

RESOLUTION NO. R-85-1433

RESOLUTION APPROVING ZONING PETITION 80-41(B), 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. 80-41(B) was presented to the Board of County Commissioners of Palm Beach County at its public hearing conducted on the 25th July 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 revisions 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 July 1985, that Petition No. 80-41(B) the petition of KENRIK DEVELOPMENT, INC., By F. Martin Perry, Attorney for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN OF A LARGE SCALE COMMUNITY SHOPPING CENTER PREVIOUSLY APPROVED UNDER ZONING PETITION NO. 80-41 on that portion of the Southwest 1/4 of Section 13, Township 44 South, Range 42 East, being more particularly described as follows:

Commence at the Southeast corner of Lot 15, Block 1, Plat No. 1, Cresthaven of Palm Beach as recorded in Plat Book 27, Page 212 and 213 and run thence South 87 degrees 45'02" East along the Northerly Right-of-way line of Cresthaven Boulevard, a distance of 45.00 feet for a Point of Beginning; thence North 2 degrees 05'54" East along

the East boundary of said Plat No. 1, a distance of 994.62 feet; thence South 87 degrees 56'51" East along a line which is 80.00 feet South of and parallel with the North boundary of the Southwest 1/4 of said Section 13, a distance of 958.00 feet to an intersection with the Westerly Right-of-way line of Military Trail (State Road 809); thence South 2 degrees 05'54" West along said Westerly Right-of-way line of Military Trail (same being common with a line which is 60.08 feet West of and parallel with the East boundary of the Southwest 1/4 of said Section 13), a distance of 990.21 feet; thence Southwesterly along a curve to the right having a radius of 25.00 feet, a central angle of 46 degrees 12'19", an arc length of 20.16 feet, and a chord which bears South 69 degrees 08'49" West, a distance of 19.62 feet; thence North 87 degrees 45'02" West along the Northerly Right-of-Way line of Cresthaven Boulevard, a distance of 939.93 feet to the Point of Beginning. Said property located on the northwest corner of the intersection of Military Trail (S.R. 809) and Cresthaven Boulevard in a CG-General Commercial District was approved as advertised subject to the following conditions:

1. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties.
2. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.
3. 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.
4. 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.
5. The owner of the facility will participate in an oil recycling program which insures proper reuse or disposal of waste oil.
6. The petitioner shall comply with all previous imposed conditions of Zoning Petition No. 80-41 except for Condition No. 9 which has been deleted by the action taken in Petition No. 80-41(A), Condition Nos. 3, 4, 6, 11 and 19 which shall be amended pursuant to Condition Nos, 7, 8, 9, 13 and 24 below.
7. Condition No. 3 which states:
 - "3. Petitioner shall construct on Military Trail:
 - a. continuous right turn lane, north approach, at each of the project's entrances
 - b. right turn lane, north approach, at Cresthaven Boulevard

- c. left turn lane, south approach, at the project's main entrance
- d. an extended left turn lane, south approach, at Cresthaven Boulevard
- e. signalization and associated geometric modifications on Military Trail at project's main entrance, when warranted, as determined by the County Engineer."

is hereby amended to state:

"3. Petitioner shall construct on Military Trail:

- a. continuous right turn lane, north approach, at each of the project's entrances
- b. right turn lane, north approach, at Cresthaven Boulevard
- c. left turn lane, south approach, at the project's main entrance
- d. an extended left turn lane, south approach, at Cresthaven Boulevard
- e. signalization at project's main entrance, when warranted, as determined by the County Engineer."

All concurrent with onsite paving and drainage improvements pursuant to a paving and drainage permit issued from the office of the County Engineer. The issuance of a Certificate of Occupancy shall be conditioned upon subparagraph c and d above being completed either by the Florida Department of Transportation or by petitioner. **As** an alternative, should this construction not be feasible per the County Engineer's approval, this property owner may substitute a cash payment for the cost of this construction based upon a Certified Cost Estimate per the County Engineer's approval."

8. Condition **No. 4** which states:

"4. Petitioner shall construct on Cresthaven Boulevard:

- a. right turn lane, east approach, at the project's entrance
- b. left turn lane, west approach, at the project's entrance."

is hereby amended to state:

"4. Petitioner shall construct on Cresthaven Boulevard:

- a. right turn lane, east approach, at the project's entrance
- b. left turn lane, west approach, at the project's entrance
- c. dual left turn lanes, west approach at Military Trail.

All concurrent with onsite paving and drainage improvements pursuant to a paving and drainage permit issued from the office of the County Engineer. **As** an alternative, should this construction not be feasible per the County Engineer's approval, this property owner may substitute a cash payment for the cost of this construction based upon a Certified Cost Estimate per the County Engineer's approval."

9. Condition **No. 6** which states:

"6. Petitioner shall contribute One Hundred Thirty-Nine Thousand, Two Hundred Thirty-Seven Dollars and Fifty Cents (**\$139,237.50** or **\$0.75/sq. ft.**) toward the cost of meeting this project's direct and identifiable traffic impact to be paid at the time of issuance of the building permit(s). Shopping Center Over **150,000 sq. ft.**"

is hereby amended to state:

"6. 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. The Fair Share Fee for this project presently is \$425,532."

10. Based on the amount of traffic generated by this development, the Developer has agreed to contribute an additional \$212,766 toward Palm Beach County's existing Roadway Improvement Program, these total funds of \$638,298 to be paid at time of issuance of the first building permit.

If the Fair Share Contribution for Road Improvements Ordinance is amended to increase the Fair Share Fee, this additional amount of \$212,766 shall be credited toward the increased Fair Share Fee.

11. The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department Permit section prior to the issuance of a Building Permit.

12. The property owner shall obtain a Turnout Permit from the Palm Beach County Engineering Department, Permit Section for access onto Cresthaven Boulevard and a permit from the Florida Department of Transportation for access onto Military Trail.

13. Condition No 19 which states:

"19. The Lake Worth Drainage District will require the North 15.00 feet of the subject property for the right-of-way for Lateral Canal No. 9. We will accept a Quit Claim Deed or an Easement (on our form), whichever the owner prefers. We will also require a Quit Claim Deed to the 60 foot parcel lying immediately north of and adjacent to the subject parcel, also for L-9."

is hereby amended to state:

"19. The petitioner shall convey to the Lake Worth Drainage District the eighty (80) foot parcel lying immediately north of the subject parcel for the required right-of-way for Lateral Canal No. 9, by a deed in the form provided by said district, within ninety (90) days of adoption of the resolution by the Board of County Commissioners."

14. The petitioner shall present a notarized Affidavit of Disclosure at the Zoning Authority meeting.

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

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

The foregoing resolution was declared duly passed and adopted this 17 day of September confirming action of the 25th July 1985.

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: Jean Mary Ellington
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Linda J. ...
County Attorney

