable land development regulations or codes, particularly the Reserve and Special Policies of the Comprehensive Plan, together with the Landscape Code, and Vegetation Protection Codes of the Zoning Code.

NOW THEREFORE, the County concludes as follows:

1. All actions taken in regard to development orders including special exceptions must be consistent with the County's Comprehensive Plan pursuant to §163.3194, F.S.

2. The petitioner DTC bears the burden of proof of demonstrating compliance with the County's Comprehensive Plan and Chapter 163, F.S.

3. The petitioner DTC failed to demonstrate that its proposed special exception was consistent with the County's Comprehensive Plan.

Consequently, approval of the proposed special exception would be adverse to the public interest and contrary to applicable land use regulations and Chapter 163, F.S.

4. Based upon the findings of fact contained herein this Resolution No. R-88-389, competent, substantial evidence demonstrates that DTC's Special Exception is not consistent with the Comprehensive Plan and that granting DTC's proposed Special Exception would be adverse to the public interest.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that: Petition No. 87-7, the petition of DELRAY TRAINING CENTER, by Robert E. Basehart, Agent, for a SPECIAL EXCEPTION TO ALLOW A PLANNED UNIT DEVELOPMENT INCLUDING A RECREATION FACILITY AND CLUBS, AND A PRIVATE HELIPORT on a portion of land situate in Sections 20 and 29, Township 46 South, Range 42 East, being located within the Plat of Palm Beach Farms Co. Plat No. 1, as recorded in Plat Book 2, Pages 25-28, being more particularly described as follows: Tracts 36-62 inclusive lying West of the Turnpike right-of-way in the South 1/2 of the North 1/2 in Section 29, Township 46 South, Range 42 East, Deed Book 1108, Page 601; lands are also described

as: That part of the South $\frac{1}{2}$ of the North $\frac{1}{2}$ of Section 29, Township 46 South, Range 42, lying West of the West right-of-way of the Florida Sunshine Parkway together with Tracts 101 to 124 inclusive; and Tracts 100 and 125, less right-of-way for the Sunshine State Parkway, said Tracts according to the Plat of Palm Beach Farms Co. Plat No. 1 of Section 29, Township 46 South, Range 42 East, Plat Book 2, Pages 26-28, less that portion thereof deeded to the County of Palm Beach, by that certain deed dated September 11, 1968 and recorded in the Official Record Book 1676, Page 826 (affects part of Tracts 112 and 113) together with Tracts 5 to 28 inclusive; and Tracts 4 and 29 less right-of-way of Sunshine State Parkway, said Tracts according to the Plat of Palm Beach Farms Co. Plat No. 1 of Section 29, Township 46 South, Range 42 East, according to the plat thereof recorded in Plat Book 2, Pages 26 to 28 inclusive, together with that part of Tract 35 in Section 29, Township 46 South, Range 42 East, Palm Beach Farms Co. Plat No. 1 according to the plat thereof, as recorded in Plat Book 2, Page 26 to 28 inclusive. Said property is located on the Southeast corner of the intersection of 1st Street (One Mile Road) and Myrtle Street and is bounded on the East by Florida's Turnpike (Sunshine State Parkway) and is bounded on the South by Lake Worth Drainage District Canal No. 32 in an AR-Agricultural Residential Zoning District and was denied as advertised with prejudice.

Commissioner Wilken moved for denial of the petition in the June 25, 1987 meeting. The motion was seconded by Commissioner Marcus, and upon being put to a vote, the vote was as follows:

- Carol A. Roberts --- Aye
- Kenneth M. Adams --- Aye
- Karen T. Marcus --- Aye
- Carol J. Elmquist --- Aye
- Dorothy Wilken --- Aye

The foregoing resolution was offered by Commissioner who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

CAROL A. ROBERTS	AYE
CAROL ELMQUIST	Absent
KAREN T. MARCUS	AYE
DOROTHY H. WILKEN	AYE
KEN ADAMS	AYE

The foregoing resolution was declared duly passed and adopted this 24th day of March, 1988 confirming action of June 25, 1987.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

John B. Dunkle, Clerk

By: *[Signature]*
County Attorney

By: *[Signature]*
Deputy Clerk

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