Date: August 5, 2016 and September 14, 2016
Application No.: PA-2016-01246
Control No.: 2016-00114
Application Name: The Fountains North
Owner: Fountains Country Club, Inc.
Applicant: Collene Walter - Urban Design Kilday Studios
Agent: Collene Walter - Urban Design Kilday Studios
Telephone No.: (561) 366-1100
Project Manager: Carolina Valera, Senior Site Planner

Location: South side of Lake Worth Road and west of Jog Road
Property Control Number: 00-42-44-27-04-000-0020 ; 00-42-44-27-04-000-0080

Title: Pre-Application Conference (PA)

Request: To review and discuss requirements for the development of 470 units on portions of an existing golf course within The Fountain North. Specifically two hundred (200) Zero-Lot-Line residential units and two hundred seventy (270) Multi-family residential units are proposed on two new parcels totalling 63 acres.

Based on the Applicant's and Staff research, there are no prior Zoning related Development Orders or Master/Subdivision Plans in the Planning, Zoning & Building Department record. According to the research, the Subdivision with its 1,256 dwelling units was established by the process of platting. As such, a Development Order Amendment cannot be pursued for the conversion of the Golf Courses into residential uses.

The Fountains North has a Residential High (RH) Zoning District, the Unified Land Development Code (ULDC) also equates RH to Multi-family Residential (RM). The RM District is consistent with MR-5 FLU only for those areas already zoned RM, prior to the Plan's August 31, 1989 adoption. The Planning Director has made a determination that RM is consistent with the MR-5 FLU designation based on Mrs. Collene Walters' letter dated September 16, 2016. (Attachment 1). Planning Staff has confirmed that a County-Initiated amendment will be done to ensure Table 2.2.1-j.1 is clarified. Therefore, the Zoning District for Fountains North should equate to RM and is consistent with the site's MR-5 FLU designation.

The Applicant may rezone the affected area of the Golf Course (either whole or part) to a Planned Unit Development (PUD) Zoning District in order to convert the golf course into residential uses. Alternatively, the Applicant may develop part of the golf course as a residential subdivision under the RM Zoning District, provided the proposed units do not exceed the maximum number (200 units) pursuant to Table 4.A.4 - Development Thresholds.

The following is a summary of the Applicant's proposed options for the redevelopment of the existing golf course, and Staff provided a general response to the Applicant's four options.
In addition, response to individual questions 1-8 per the Applicant's letter to Jon MacGillis dated July 20, 2016 and an Addendum with questions 9-18 dated August 23, 2016 is also provided.

B. Development Plans proposed by the Applicant

Plan A – Rezone the entire 354.60-acre Fountains North to a Planned Unit Development (PUD)
- The Applicant must obtain consensus from all HOAs on the rezoning.
- For the rezoning of the entire site to a PUD, the affected area will be on the entire 354.60-acre subject property; therefore, property development regulations, landscape buffers and all other related site elements should be subject to current Code requirements.
- Where applicable, the Applicant will also have to identify all the existing non-conformities pursuant to Art.1.E, Prior Approvals; and/or will be required to seek Variances in order to reduce/eliminate the non-conformities.

Plan B – Rezone Parcels A and B and part of the Golf Course
One of the Plans is to rezone Parcels A (200 Zero Lot Line units) and B (270 Multi-family units) and part of the golf course to a PUD.
- No need to obtain consensus from all HOAs on the rezoning; however, the Zoning Division recommends that the Applicant should notify the HOAs of the proposed development plans, and address their concerns, if any. Notification shall be sent prior to the application submittal/review process.
- For the rezoning of the part of the Golf Course (including Parcels A and B) to a PUD, the Applicant must clearly define the new boundary of the PUD. Development of this new PUD will be subject to current Code requirements.
- The Applicant shall ensure the new development will not create non-conformities for the existing adjacent residential units.

Plan C – One application for Parcels A and B and entire Golf Course, and rezone to a PUD for 101.38 acres
Parcels A and B will be developed in form of a PUD with 200 ZLL units and 270 MF units for a total of 470 units and inclusion of the entire golf course.
- Parcels A and B must be contiguous to be considered as part of the proposed PUD. Contiguous is defined under Art.1.I.2.B.

96. Contiguous
a. Lots that share a common border, or lands separated only by streets, easements, pipelines, power lines, conduits, R-0-W under ownership of the land owner of one of the subject parcels, a POA or a governmental agency, or a public utility. [Ord. 2006-004]
1) For density purposes lots that touch point-to-point, or lots which are separated by waterways, streets or major easements are not considered contiguous. [Ord. 2006-004]
2) For the purpose of AGR preservation parcels, the following shall not be considered contiguous: lots that touch point-to-point or are separated by collector or arterial streets. [Ord. 2006-004]
- The proposed PUD will have to comply with current Code requirements. At this point, there is insufficient information from the Applicant for Staff to determine whether Parcels A and B are contiguous.

Plan D - Develop Parcel A as a Subdivision
Per the conversation between Collene Walters and Maryann Kwok dated October 11, 2016, the Applicant may consider reducing the proposed 200 ZLL units in Parcel A by one unit so it does not have to come in as a PUD. Parcel A could be developed in the form of a Subdivision with 199 Zero Lot Line (ZLL) units on the 45.78-acre site. No rezoning is required since the site has RM zoning district, the ZLL could be processed through an administrative approval pursuant to Table 4.A.3.A. Use Matrix.
- The Applicant must obtain a letter of Non-Planned Development District Density Exemption from Planning Division so that Parcel A can utilize 5 du/ac density for the development of 199 Zero Lot Line (ZLL) units.
- Access to Parcel A could be directly from Jog Road subject to Engineering approval or from the existing 80-foot Right-of-way (ROW) internal to the Fountains North.
- The new ZLL subdivision will be subject to Art.11 to provide a minimum of 50-foot ROW; however, if the Applicant chooses to provide a 40-foot ROW; then the
Applicant may request for a Variance per Table 11.E.2.A.-2, Chart of Minor Streets, based on the unusual circumstances of the Zoning approval project history. This topic is also brought up during the discussion between Walter/Kwok on October 11, 2016.

Parcel B and part of the Golf Course must be developed in the form of a PUD with 270 Multi-family (MF) units pursuant to the Art.4.A.4, Development Thresholds.
- Density for Parcel B will be based on the site's MR-5 FLU designation.
- Access and frontage to Parcel B could be directly from Jog Road, and shall comply with Art.3.E., and subject to Engineering Department approval.

C. Development Review Officer and Agencies Comments
The Development Review Officer comments are listed below under each Agency. If you have questions regarding their comments, please contact them directly before submitting a formal application to the Zoning Division.

Applicant’s Question 1: A confirmation that the PUD zoning district is the appropriate zoning designation to pursue for purposes of seeking an amendment and additional units within the Fountains North.

Zoning Staff's Response: For Plans A, B and C, the Applicant may obtain maximum density if the subject property is rezoned to a PUD based on the site's MR-5 FLU designation. For Plan D, the Applicant may obtain a letter of density determination from the Planning Division to confirm whether the maximum density may apply to the parcel (e.g., Parcel A) where it does not exceed the threshold to become a PUD. Please check with Planning Division for a confirmation of density related issues.

Applicant’s Question 2: A confirmation of Zoning Division's concurrence with the findings of the June 29, 2006 letter from PBC Planning regarding the number of units permitted.

Zoning Staff's Response: Based on Staff and Applicant's research, the Fountains North was approved via plating. Staff cannot locate a prior Zoning Development Order or a Master Plan for this development. With regards to the 2006 letter, if the subject property is not approved as a Planned Development (Plan D), then the standard density should apply. Zoning Division will refer to the Planning Division for a re-confirmation of density for The Fountains North.

Applicant’s Question 3: A confirmation that only "the areas subject to the proposed modifications", which will be designated as affected areas, will be reviewed for compliance with current code requirements.

Zoning Staff's Response: Staff response will be based on Applicant's choice of the proposed Development Plans (i.e. Plan A, B or C), as follows:

a. For Plan A, if the 354.6-acre property will be rezoned to a PUD, the entire property will be considered as the affected area. Therefore, all existing and proposed landscape buffers, property development regulations and related site elements must meet current Code requirements, or where they do not comply, must be identified under a non-conformity Table or subject to Variance approvals.

b. For Plan B (Parcels A and B and partial inclusion of golf course), the Applicant shall clearly delineate the affected area on the Master Plan/Subdivision/Site Plans. However, the Applicant must ensure no new non-conformities will be created to the adjacent parcels due to the redevelopment of Parcel A, Parcel B and partial golf course.

c. For Plan C (Parcels A and B and full inclusion of golf course), see similar response b.

Applicant’s Question 4: A confirmation that those areas that are existing and outside of the affected area may remain unchanged, are considered vested and will not be considered as non-conforming, including perimeter treatment, existing multi-family buildings and existing recreational amenities placement, setbacks and separations.

Zoning Staff’s Response: Assuming the lands were legally approved and permitted, then see response to Question 3.
Applicant's Question 5: A confirmation that the Recreation requirement will be calculated based on the affected area of approximately 470 units, and that a portion of the required recreation may be accommodated in the adjacent PUD.

Zoning Staff's Response: Staff response will be based on Applicant's choice of the proposed Development Plans (i.e. Plan A, B or C), as follows:

a. For Plan A, if the 354.6-acre property will be rezoned to a PUD, the entire property will be considered as the affected area. Therefore, all recreational requirements, existing and proposed, must meet current Code requirements. The Applicant must identify the non-conformities or request for Variance approvals in areas where they do not comply with current Code. Please check with Parks and Recreation Department (Jean Matthews/Bob Hamilton) related to the existing facilities to verify whether they are in compliance or could be vested under their current status.

b. For Plans B and C, recreational requirements will be based on the proposed number of units. The Applicant mentioned whether recreational requirements could be located off-site. Please check with Parks and Recreation Department (Jean Matthews/Bob Hamilton) for a confirmation of whether off-site requirements are allowed.

Applicant's Question 6: A confirmation that the existing Golf Course may be credited toward the 40% open space requirement of the PUD.

Zoning Staff's Response: Staff response will be based on Applicant's choice of the proposed Development Plans (i.e. Plan A, B or C), as follows:

a. For Plan A, if the entire 354.6-acre property is rezoned to a PUD, the entire property will be considered as the affected area. Therefore, all forms of open space, existing and proposed must meet current Code requirements. Therefore, where open space requirements do not comply, the Applicant must identify the non-conformities or request for Variance approvals per Art.1.E, since the entire PUD will be subject to the review of the 40% open space requirements under the rezoning.

b. For Plan B, the Applicant must clearly demarcate how much of the existing Golf Course will be included under the new PUD, and whether it will be reconfigured. Additionally, the new PUD will be subject to the review of the 40% open space requirements under the rezoning.

c. For Plan C, the Applicant must include the new PUD boundary. The new PUD will be subject to the review of the 40% open space requirements under the rezoning, and the existing golf course could be counted as part of the open space requirement pursuant to Art.1, Definition of Open Space.

Applicant's Question 7: A confirmation that the Civic requirement will be calculated based on the affected area of approximately 63 acres only.

Zoning Staff's Response: Staff cannot confirm the 63 acres of affected area. Please verify with Property and Real Estate Management (PREM) regarding dedications and to ensure whether vesting status could be achieved.

Applicant's Question 8: A confirmation that the vested status of the existing commercial tract would be acknowledged through its incorporation as a Commercial Pod in the proposed PUD.

Zoning Staff's Response: Staff response will be based on Applicant's choice of the proposed Development Plans (i.e. Plan A, B or C), as follows:

a. For a rezoning of the 354.6-acre property, the Commercial Pod should be part of the rezoning, and shall be labeled on the Master Plan as a Commercial Pod.

b. For Plans B and C, a Commercial Pod is not a requirement, and therefore the existing commercial Pod could be vested under the current status.

Applicant's Follow-Up Questions included in Addendum Letter dated 08/24/16:
Applicant's Question 9: Please confirm that there has been no indication that a PUD approval was previously granted for the geographic areas known as The Fountains North.

Zoning Staff's Response: Based on the Applicant's, Zoning Staff and the Clerk's Office Staff research, there are no prior Zoning related Development Orders, and no Zoning Master Plan in the PZ&B record. The Official Zoning Map shows the subject property has a RH Zoning District.

Applicant's Question 10: Please confirm if consent from individual property owner associations within the geographic boundaries of The Fountains North would be needed to seek a rezoning to PUD of the lands within each condominium association.

Zoning Staff's Response: Per Robert P. Banks, Chief Land Use County Attorney, consent will be required from all Homeowners' Association within The Fountains North for the rezoning of the entire 354.6-acre development to a PUD.

Applicant's Question 11: The proposed PUD frontage and access requirements must be met using the same arterial or collector roadway for each PUD.

Zoning Staff's Response: Yes, each PUD frontage and access requirements must be in compliance with Art.3.E.1.C.2, Performance Standards.

Applicant's Question 12: Perimeter buffers are required around the entire boundary of the PUD. The only relief available to eliminate required PUD buffers is to seek a Variance.

Zoning Staff's Response: Yes, perimeter buffers are required around the entire boundary of the PUD. Generally, elimination of required buffers can be applied for through a Variance request.

Applicant's Question 13.a: If the property owner and developer desire to pursue Plan B, only a portion of the existing Golf Course would be included in the new PUD. Please confirm the course in its entirety is not required to be included in the PUD.

Zoning Staff's Response: Since there is no prior Zoning Development Order for a POD, the Applicant must delineate the boundaries of the new PUD, and prior to the official submittal of the application, the Applicant and Staff should reach a mutual agreement to the boundary of the affected area so there is clear for the review and application of code requirements.

Applicant's Question 13.b: Inclusion of a portion of the Golf Course would require that a Requested Use for Golf Course be requested as part of the PUD rezoning application.

Zoning Staff's Response: Since there was no Zoning approvals for the existing Golf Course, any inclusion of the whole or part of the Golf Course, would require a Requested Use for the new PUD (Plans B or C), unless the land area will not continue to function as a Golf Course under the new PUD.

Applicant's Question 13.c: Will that portion of the existing golf course not included in the boundaries of the new PUD be required to be rezoned to a zoning district consistent with the MR-5 future land use designation such as the RS-Residential Single Family?

Zoning Staff's Response: No, the Zoning District is already RH, and the ULDC equates that to a RM Zoning District. For Plans B or C, the Applicant may choose to obtain a Class A Conditional Use for the remainder of the existing Golf Course. The approval process is pursuant to Table 4.A.3.A of the ULDC.
Applicant's Question 13.d: Golf Courses are a Class A Conditional Use in the RS Zoning District. Would a Conditional Use request be required concurrent with the rezoning?

Zoning Staff's Response: No, as mentioned above, for Plans B or C, that portion of the Golf Course, which is not included in the new PUD, could remain under the RH (equate to RM) Zoning District. However, a Class A Conditional Use approval may be requested by the Applicant to obtain a legal Zoning Approval for the use.

Applicant's Question 13.e: Would variance requests from RS perimeter buffers be required to allow for the existing golf course to remain as it is constructed today?

Zoning Staff's Response: Perimeter buffers are required, and Variances will be requested for those areas that do not comply with the Code. It is important to define and discuss with staff the affected area so that an agreement can be reached prior to the submittal of the application. Technically, anything outside the affected area should be vested pursuant to Art.1.E.

Applicant's Question 14.a: If the property owner and developer desire to pursue Plan C and include all of the existing golf course in the new PUD:

a. PUD may include properties that are on opposite sides of a collector road as they meet the definition of "Contiguous" in Art. 1.1.2.B.96.

Zoning Staff's Response: Staff needs more information in order to determine if proposed lands are contiguous as defined under Art.1.1.2.8.96.

Applicant's Question 14.b: Inclusion of the golf course would require that a Requested Use for Golf Course be requested as part of the PUD rezoning application.

Zoning Staff's Response: Yes.

Applicant's Question 14.c: Would variance requests from PUD perimeter buffers be required to allow for that portion of the existing golf course to remain as it is constructed today as it would be outside of the affected area?

Zoning Staff's Response: Generally, if the golf course is subject to a rezoning, those non-conformities must be identified and should be reviewed to see whether they could be vested, or need to be in compliance with current Code or subject to a Variance.

Applicant's Question 15: For either Plan B or Plan C, even though the boundaries of the adjacent condominium communities would be outside of, and adjacent to, the boundaries of the PUD and their platted parcels are not physically affected by the rezoning of all or a portion of the golf course as it is anticipated that existing platted parcel lines would be used to define the PUD, compliance with the setbacks in place at the time the community was constructed would needs to be proven, or variance relief sought due to the change in use of the adjacent property. Condominium records and permit plans indicate that the majority of the buildings are 2 or 3-story. There are two 4-story buildings in Condo 8. Setbacks in Ord. 73-2 for RH zoning were as identified in Request 4 of the July 20, 2016 Pre-Application Conference request letter. Additionally, I do see not any allowance in Ord. 73-2 that allows for reduced setbacks adjacent to open space in the RH district.

Zoning Staff's Response: Generally, with Plan B or C, it is important to define the boundaries of the new PUD, and will also require additional research on prior approved Building Permits of existing residential units in order to ensure no non-conformities are being created as a result of the new PUD.

Applicant’s Question 16: Entitlements for the existing condominium communities that are outside of the PUD boundaries would remain vested under the land use and zoning regulations that were in place at the time they received their development order (building permits). The 1972 Comprehensive Plan designated these properties as High Residential allowing up to 15 Du/Ac as a standard
subdivision and the zoning was RH-Residential High Multi Family. Based on plans obtained from the PBC Building Department, each community was platted and permitted separately, and did not include any portion of the golf course property in the site area.

Planning Staffs Response: The following is a research of the prior Comprehensive Plans by Planning Staff:
1972 Plan - Site identified as High Residential, 15 du standard, 18 at PUD
1980 Plan – Site identified as Medium to Medium High Residential, 8 standard, 12 PUD, 16 with PUD plus TOR
1989 Plan - Medium Residential, 4 standard, 5 PUD
If the Applicant found discrepancies related to the above information, please check with the Planning Division Staff, Bryan Davis or Lisa Amara.

Applicant’s Question 17: Pursuant to FLUE Policy 2.2.1-e: Infill Density Exemption which states in part:
A legally approved residential development or subdivision in existence at the time of Plan's August 31, 1989 adoption shall be considered in conformance with the Plan, regardless of whether the density exceeds the maximum permitted by the applicable Future Land Use designation.
The adjacent existing condominium communities that are outside of the PUD boundaries would be considered in conformance with the Comprehensive Plan even though their density exceeds the current MR-5 future land use designation. No further confirmation of density would be necessary if the property owner of the adjacent property (golf course) pursues rezoning.

Planning Staff's Response: Check with Planning to confirm this response. Generally, anything outside the new PUD boundary would be considered as vested. The density for the new PUD will be based on its acreage and FLU designation of its land area.

Applicant’s Question 18: The allowable density for the new PUD would be established based on the gross site area as defined by the proposed boundaries, and the underlying future land use of MR-5, which would allow up to a 5DU/Ac, if a PUD rezoning is granted.

Planning Staffs Response: Check with Planning Division related to the proposed density.

LAND DEVELOPMENT

1. The project reviewer is Bobby Jagoo or Scott Cantor from Land Development; they can be contacted at 561-684-4090, SJagoo@pbcgov.org or scantor@pbcgov.org to discuss these comments. COMMENT

2. Request 2: A confirmation that only the “areas subject to the proposed modifications” should be reviewed for purposes of conforming with current code requirements is requested. A. From an engineering standpoint, locations outside of Zoning’s “affected area” may have to be improved if the proposed development generates enough impact to the roadways, drainage system, etc. COMMENT

C: Hard Copy:
Application File PA-2016-01246

EmailCopy:
Jon MacGillis, Zoning Director
Carolina Valera, Sr. Site Planner
Collene Walter, Agent
September 19, 2016

Mr. Lorenzo Aghemo, Director
Palm Beach County Planning Division
2300 North Jog Road, 2nd Floor
West Palm Beach, FL 33411

RE: The Fountains North
UDKS Project No. 16-038.000

Dear Mr. Aghemo,

A Pre-Application Conference application has been submitted to Palm Beach County for the above referenced development to confirm existing entitlements and vested status, and identify a process to convert a portion of the golf course to residential use. The development history and proposed plan of development is outlined in the Pre-Application Conference Request letter addressed to Jon MacGillis, Zoning Director dated July 20, 2016 and included in the Pre-Application Conference application.

A meeting with held with representatives from Palm Beach County Planning and GI Homes, and including Bob Banks of the County Attorney’s office, on September 8, 2016 to discuss the requested determinations contained in the above referenced letter, and in a subsequent memorandum dated August 23, 2016, as they relate to the existing future land use designation and zoning consistency. The properties in the development currently have a MR-5 (Medium Residential 5) Future Land Use (FLU) designation as indicated on FLU Atlas Maps 76/77/81/82. The properties are predominately zoned RH - Residential High, with a small portion outside of the affected area zoned CS-Specialized Commercial, as indicated on Zoning Quads 33/48.

Table 2.2.1-j.1 of the Future Land Use Element (FLUE) of the Comprehensive Plan was reviewed. The RH zoning district is no longer an established district in the Unified Land Development Code (ULDC). The RH district equals the RM district.

Note 1 of the above referenced Table states that this district has been discontinued. It further states that properties zoned a discontinued district are not required to rezone, and shall utilize the property development regulations of the equivalent district. The RH district equals the RM district.

Note 2 of this Table states: "The RM district is consistent with the MR-5 designation only for those areas zoned RM prior to the Plan’s August 31, 1989 adoption."

As discussed with Planning Staff and Mr. Banks at, and following this meeting, the purpose of this letter is to confirm the following interpretation of the application of Table 2.2.1-j.1:

As properties within The Fountains North development were zoned RH as of August 31, 1989, and as the RH district equals the RM district, then The Fountains North was zoned the equivalent of RM as of the Plan’s adoption date in 1989. For purposes of applying Note 2, the existing RH zoning district is consistent with the MR-5 designation.

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For purposes of applying FLUE Table 2.2.1-J.1, it’s corresponding ULDC Table 3.3.2.- Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts, and other policies and code provisions with the same language as Note 2, based on this interpretation, the properties within the development that are zoned RH are considered consistent and will not need to be rezoned to facilitate redevelopment under the MR-5 land use designation.

A written confirmation of this interpretation is requested. Please review this request and let me know if you have any questions. Thank you for your consideration.

Sincerely,

Collene Walter
Principal

Cc: Bryan Davis, PBC Planning
    Lisa Amara, PBC Planning
    Bob Banks, PBC Attorney’s Office
    Carolina Valera, PBC Zoning
    Kevin Ratterree, GL Homes

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