

RESOLUTION NO. R-93- 1535

RESOLUTION APPROVING ZONING PETITION PDD93-21
OFFICIAL ZONING MAP AMENDMENT (REZONING)
PETITION OF **FLORAL ACRES, INC.**

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 Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition PDD93-21 was presented to the Board of County Commissioners at a public hearing conducted on December 6, 1993; 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 Land Development Code;
3. This official zoning map amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County 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 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 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 **PDD93-21**, the petition of Florida Acres, Inc., for an OFFICIAL ZONING **MAP** AMENDMENT (REZONING) from the AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT to the MIXED USE PLANNED DEVELOPMENT (**MXP**D) ZONING DISTRICT including the following REQUESTED USES: OUTDOOR ENTERTAINMENT; BANK (FINANCIAL INSTITUTION WITH **NO DRIVE THRU**); OFFICE, BUSINESS PROFESSIONAL, 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 December 6, 1993, subject to the conditions of approval described in **EXHIBIT C**, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted this 6th day of December, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

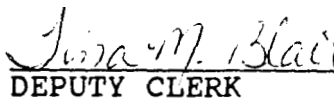
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

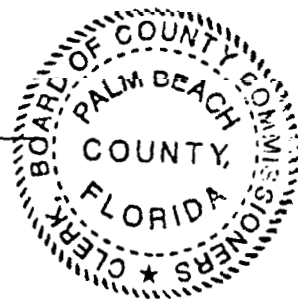


EXHIBIT A

LEGAL DESCRIPTION

The Northwest quarter of the Southwest quarter of the Northeast quarter of section **22**, Township **46 South**, Range **42 East**, Palm Beach County, Florida, less the **west** 60 feet thereof.

EXHIBIT B
VICINITY SKETCH

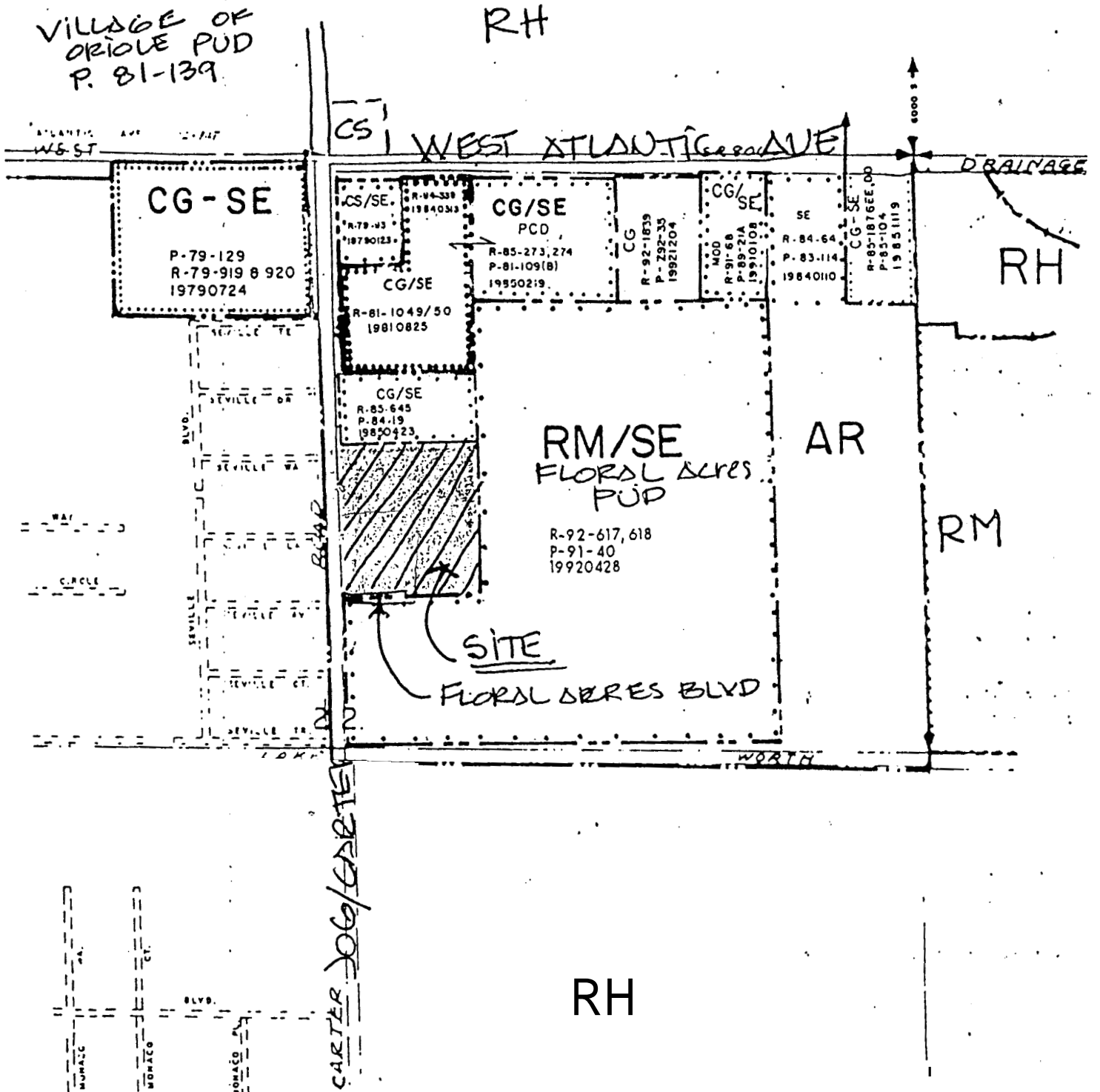


EXHIBIT C

CONDITIONS OF APPROVAL

A. GENERAL

1. To ensure the intensity of the development is consistent with the proposal, development of the site shall be limited as follows:

- a. Commercial - 50,300 square feet; and
- b. Dwelling units - 74 multi family units.

Additional square footage may be allowed pursuant to Section 5.6.D.12 (Minor Deviations) of the ULDC. (ZONING)

2. To ensure the project is developed consistent with the conceptual site plan submitted by the petitioner, a maximum of thirty (30) percent relocation of commercial square footage as shown on Exhibit 20 shall be permitted by the Development Review Committee (DRC). All residential development shall be limited to the building envelope indicated on Exhibit 20. (ZONING)
3. Prior to DRC final site plan approval, a cross access easement, subject to County Attorney approval, shall be recorded with Atlantic II Plaza, the property to the north, which allows access between and over each of the two parcels for the benefit of both parcels. (COUNTY ATTORNEY)

B. BUILDING AND SITE DESIGN

1. To more thoroughly integrate the residential and nonresidential portions of the project, the petitioner shall amend the Preliminary Development Plan (PDP) and the site plan prior to certification by the DRC to incorporate a minimum of 5 percent of the commercial square footage into the residential design. (ZONING)
2. To meet the intent of the MXPZ Zoning District to provide a design that promotes alternative transportation modes, the petitioner shall amend the PDP and the site plan to provide areas for bicycle parking prior to certification by the DRC. (ZONING)
3. To meet the intent of the MXPZ Zoning District to provide a design that promotes alternative transportation modes, the petitioner shall amend the PDP and the site plan to provide a public or private mass transit stop prior to certification by the DRC. (ZONING)
4. Commercial uses on the ground level (first floor) of all structures shall be limited to a maximum of six thousand (6,000) square feet of gross floor area per single use. (BUILDING-Zoning)
5. To prevent the appearance of strip commercial development, the main entrance to all ground floor commercial or office space shall not face nor be oriented toward Jog/Carter Road. (BUILDING/ZONING)
6. To ensure compatibility of uses, the petitioner shall amend the site plan to indicate the location of all dumpsters, recycling storage areas and loading areas prior to certification by the DRC. (ZONING)

7. To ensure the development will be consistent with the perspective submitted by the petitioner, the petitioner shall submit architectural elevations and a written description of the major elements of the projects design consistent with Exhibit 23 prior to the certification of the PDP by the DRC. These elements shall include, but not limited to: exterior finishes; roofing types; pedestrian circulation finishes; architectural themes or style; color; and lighting. The primary construction materials utilized shall be concrete, painted stucco, brick, and ceramic or concrete barrel or "S" style roof tiles. (BUILDING/ZONING)
8. To ensure the development provides a mix of retail commercial and office uses, the petition shall, prior to the certification by the DRC, amend the PDP and the site plan to indicate a minimum of twenty (20) percent of the commercial square footage as office uses. (ZONING)
9. All structures shall contain a minimum of one elevator to provide access to upper floors for residents and/or the public. BUILDING-Zoning
10. The maximum height of all structures on site shall be three (3) stories. (BUILDING-Zoning)

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances (fuels, oils and other hazardous chemicals) is required. The Department of Environmental Resources Management is willing to provide guidance on appropriate protective measures. (BUILDING/ERM)
2. The petitioner shall initiate and complete a site study/survey to identify the existence and location of any and all solid waste, construction/demolition debris, trash or other similar materials or wastes not considered to be clean fill, that may be buried or otherwise located within the site boundaries. The study shall be designed to provide a characterization of any subsurface solid waste discovered, and to establish the approximate aerial and vertical extent of the waste. The study shall include groundwater quality sampling in the areas where buried waste is encountered. Sampling parameters must be appropriate to evaluate potential impacts from identified wastes. Historical land use should be considered in the determination of sampling parameters. The study shall be reviewed and approved by the Department of Environmental Resources Management prior to DRC certification. (ERM)

D. HEALTH

1. Sewer Service is available to the property. Therefore, no septic tank shall be permitted on this site. All existing on site sewage disposal system must be abandoned in accordance with Chapter 10D-6, FAC, and Palm Beach County ERC-I. (HEALTH)
2. Water service is available to the property. Therefore, no well shall be permitted on this site to provide potable water. All existing on site potable water supply system must be abandoned in accordance with Chapter 10D-6, FAC, and Palm Beach County ERC-II. (HEALTH)

E. ENGINEERING

1. The property owner has voluntarily agreed to convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed a 25 foot safe sight corner at Jog Road and the entrance to Floral Lakes, P.U.D. This right of way conveyance shall be prior to **April 15, 1994** or prior to the issuance of the first Building Permit, whichever shall first occur. 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. (MONITORING/BUILDING-Engineering)
2. The Property owner shall construct:
 - a) left turn lane, west approach at this project's entrance and the entrance to Floral Lakes, P.U.D. The 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 not be 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 the first Building Permit.
 - b) **A** pedestrian pathway on the north side of the entrance to Floral Lakes PUD from the projects east property line to the proposed sidewalk along Jog Road.

All construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BUILDING-Engineering).

3. The Developer shall also provide within this project's internal storm water management system an equivalent amount of stormwater runoff for the road drainage of Jog Road. The amount of runoff required to be stored on site shall be based upon the applicable County Water Control District, South Florida Water Management District and Palm Beach County Engineering Requirements. (ENGINEERING)
4. 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. The Fair Share Fee for this project at the time of the Building Permit presently is:
 - a. \$138,930 for the commercial portion of the project. (2526 trips X \$55.00 per trip)
 - b. \$75,900 for the residential portion of the project. (460 trips X \$165.00 per trip). (IMPACT FEE COORD.)
5. Building permits may be issued after December 31, 1996, without further approval by the Board of County Commissioners if the developer submits a traffic statement that demonstrates the project can meet the current traffic performance ordinance. (ENGINEERING)

F. HOURS OF OPERATION

1. To ensure compatibility with the residential component of the project, the hours of operation for all nonresidential activities, including, but not limited to, outdoor activities, stocking, deliveries, refuse collection and site maintenance **shall** be limited to 7:00 a.m. to 11:00 p.m.. (CODE ENFORCEMENT)

G. LANDSCAPE WITHIN MEDIAN

1. Prior to issuance of a Building Permit, the petitioner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) **of** all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist of a minimum **of** one (1) fourteen (14) foot tall native tree for each thirty (30) linear feet of the adjacent median to **be** planted and appropriate ground cover. Trees may **be** planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material may **be selected** from the following list:

Trees:

Laurel Oak
Live Oak
Slash Pine
Sabal Palmetto

Ground cover:

Wedilia
Bahia Grass

Alternative species may be allowed subject to approval by the County Engineer. All plant material shall be installed and selected according to xeriscape principle; and shall conform with the following:

- 1) All plants shall be container grown or field collected and transplanted from the project site.
 - 2) All plantings shall be done in accordance with detailed planting plans and specifications to be submitted and approved by the County Engineer concurrent with Site Plan certification. (ENG)
2. All required median landscaping, including watering, shall be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association, and shall be installed on or before issuance of the first Certificate of Occupancy or filing **of** the first plat, whichever occurs first. (BUILDING/ENGINEER-Zoning)
 3. Declaration **of** Covenants and Restriction Documents shall be established or amended **as** required, prior to receiving the first building permit or filing of the first plat, whichever occurs first, to reflect this landscaping and maintenance obligation. Maintenance shall be in accordance with the issued permits. (BUILDING/ENGINEERING-County Attorney)

H. LANDSCAPE

1. **To** ensure adequate buffering and perimeter landscaping, the landscape requirement within all perimeter landscape areas shall be calculated based upon the width **of** the strip provided plus ten (10) feet. (ZONING)
2. **To** meet the intent of the MXPD Zoning District to provide **a** pedestrian circulation system, the petitioner shall incorporate a ten (10) foot wide pedestrian circulation system within the landscape buffers on the north, south and east property lines. (ZONING)

3. To provide an upgraded buffer between a public right-of-way and the rear of the commercial structures along Jog/Carter Road, the hedge/shrub material required along the west property line shall be upgraded to provide a thirty six (36) inch high contiguous opaque hedge planted twenty four (24) inches on center at installation, to be maintained at a minimum height of forty eight (48) inches within one (1) year of planting. (BUILDING-Zoning)
4. To meet the intent of the MXPZ Zoning District to provide a shaded pedestrian circulation system, the petitioner shall provide one (1) twelve (12) foot tall canopy tree planted thirty (30) feet on center on each side of all internal pedestrian/bicycle circulation paths. (BUILDING-Zoning)
5. To provide an upgraded buffer between the residential area west of Jog/Carter Road and the rear of the commercial structures, the petitioner shall install a minimum three (3) foot earth and sod berm, maintaining a minimum 3 to 1 slope, along the entire west property line. This berm shall be topped with the landscape material specified in condition H.3. above. (BUILDING-Zoning)
6. A minimum of fifty (50) percent of the trees required on site shall be palm trees, of which a minimum of fifty (50) percent shall be queen palm trees. (BUILDING-Zoning)

I. LIGHTING

1. To reduce any potential adverse impact on the residential component of the project, all outdoor lighting internal to the development shall be limited to ~~twelve (12)~~ thirteen (13) feet in height, low intensity and directed away from all residential buildings. (BUILDING)
2. Pole mounted perimeter lighting and pole mounted lighting within all parking areas shall be in accordance with the exhibit provided by the petitioner in the Zoning Division file for this petition dated 10-19-93 (French Triple Crown). (BUILDING)

J. PARKING

1. To ensure integration and shared parking, the petitioner shall remove the restrictive access gate from the site plan prior to the certification by the DRC. (ZONING)

K. PARKS

1. The land area for the 0.33 acre passive recreation area shall be allowed to count towards the minimum Park and Recreation Standards, however, the facilities cost for this area shall not be used for satisfying minimum required improvements. (PARKS)
2. The 0.12 acre active recreation area shall provide recreational facilities to meet the minimum requirements for the entire project. (PARKS)
3. The land area for the 0.12 acre active recreation area shall not include any portion of the perimeter buffer or the ten (10) foot pedestrian circulation path. (PARKS)
4. The recreation facilities for the 0.12 acre active recreation area shall be constructed and open for use prior to the issuance of more than forty (40) percent of the building permits for the residential units. (BUILDING-Parks)

L. PHASING

1. To ensure proportional development of the nonresidential and residential components of the project occurs in a timely manner, the petitioner shall amend the PDP prior to certification by the DRC to indicate the entire development as a single pod. (ZONING)
2. Prior to DRC final site plan approval, a covenant, subject to County Attorney approval, shall be recorded against the land, which provides that the project shall be built according to the approved site plan with the commercial portion to be built before any residential development occurs. (COUNTY ATTORNEY)

M. SIGNS

1. Free standing point of purchase signs fronting on Joy/ Carter Road shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - 12.5 feet;
 - b. Maximum total sign face area - 150 square feet per face; and
 - c. Maximum number of signs - one (1). (BUILDING-Zng)
2. Free standing point of purchase signs fronting on Floral Acres Boulevard shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - eight (8) feet;
 - b. Maximum sign face area - 50 square feet per sign; and
 - c. Maximum number of signs - two (2)
 - d. Entrance sign only. (BUILDING-Zoning)
3. All signs located within required perimeter landscape buffer areas shall be monument style only. (BUILDING-Zng)

N. SCHOOL BOARD

1. Prior to site plan certification, the petitioner shall demonstrate that they met with the PBC School Board staff and discussed the potential of entering into an agreement to help achieve racial balance and allow children who reside within the development to attend the nearest available schools. (SCHOOL BOARD)