

RESOLUTION NO. R-92- 618

RESOLUTION APPROVING ZONING PETITION NO. 91-40
SPECIAL EXCEPTION PETITION OF FLORAL ACRES, INC.

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, have been satisfied; and

WHEREAS, Petition No. 91-40 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on December 9, 1991; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, 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 the 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, sitting as the Zoning Authority, made the following findings of fact:

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

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 91-40, the petition of FLORAL ACRES, INC., for a SPECIAL EXCEPTION TO ALLOW A PUD (FLORAL LAKES) on a parcel of land lying in the Southeast 1/4 of the Northwest 1/4 of the Northeast 1/4; the Southwest 1/4 of the Northeast 1/4 of the Northeast 1/4; the Northwest 1/4 of the Southeast 1/4 of the Northeast 1/4; the Northeast 1/4 of the Southwest 1/4 of the Northeast 1/4; the West 3/4 of the South 1/4 of the Northeast 1/4, LESS the West 60.00 feet; and the South 3/4 of the East 1/4 of the Northeast 1/4; in Section 22, Township 46 South, Range 42 East, and being located ON THE E SIDE OF CARTER RD., APPROX. .3 MILE S OF West Atlantic Avenue, was approved on December 9, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Prior to master plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County.

2. This Special Exception is granted concurrent with a rezoning. Development of the site is limited to the uses and design shown on the master plan approved by the Board of County Commissioners (Exhibit No. 26). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Zoning Code Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval contained herein.
3. The petitioner shall submit an application to the Site Plan Review Committee for the certification of the master plan approved by the Board of County Commissioners for this site prior to the March 7, 1992.
4. Development of the site is subject to a valid Development Agreement approved by the Board of County Commissioners on December 9, 1991, for this site. Said Agreement may only be amended by the petitioner and the Board of County Commissioners. The petitioner shall maintain the Development Agreement at all times in a manner acceptable to the Planning Division as a condition of zoning approval. Failure to maintain the Development Agreement at all times in a manner acceptable to the Planning Division shall result in the reconsideration of this zoning approval by the Board of County Commissioners. This condition shall no longer be applicable upon verification by Palm Beach County of completion of all requirements stipulated in the Development Agreement by the dates required in the Agreement, as may be amended.

B. AFFORDABLE HOUSING

1. Prior to master plan certification or subdivision review, the petitioner shall comply with all applicable requirements of the adopted Voluntary Density Bonus Program Ordinance, subject to approval by the County Attorney, the Planning Division, and the Division of Housing and Community Development.
2. The 226 units to be received as a density bonus pursuant to the Voluntary Density Bonus Program shall be indicated on the site plan. Fifty (50) percent of these "bonus" units (113 units) shall be low income units and shall be **so** restricted in the public record for a period of not **less** than 15 years, in a manner approved by the County Attorney. Fifty percent (50%) of these "bonus" units shall be very low income units (113 units) and shall be **so** restricted in the public record for a period of not **less** than 15 years, in a manner approved by the County Attorney.
3. All 226 bonus units shall be proportionally integrated at a ratio of one bonus unit for each six typical units throughout the development. The gross density of the project shall be limited to a maximum of 10.2 units per acre.
4. The petitioner shall abide by all future guidelines regarding affordable housing when adopted by the Board of County Commissioners or other applicable governmental agency. In the event the petitioner does not abide by this requirement, any bonus density previously awarded

shall automatically be revoked without future action of the County.

C. CANAL BANK MAINTENANCE

1. Prior to site plan certification, the petitioner shall obtain permission, if possible, from the Lake Worth Management District to sod, irrigate and perpetually maintain the adjacent bank of all abutting canals.

D. DEVELOPMENT AGREEMENT

1. prior to January 1, 1992, the applicant shall pay to Palm Beach County Planning, Zoning and Building Department the sum of \$900.00 to cover advertising and other expenses related to the processing of the Development Agreement for this project.

E. ENGINEERING

1. The Developer 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.
2. Prior to June 1, 1992 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 the construction of a right turn lane on Jog Road at the project's entrance road, in addition to the 120 foot right-of-way dedication for Jog/Carter Road. This right-of-way shall be a minimum of 150 feet in storage length, twelve feet in width and a taper length of 180 feet.
3. The Property owner shall fund the construction of:
 - a. Left turn lane, north approach
 - b. Right turn lane, south approach on Jog Road at the project's entrance road

All funds which were required to complete these turn lanes including change orders and/or plan change fees shall be deposited with Palm Beach County prior to the filing of the first plat.

4. Prior to January 1, 1992 or prior to Master Plan approval, the Property owner shall convey to Palm Beach County a 4.5 acre drainage easement on the subject property which would tie into this project's internal surface water management system to provide legal positive

outfall for Jog/Carter Road. The location shall be subject to approval by the County Engineer. Also the property owner shall include a flowage easement through the project's proposed lake system plus legal positive outfall. These easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District the ultimate Thoroughfare Plan Road Section(s) of the included segment. Palm Beach County may remove up to 50,000 cubic yards of fill. Any remaining fill excavated may be removed and become the property of the property owner.

5. The property owner 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.
6. The 2 acre civic site shall be dedicated to Palm Beach County through the County's Property and Real Estate Management Division, without cost prior to July 1, 1992, as follows:
 - a. Developer to provide a warranty deed by October 1, 1992, for a 2 acre Civic site to Palm Beach County, in a location and form acceptable to FPD&C and the County Attorney's Office. Developer to Plat and dedicate the Civic site to Palm Beach County prior to conveying the deed.
 - b. Developer to provide a title policy insuring marketable title to Palm Beach County for the Civic site. Policy is subject to PREM's 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.
 - c. All advalorem 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.
 - d. Developer to provide the County with a certified survey of the proposed Civic site; survey to reflect the boundary and topographical areas of the site. Surveyor to use the following criteria:
 - 1) The survey shall meet Minimum Technical Standards for a Boundary Survey as prescribed by F.A.S. 21HH.6.
 - 2) If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided.

- 3) Ties to Sectional Control along Carter Road should be provided.
- 4) Vertical data should reflect Palm Beach County Vertical Datus, if available.
- 5) The survey should include location of the proposed water retention areas that are north and east of the Civic site.

Survey is also subject to the County's approval of the location of any proposed or existing easements within the proposed Civic site.

- e. Civic site to be free and clear of all trash and debris at the time of acceptance of the warranty deed.
- f. 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) An easement across Developer's property from the proposed Civic site to the retention basins, if required.
- g. Developer to provide County with an authorization letter to perform inspections on the site.
- h. Developer to provide PREM within 60 days, a Phase I Environmental Assessment of the proposed Civic site which will determine if there is contamination sufficient to be of concern to the County, The assessment will include, but not be limited to the following:
 - 1) Review of property abstracts for historical ownership data for evidence of current and past land use of the proposed Civic site.
 - 2) Review of local, state, and federal regulatory agency's enforcement and permitting records for indication of prior groundwater or soil contamination, if any, of the proposed Civic site. Also, the review of the neighboring property that borders the proposed Civic site. Records to review but not limited to are: Palm Beach County Environmental Resources Management Department (PBCERM) and the Florida Department of Environmental Regulation (FDER). The assessment to reflect if the proposed Civic site or any bordering property is on any of the following lists: EPA's National Priorities Lite (NPL), Comprehensive Environmental Response Compensation and Liability Act System List (CERCLIS), Hazardous Waste Data Management System List (HWDMS).
 - 3) Review of current and historical aerial photographs of the proposed Civic site.

- 4) Perform on-site survey to look for apparent or hidden problems which may indicate potential contamination. Also, a survey of the proposed Civic site to determine the existence, if any, of Wetlands, Environmentally Sensitive **Lands**, and evidence of habitation of Endangered Species.
 - 5) Review of the proposed property to see if it is within the Wellfield Protection Zone.
7. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:
 - a) Building Permits for more than **69** dwelling units shall not be issued until construction has begun for Jog Road from West Atlantic Avenue to Linton Boulevard as a **4** lane section plus the appropriate paved tapers.
 - b) Building Permits for more than **206** dwelling units shall not be issued until construction has begun for Linton Boulevard from Jog Road to Military Trail as a **4** lane section plus the appropriate paved tapers.
 - c) Building Permits for more than **305** dwelling units shall not be issued until construction has begun for West Atlantic Avenue from Jog Road to Congress Avenue as a **6** lane section plus the appropriate paved tapers.
 8. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision and Required Improvements Regulations **90-8** as amended. The platting of this property may be phased in accordance with a phasing plan acceptable to the office of the County Engineer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety.
 9. Prior to Master Plan approval the property owner shall record a Declaration of Restriction on the **subject** property limiting this project as a retirement community as defined in Palm Beach County Comprehensive **Land Use** Plan.
 10. Prior to Board of County Commission approval of the zoning action, the Developers Agreement for the site shall be approved by the Board of County Commissioners. Should the Developers Agreement not be approved prior to zoning action by the Board of County Commissioners, then this item shall be postponed until the Developers Agreement is in place.

F. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall:
 - a. be confined to areas designated on the site plan and shall be screened **by** a solid opaque enclosure constructed of brick, concrete, concrete block, or

other decorative masonry, or comparable wood or steel, consistent with the architectural character of the development or principal building. The open end of the enclosure shall have an obscuring, opaque gate.

- b. All exterior sides of such enclosures, except the open end, shall be landscaped with thirty-six (36) inch high shrub and hedge material planted twenty-four (24) inches on center. This provision shall not apply to litter containers provided for the convenience of pedestrians.

G. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Additional contamination assessment work on-site needs to be completed. The extent of soil and groundwater contamination shall be defined and summarized in a complete Contamination Assessment Report (CAR) submitted to ERM concurrent with site plan review application and approved by ERM prior to site plan certification. In addition, information concerning the effect of surface water drainage on contaminant plume migration shall be included.
2. All petroleum contaminated soils within the limits of the proposed building structures shall be completely removed and properly disposed of and the area(s) shall be backfilled with clean, non-deleterious material.
3. Remediation of contaminated groundwater and soils shall be performed by the Petitioner in accordance with Florida Administrative Code (F.A.C.) Chapter 17-770 and shall be completed to target cleanup levels contained therein.
4. All new littoral shelf shall be an area with a slope not greater six (6) feet horizontal to one (1) foot vertical, ranging in depth from ordinary high water (OHW) or the controlled water level (CWL) to four feet below CHW or CWL. A minimum of 30% of the surface area of all lakes shall be planted with native aquatic vegetation on a minimum of three foot centers. A littoral shelf planting plan and maintenance plan shall be submitted to the Dept. of Environmental Resources Management concurrent with Site Plan Review application and approved by ERM prior to Site Plan certification. This information shall also be provided on a mylar to the Zoning Division as part of the site plan application. Upon completion of Littoral Zone planting, ERM shall be notified. This notification shall occur within 5 working days. This planting shall not be credited as compensation required by wetlands permits.

H. EXCAVATION

1. Prior to master plan certification, the petitioner shall submit a report to the County Engineer and the Zoning Division which demonstrates that all excavation shall comply with the Palm Beach County Subdivision Regulations and the standards of Section 500.3 (E)(3) of the Zoning Code. All on site excavation shall be limited to implementation of the site development plan only. At a minimum, ninety (90) percent of all material to be excavated by developer shall be used on site.

I. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
3. No portion of this project is to be approved on potable well or septic tank, existing or new. Existing septic tanks are to be abandoned, in accordance with Chapter 10-D-6, F.A.C.

J. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

K. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation **preservation** conditions of approval.
2. All required trees in landscape buffer strips shall meet at a minimum the following standards:
 - a. Tree species: 100% native canopy.
 - b. Tree height: Fourteen (14) feet minimum.
 - c. Trunk diameter: 3.5 inches at 4.5 feet above grade.
 - d. Canopy diameter: Seven (7) feet minimum. The 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.

L. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING CARTEF ROAD) AND ALONG EAST PROPERTY LINE

1. Landscaping within the required twenty-five (25) foot wide PUD buffer shall be upgraded to include:
 - a. One fourteen (14) foot tall native canopy tree planted for every twenty (20) linear feet.
 - b. One fourteen (14) foot tall native palm tree for each thirty (30) linear feet.
 - c. Thirty-six (36) inch tall hedge or shrub material planted twenty-four (24) inches on center.

M. LANDSCAPE WITHIN MEDIAN

1. If permitted by the Florida State Department of Transportation (FDOT) or the County Engineer, the petitioner shall landscape the median of all abutting

rights-of-way. This landscaping shall consist of one fourteen (14) foot tall native canopy tree for each thirty (30) linear feet of the adjacent median, appropriate ground cover and irrigation. Trees may be planted singly or in clusters, with a maximum spacing of sixty (60) feet on center. All landscape material shall be selected, maintained and installed according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation of the property owner and shall be installed prior to the issuance of the first certificate of occupancy (C.O.) for the site. The petitioner shall obtain written permission from the FDOT or the County Engineer prior to site plan certification.

N. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed downward and away from adjacent properties and streets.
2. All outdoor lighting fixtures shall not exceed twenty (20) feet in height.

O. OPEN SPACE

1. The following shall not be included as usable open space:
 - a. Parking lot landscaped areas;
 - b. Parking lot to building in front separation, **unless** such areas are over 15 feet minimum width or 18 feet if they include a sidewalk and are defined 19 feet if they include a sidewalk and are defined with landscaping, building walls or fencing; and
 - c. Left over land "scraps".

Compliance with this condition shall be demonstrated prior to site plan certification.

P. PARKS AND RECREATION

1. Prior to Site Plan Review Committee certification, the petitioner shall receive written verification from the Parks and Recreation Department that the Master Plan meets the minimum recreation area requirements of the Subdivision and Required Improvements Regulation (Ordinance 90-8).
2. The Master Plan shall be amended to indicate the following:
 - a. Based on 1,040 units that the overall recreation area requirement is 12.48 acres.
 - b. A minimum of 6.24 acres of land acreage is set aside as recreation areas.
 - c. A notation that at a minimum, recreational facilities equivalent to the dollar value of 6.24 acres will be provided within the development.

Q. PROPERTY OWNERS ASSOCIATION

1. All property included within the legal description of the petition shall be subjected 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 property included in the Planned Unit Development (PUD), and assessment of all members of the "master" association for the cost of maintaining the PUD's common areas. The property shall not be subjected to the Declaration of Restrictions in phases and approval of the Declaration must be obtained from the County Attorney's Office prior to the recordation of the first plat of any portion of the Planned Unit Development.

R. RECYCLE SOLID WASTE

1. The petitioner shall encourage homeowners to participate in a recycling program for paper, plastic, metal and glass products.

S. RESTRICTIVE COVENANT

1. Prior to platting the subject property, the petitioner shall record a copy of a Restrictive Covenant in the public record indicating that the subject property is limited to 1,040 units of retirement housing only. 113 of these units shall be restricted to low income retirement housing. An additional 113 units shall be further restricted to very low income retirement housing units only. This covenant shall not be removed, altered, changed or amended without written approval from the County and shall be in a form acceptable to the County Attorney.

T. SCHOOL BOARD

1. Unless the development is deed restricted as a retirement community and a copy of the recorded deed restriction provided to the School Board, the following conditions shall be applied:
 - a. All sales and notice literature and agreements on the within development shall include a statement/notice that students may not be assigned to the nearest school and that all prospective buyers are encouraged to contact the Palm Beach County School Board to determine which school assignment will apply to their children.
 - b. Prior to master plan certification, petitioner(s) shall demonstrate that they have met with the School Board and discussed the potential of entering into an agreement to help achieve racial balance and allow the children who reside within the development to attend the nearest available schools.

U. SITE DESIGN

1. The master plan shall be amended prior to site plan certification to show the number and location of "Category B" (townhouse) housing units.
2. All structures over three stories in height shall be setback a minimum of 300 feet from any property line abutting residentially zoned property. There shall be no structures greater than 3 stories in height in Pods B and C. All structures greater than 3 stories in height (Pod A) shall be set back a minimum of 300 feet from any property line abutting residentially zoned property.
3. If at any time the adjacent AR zoned property on the west should receive a commercial land use designation, pedestrian access shall be provided to/from the PUD.
4. A bicycle/pedestrian circulation system shall be shown on the master plan subject to Site Plan Review Committee approval. This master bicycle pedestrian circulation system shall include pedestrian access to both adjacent commercial shopping centers. Construction and location of the pedestrian circulation system shall be subject to approval by the County Engineer and Zoning Division.

V. VEGETATION REMOVAL

1. All vegetation removal on-site shall occur only in conjunction with the issuance of a building permit for the affected areas.

W. COMPLIANCE

1. As provided in Zoning Code Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in one or more of the following:
 - a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
 - b. The revocation of any special exception for the property, as well as any previously Granted certifications of concurrency or exemptions therefrom;
 - c. Rezoning of the property;
 - d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;
 - e. Citation of the property owner for violation of the Zoning Code.

2. Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of special exception, rezoning, or other actions based on a Board of County Commissioners decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Foster moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	Aye
Carole Phillips	--	Nay
Carol A. Roberts	--	Aye
Carol J. Elmquist	--	Absent
Mary McCarty	--	Aye
Ken Foster	--	Aye
Maude Ford Lee	--	Absent

The Chair thereupon declared the resolution was duly passed and adopted this 28th day of April, 1992.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: *Pauline Altier*
COUNTY ATTORNEY

BY: *Judith E. Crook*
DEPUTY CLERK

