

RESOLUTION NO. R-99- 1144

RESOLUTION APPROVING ZONING PETITION PDD85-095(E)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF BERNSTEIN-GLADES ASSOC. AND LOIS REALTY CORP.
BY CHUCK MILLAR, AGENT
(BERNSTEIN MUPD (AKA ROOMS TO GO))

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 PDD85-095(E) was presented to the Board of County Commissioners at a public hearing conducted on June 29, 1999; 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 PDD85-095(E), the petition of Bernstein-Glades Assoc. and Lois Realty Corp. by Chuck Millar, agent, for an Official Zoning Map Amendment to a Planned Development District (PDD) from General Commercial (CG) and Special Commercial/Special Exception (CS/SE) to Multiple Use Planned Development (MUPD) 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 June 29, 1999, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti 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:

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

The Chair thereupon declared that the resolution was duly passed and adopted on June 29, 1999.

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

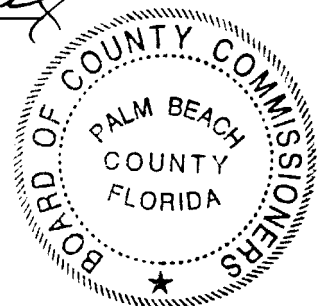


EXHIBIT A
LEGAL DESCRIPTION

PARCEL A AND PARCEL B, OF THE ROOMS TO GO PLAT, ACCORDING TO THE PLAT THEREOF, ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 73, PAGE 76.

EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All conditions of approval for the Development Order Amendment have been revoked, the following conditions are applicable to the Official Zoning Amendment and to the entire site.

A. ALL PETITIONS

1. Resolution R-94-112 granting approval of Petition 85-095D is hereby revoked. (MONITORING - Zoning)
2. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated April 29, 1999. 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 (PROPOSED BUILDINGS)

1. The architectural design of all buildings shall provide variety, visual interest, and create an overall unified image utilizing, but not limited to, the items specified below.
 - a. Large concentrations of repetitive building types shall be avoided.
 - b. The exterior elevation of all multi use buildings shall be varied by:
 - 1) varying the roof and floor elevations within the same building,
 - 2) varying window treatments,
 - 3) use of contrasting shapes and forms,
 - 4) creation of points of interest on the exterior of the buildings,
 - 5) overhangs and architectural projections to create shadows on the buildings exterior, and
 - 6) horizontally off-setting sections.
 - c. Roof and/or trim color shall be coordinated with base colors (neutral, earth tones only). Gutters and downspouts shall be integrated into the architectural design of the building.
 - d. All building entries shall be easily identifiable. Entries shall be integrated into the building architecture.
 - e. Durable exterior materials which provide a high quality appearance and reduce maintenance shall be used.
 - f. All rooftop mechanical and electrical equipment shall be screened from view so as not to be visible from any property line.
 - g. Exterior storage areas shall be screened from view and integrated into the building design to make it compatible with the building architecture. (BLDG PERMIT: BLDG - Zoning)
2. Prior to final site plan certification by the Development Review Committee (DRC), architectural elevations with color indications for the buildings shall be approved by the Zoning Review Section, Zoning Division. The approved

elevations shall be made a part of the certified site plan and the petition file.
(DRC: ZONING)

C. BUILDING AND SITE DESIGN

1. Access to the site shall be limited to one (1) ingress/egress point from Glades Road. (6.2 acre parcel) (DRC: ZONING)
2. Cross access shall be provided between all internal properties of the MUPD in a manner, form and location acceptable to the County Attorney, County Engineer, and Zoning Director. (6.2 acre parcel)(CO ATTY/ENG/ZONING)
3. A minimum fifty (50) foot front setback and fifteen (15) foot side setback for all buildings shall be provided. (ZONING/BLDG)
4. Total gross floor area shall be limited to a maximum of 57,495 square feet. Expansion shall be limited to a maximum increase of 1,000 square feet and subject to the Traffic Division approval. (DRC: ZONING)
5. The maximum height for all proposed structures, including all air conditioning and mechanical equipment, and satellite dishes measured from finished grade to highest point, shall not exceed twenty five (25) feet. (BLDG PERMIT: BLDG - Zoning)
6. All air conditioning and mechanical equipment for the proposed structures shall be roof mounted and screened from view on all sides in a manner consistent with the color, character and architectural style of the principal structure. (BLDG PERMIT: BLDG - Zoning)
7. The northwest portion of the site measuring seventy (70) feet wide and one hundred twenty (120) feet long shall be utilized as a retention/preserve area and as indicated on the approved site plan dated April 29, 1999. (ONGOING: ZONING)

E. ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

Building Permits for more than 2049 new daily trips - The current phasing plan submitted provides for the conversion of the existing 22,380 square foot Rooms To Go to General Commercial, plus the additional 10,095 square foot of retail shall not be issued until the contract has been let for the widening of S. R. 7 as a 6 lane facility from Glades Road to West Atlantic Avenue plus the appropriate paved tapers. (BLDG PERMIT: MONITORING- Eng)

The mix of allowable commercial uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Section 5.8 of the Unified Land Development Code. (DATE: MONITORING: Eng)

2. LANDSCAPE WITHIN MEDIAN OF STATE ROADS

- A. Prior to issuance of the next 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 Glades Road 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, 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 March 1994 Streetscape Standards. The property owner shall also be responsible to supplement 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 owner's 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' 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)

3. LANDSCAPING- MEDIAN "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF GLADES ROAD

- 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 for landscape cutouts within the concrete median of Glades Road right-of-way contiguous to the frontage. 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, Concrete Median Cutout; Landscape and Paver Block Installation Agreement, and Indemnification Agreement. When landscape plantings and the installation of paver blocks are permitted by the Florida Department of Transportation, the landscape material within the concrete cutouts shall be consistent with the landscaping theme approved by Palm Beach County for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by

the Palm Beach County Streetscape Standards. Alternative species and paver block material 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, the cost of cutting out the concrete median and the installation of all landscape material and paver block shall be funded at the property owners expense. All landscape and paver block material shall also be the perpetual maintenance obligation of the petitioner and its successors, or assignees or duly established Property Owner's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation to the cut out areas. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)
- c. Declaration of Covenants and Restriction Documents shall be established or amended as required evidencing this obligation prior to issuance of a building permit. (BLDG.PERMIT:MONITORING - Eng.)

F. LANDSCAPING - STANDARD

- 1. All new or replacement canopy trees required to be planted on site by this approval 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; and,
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
- 2. All new or replacement palms required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Palm heights: twelve (12) feet clear trunk;
 - b. Clusters: staggered height twelve (12) to eighteen (18) feet and,
 - c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
- 3. A group of three (3) or more palm or pine trees may not supersede the requirement for canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)
- 4. Prior to DRC final certification of the site plan, the petitioner shall replace any dead, missing or damaged plant materials on the 2.36 site (Parcel A). (DRC: LANDSCAPE - Zoning)

G. LANDSCAPING - INTERIOR (PARCEL B - 3.78 ACRE SITE ONLY)

- 1. One landscape island shall be provided for every twelve (12) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred and twenty (120) linear feet. (DRC: ZONING)

2. Landscaped divider medians shall be provided between all rows of abutting parking except for the 8 parking spaces south of the 10,095 s.f. building. The minimum width of this median shall be ten (10) feet. One canopy tree and appropriate ground cover shall be planted for each thirty (30) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center. A minimum of two (2) landscape diamonds shall be provided for these 8 parking spaces. (DRC: ZONING)
3. Foundation planting or grade level planters shall be provided along the front and side facades of all structures to consist of the following:
 - a. The minimum width of the required landscape areas shall be five (5) feet;
 - b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure; and,
 - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE)

H. LANDSCAPING ALONG THE EAST 170 FEET OF THE SOUTH PROPERTY LINE (ABUTTING GLADES ROAD)

1. Landscaping and buffering along the east 170 feet of the south property line shall be upgraded to include:
 - a. A minimum twenty (20) foot wide landscape buffer strip; and
 - b. One (1) canopy tree planted every twenty (20) feet on center. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location;
 - b. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet between clusters; and
 - c. Twentyfour (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 thirty six (36) inches. (CO: LANDSCAPE)

I. LANDSCAPING ALONG THE NORTH PROPERTY LINE (ACROSS FROM RESIDENTIAL)

1. Landscaping and buffering along the north property lines shall include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip;
 - b. A continuous two (2) foot high berm measured from top of curb;
 - c. A minimum six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. Credit may be given to existing wall provided it meets current ULDC requirements. (CO: LANDSCAPE)
2. The following landscaping requirements shall be installed on the exterior side of the required wall:
 - a. One (1) canopy tree planted every twenty (20) feet on center;
 - b. One (1) palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet between clusters; and,

- c. Twenty-four (24) inch high shrub or hedge material installed on the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)
- 3. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material installed on the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

J. LANDSCAPING ALONG THE EAST PROPERTY LINE (ACROSS FROM EXISTING CHURCH)

- 1. Landscaping and buffering along the east property line shall include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip;
 - b. A continuous two (2) foot high berm measured from top of curb;
 - c. One (1) canopy tree planted every twenty (20) feet on center;
 - d. One (1) palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet between clusters; and,
 - e. Thirty six (36) inch high shrub or hedge material installed on the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of seventy two (72) inches. (CO: LANDSCAPE)

K. LIGHTING

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, minimum necessary to satisfy the Palm Beach County Security Code, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)
- 2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, and measured from finished grade to highest point and shall be setback a minimum of fifty (50) feet from the north residential property line. (CO: BLDG - Zoning)
- 3. All outdoor lighting shall be extinguished no later than 10:30 p.m., excluding security lighting only. (ONGOING: CODE ENF)
- 4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF)

L. MASS TRANSIT

- 1. A. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioners shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING)
- 2. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of the first certificate of occupancy (CO) of the proposed new buildings. The petitioner

shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (CO: MONITORING - Eng)

3. Commercial locations which are open to the public shall not restrict public mass transit access. (ONGOING: PALM TRAN)

M. MUPD

1. To ensure consistency with the site plan dated April 29, 1999 presented to the Board of County Commissioners, no more than twenty-five (25) percent of the total approved square footage or other area indicated as being covered by structures shall be relocated to portions of the site not previously covered. (DRC: ZONING)
2. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)
3. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

N. SIGNS

1. Point of purchase and/or free standing signs on Glades Road shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - twelve (12) feet;
 - b. Maximum total sign face area, per side - 100 square feet;
 - c. Maximum number of signs - one (1) for the overall site;
 - d. Style - monument style only. (BUILDING-Zoning)

O. USE LIMITATIONS

1. Retail business activity shall not be allowed on site, including deliveries, prior to 6:00 a.m. nor continue later than 10:00 p.m. daily. (ONGOING: CODE ENF - Zoning)

2. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning)
3. Outdoor retail business activities shall not be allowed on site, excluding deliveries only. (ONGOING: CODE ENF - Zoning)
4. Parking of delivery vehicles or trucks shall not be permitted on site except within the designated loading space as shown on the site plan dated April 29, 1999. (ONGOING: CODE ENF)

P. 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; 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)