

RESOLUTION NO. R-85-952

RESOLUTION APPROVING ZONING PETITION 85-13, Special Exception

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 Ordinance No. 73-2 have been satisfied; and

WHEREAS, Petition No. 85-13 was presented to the Board of County Commissioners of Palm Beach County at its public hearing conducted on the 25th April 1985; and

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

1. With minor amendment to the site plan, this proposal will be consistent with the requirements of the Comprehensive Plan and Zoning Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, assembled in regular session this the 25th of April 1985, that Petition No. 85-13 the petition of HYPOLUXO PLAZA, LTD. AND LAKE WORTH DRAINAGE DISTRICT, By D.J. Snapp, 111, Agent for a SPECIAL EXCEPTION TO ALLOW A PLANNED COMMERCIAL DEVELOPMENT INCLUDING A LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET OF TOTAL FLOOR AREA on Lot 6, Amended Plat of Section 12, Township 45 South, Range 42 East, recorded in Plat Book 9, Page 74, more fully described as follows: Commencing at the North 1/4 corner of said Section 12; thence on a true bearing of South 5 degrees 02'59" West along the centerline of said Section 12, a distance of 484.87 feet; thence South 84 degrees 57'01" East, a distance of 50.00 feet to a point on the Easterly right-of-way line of Military Trail, also being the Point of

Beginning, thence South 5 degrees 02'59" West, along said Easterly right-of-way line, a distance of 179.88 feet; thence South 89 degrees 56'31" East, a distance of 623.13 feet; thence North 4 degrees 20'26" East, a distance of 628.12 feet to a point on the declared South right-of-way line of Lake Worth Drainage District Lateral No. 18; thence North 89 degrees 55'26" West along said declared South right-of-way line of Lateral No. 18, a distance of 624.08 feet to a point on a curve, said curve also being the Easterly right-of-way line of Military Trail; thence Southwesterly along said curve to the right, whose chord forms an included angle of 93 degrees 51'26" with last described course, having a radius of 11509.19 feet; a central angle of 2 degrees 13'57", for an arc distance of 448.45 feet to a point of tangency, also being the Point of Beginning. Together with; That part of the North 40 feet of Section 12, Township 45 South, Range 42 East, lying East of the right-of-way line of Military Trail (S.R. 809) as said right-of-way line is shown in Road Plat Book 1, Page 109 and lying West of the Northerly extension of the East line of Lot 6, amended plat of Section 12, Township 45 South, Range 42 East, recorded in Plat Book 9, Page 74, more fully described as follows:

Commence at the North 1/4 corner of said Section 12; thence South 89 degrees 54'03" East, along the North line of said Section 12, 39.79 feet to the said East right-of-way line of Military Trail and the point of beginning; thence continue South 89 degrees 54'03" East, along said North line, 628.82 feet to the intersection with the Northerly extension of the East line of said Lot 6; thence South 4 degrees 24'09" West, along said Northerly extension, 40.11 feet to a line 40.0 feet South of and parallel with the said North line of Section 12; thence North 89 degrees 54'03" West, along said parallel line, 627.64 feet to the said East right-of-way line of Military Trail; thence Northerly, along said East right-of-way line, being a curve concave Westerly with a radius of 11,509.19 feet, a central angle of 0 degree 11'58" and a chord bearing of North 2 degrees 43'04" East, a distance of 40.06 feet to the said Point of Beginning. Said property located on the southeast corner of the intersection of

Military Trail (S.R. 809) and Hypoluxo Road was approved as advertised subject to the following conditions:

1. Prior to site plan certification the site plan shall be amended to reflect the following:

a) Relocation of two loading bays adjacent to the financial institution and restaurant to preclude interference and obstruction of auto traffic flow.

b) Wooded areas and significant vegetative specimens.

c) A 75% opaque landscape buffer or a 6' solid masonry wall shall be delineated on the west 200+- feet of the south property line.

d) Delineation of applicable lease and/or. out parcel tracts accompanied by specific site data added to the data block.

2. The developer shall preserve existing significant vegetation wherever possible and shall incorporate said vegetation into the project design. Appropriate measures shall be taken to protect specimen and preservation areas during site clearing and construction.

3. Developer shall integrate major plant species typical of the Pine Flatwood vegetative association into the overall landscape improvement plan in accordance with the provisions of the Landscape Code. Eighty percent (80%) of the new landscape materials introduced to the site shall be native species.

4. Outdoor lighting shall be directed away from abutting property and rights of way.

5. Reasonable precautions shall be exercised during site development to ensure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties.

6. The bulkheading of the lake shall not exceed 40% of the shoreline in accordance with South Florida Water Management District criteria. The remaining lake edge shall be constructed with 8:1 side slopes, and a vegetated littoral zone shall be established on this portion of the shore.

7. The petitioner shall present a notarized Affidavit of Disclosure at the Zoning Authority Meeting.

8. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.

9. Any fuel or chemical storage tanks shall be installed with protection against leakage or spillage due to corrosion, breakage, structural failure or other means. The design and installation plans will be submitted to the Health Department for approval prior to installation.

10. Any toxic or hazardous waste generated at this site shall be properly handled and disposed of in accordance with Chapter 17-30, F.A.C.

11. The owner of the facility will participate in an oil recycling program which insures proper reuse or disposal of waste oil.

12. The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division.

13. The property owner shall convey for the ultimate right of way of Military Trail, 60 feet from centerline approximately an additional

10 feet, within 90 days of adoption of the Resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of the first Building Permit.

14. The developer shall, prior to the issuance of a Building Permit, however, in no case later than 6 months after the approval date by the Board of County Commissioners, modify Palm Beach County's Construction Plans for Military Trail from Sta. 170 + 00 north to a point 200 feet north of the north right-of-way line of Hypoluxo Road as per plans provided by the County Engineer. These modification shall address the appropriate tapers, and shall include drainage, bike path and sidewalk, and curb and gutter.

15. The developer shall, prior to the issuance of a Building Permit, however in no case later than 12 months of the approval date by the Board of County Commissioners, obtain a total of 120 feet of right of way from Sta. 167 + 00 (Palm Beach County Construction Plans) North to a Sta. 185 + 35. All necessary documentation to purchase this right-of-way shall be provided by the Developer. Palm Beach County will purchase this right-of-way at the developer's expense per separate agreement.

16. The developer shall, prior to the issuance of a Building Permit for more than 36,500 square feet, construct Military Trail as a 4-lane median divided highway as outlined in Condition No. 14 above. This construction shall commence no later than 18 months of the approval date by the Board of County Commissioners for all necessary work required under Conditions 14, 15 and 16. The Developer shall provide the County with acceptable surety to guarantee construction of all required improvements under these Conditions within 8 months of the approval date by the Board of County Commissioners. Should the Developer's certified cost of this construction (excluding site-related construction, but including right-of-way) be less than \$277,276, the Developer shall pay to Palm Beach County the difference between that amount and the actual construction cost as an impact fee; however, should the cost of this construction exceed \$277,276, impact fee monies collected by the County and held in impact fee escrow zone account 21 and 22, or collected by the County through special exception approvals for other projects which also impact this link of Military Trail prior to the completion of this construction project will be applied to the Military Trail construction account in an amount not to exceed \$300,000, based on certified costs. Certified contract costs shall include the actual costs of road construction (paving and drainage) and right-of-way acquisition, as certified by a professional engineer registered in the State of Florida, less the costs of site-related improvements, plus the Developer's expenses related to obtaining necessary right-of-way.

17. The developer 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. Presently The Fair Share Fee for this project is \$103,500.00; this fee is expected to increase to \$277,276 once the County Commission enacts amendments to the Ordinance. Credit for the impact fee shall be given for the road construction as outlined in Conditions Nos. 13, 14 and 15.

18. This project shall be limited to two entrance/exits onto Hypoluxo Road and two entrance/exits onto Military Trail per the County Engineer's approval.

19. The developer shall construct concurrent with the construction of the project's:

a. East entrance road onto Hypoluxo Road, a Left Turn Lane, East Approach and a Right Turn Lane, West Approach.

b. West entrance road onto Hypoluxo Road, a Right Turn Lane, West Approach. This entrance/exit shall not be permitted a median opening

onto Hypoluxo Road.

c. North entrance road onto Military Trail, a Right Turn Lane, South Approach. This entrance shall not be permitted a median opening onto Military Trail.

d. South entrance onto Military Trail, a Right Turn Lane, South Approach and Left Turn Lane, North Approach.

20. If the restaurant parcel is subsequently subdivided there shall be a 20 foot maintenance easement surrounding the one (1) acre drainage retention lake.

21. All mechanical and air conditioning equipment shall be roof mounted and screened with parapets or be contained within the enclosed loading and service area.

22. The rear facades of the shopping center shall be given architectural treatment consistent with the front of the center to avoid an incompatible industrial appearance impact upon nearby residential areas.

23. No storage or placement of any materials, refuse, equipment or accumulated debris shall be permitted rear of the building.

24. Loading and trash collection activities adjacent to areas zoned residential shall be limited to the hours of 8:00 a.m. and 8:00 p.m., Monday through Friday.

25. Access to indoor and outdoor collection stations shall be designed so the removal vehicle need not make unnecessary turning or backing movements. Location of such collection stations shall be located as far as possible from residentially zoned areas.

Commissioner Owens, moved for approval of the petition. The motion was seconded by Commissioner Marcus, and upon being put to a vote, the vote was as follows:

Ken Adams, Chairman	--	AYE
Karen T. Marcus, Vice Chairman	--	AYE
Kenneth Spillias, Member	--	AYE
Jerry L. Owens, Member	--	AYE
Dorothy Wilken, Member	--	AYE

The foregoing resolution was declared duly passed and adopted this day of JUN 25 1985 confirming action of the 25th April 1985.

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: Cheryl Beaupie
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Jacques Spitzer
County Attorney