

RESOLUTION NO. R- 86-120

RESOLUTION APPROVING ZONING PETITION 85-131, 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. 85-131 was presented to the Board of County Commissioners of Palm Beach County at its public hearing conducted on the 30th October 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 amendments 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 30th of October 1985, that Petition No. 85-131 the petition of WILLIAM C. CLARK, TRUSTEE, 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 AND A BANK WITH FIVE (5) DRIVE-UP TELLER WINDOWS on a parcel of land lying in Section 31, Township 43 South, Range 42 East, more particularly described as follows:

Tracts 3 and 4, together with the West 120.82 feet of Tracts 2 and 5, Block 8 of Palm Beach Farms Company Plat No. 3, as recorded in Plat Book 2, Pages 45 through 54, excepting the following two (2) parcels:

Parcel One

The North 70 feet of said Tracts 1 and 2, Block 8, for Belvedere Road

Right-of-way.

Parcel Two

The South 25 feet of said Tracts 4 and 5, Block 8 for Right-of-way of North Fairgrounds Road, less the West 100 feet of said Tract 4, Block 8.

Said property located on the southeast corner of the intersection of Belvedere Road and U.S. Highway 441 (S.R. 7), being bounded on the south by Fairgrounds 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) Functional relocation of mislocated loading bays.
  - b) Enclosed loading areas separated from any nearby planned residential, commercial, and industrial areas by ten foot high wing walls.
2. All mechanical and air conditioning equipment shall be roof mounted and screened with parapets, or be contained within the enclosed loading and service area.
3. All 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 planned residential, commercial, and industrial developments.
4. No storage or placement of any materials, refuse, equipment or accumulated debris shall be permitted in the rear of the shopping center.
5. No parking of any vehicles shall be permitted along the rear of the shopping center except in designated spaces or unloading areas.
6. Security lighting shall be directed away from nearby residences, rights-of-way, and adjoining developments.
7. The developer shall preserve existing significant vegetation wherever possible and shall incorporate said vegetation into the project design. Appropriate measures shall also be taken to protect these preservation areas during site clearing and construction.
8. Minimum landscaping treatment shall conform with the graphic and calculations representations of Exhibit No. 22, submitted 8/20/85, in accordance with installation and maintenance requirements of the Landscape Code or as presented at the public hearings, whichever is greater.
9. Trees planted in parking bay medians shall be protected from vehicular damage by installation of wheel stops, curbing, or functional decorative steel ballards.
10. In addition to the requirements of the Landscape Code and the landscaping proposed pursuant to Exhibit No. 22, submitted 8/20/85, parking area interior landscaping shall be enhanced to include one (1) (10-12) foot high shade and canopy tree for each twenty five (25) linear feet of interior parking area landscape island, and the thirty four (34) parking spaces in excess of the minimum required, shall be utilized as additional internal landscaped areas, which shall be incorporated into the overall parking area interior landscaping plan.

to effectively divide and break up the expanse of paving.

11. The petitioner shall convey to the Lake Worth Drainage District the west 100.00 feet of Tracts 3 and 4, Block 8, Palm Beach Farms Company Plat No. 3 for the required right-of-way for Equalizing Canal No. 1, by Quit Claim Deed or an Easement Deed on the form provided by said District, within ninety (90) days of adoption of the resolution. by the Board of County Commissioners.

12. 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.

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

14. The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-24 hour storm per requirements of the Permit Section, Land Development Division.

15. The property owner shall convey for:

a) the ultimate right-of-way along the property's frontage necessary to provide for a 160' ultimate section for SR 7 on an alignment approved by the County Engineer all 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 first Building Permit.

b) The ultimate right of way along the property's frontage necessary to provide for an 80' right-of-way for Fairgrounds Road.

16. The property owner shall construct:

a) left and right turn lanes on all approaches at the project's entrances onto SR 7, Belvedere Road, and Fairgrounds Road.

b) dual left turn lanes south approach on SR 7 at Okeechobee Boulevard.

Note: "b" shall be concurrent with the 4 laning of each road as outlined in the conditions below. "a" shall be concurrent with the construction of the project's entrance roads.

17. The property owner shall provide Palm Beach County a road drainage easement within the project's internal lake system for legal positive outfall to accommodate the runoff of SR7, Belvedere Road and Fairgrounds Road along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along each of the above roadways. The drainage system within the project shall have sufficient retention/detention capacity to accommodate the road drainage runoff for the ultimate Thoroughfare Plan Section and be subject to all governmental agency requirements.

18. 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 \$350,460.00. Credit for the Impact Fee shall be given for the Impact Fee for the plans and construction of SR7 as outlined in Condition No. 23.

19. 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.

20. The property owner shall obtain a Turnout Permit from the Palm Beach County Engineering Department, Permit Section for access onto Belvedere Road and a permit from the Florida Department of Transportation for access onto SR 7.

21. Performance Security acceptable to the County Attorney's Office required for the offsite road improvements shall be posted with the Office of the County Engineer within twelve (12) months of final approval.

22. The property owner shall install signalization if warranted as determined by the County Engineer at:

- a) SR7 and project's entrances
- b) Belvedere Road and project's entrances
- c) Fairgrounds Road and SR7
- d) Fairgrounds Road and Sansbury's Way

Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.

23. The property owner shall provide construction plans for Belvedere Road as a 4 lane median divided section (expandable to 6-lanes from SR7 east to Sansbury's Way) plus the appropriate paved tapers. These construction plans and their format shall be per the County Engineer's approval based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. These construction plans shall be completed within twelve (12) months of Special Exception Approval.

24. In order to comply with the Mandatory Traffic Performance Standards the following phasing shall be in effect:

Phase I - 0 to 80,000 square feet of Commercial Building Area.

A) The property owner shall construct at Belvedere Road and SR 7:

- a) dual left turn lane, east approach,
- b) dual left turn lane, west approach,
- c) dual left turn lane, north approach,
- d) dual left turn lane, south approach.

B) The property owner shall provide construction plans for SR 7 as a 4-lane median divided roadway (expandable to 8 lanes from Belvedere Road through the project's main entrance) plus the appropriate tapers. These construction plans shall be per the County Engineer's approval based upon Florida DOT and Palm Beach County's Minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. These construction plans shall be completed within twelve (12) months of Special Exception Approval or prior to the issuance of a Building Permit. Plan costs shall be approved by the County Engineer.

C) The property owner shall let the contract to construct SR 7 as a 4 lane median divided section from Belvedere Road through the project's main entrance per the condition above. This construction shall be completed within 2 years of Special Exception Approval or concurrent with the construction of Phase I building permits, whichever shall first occur. Credit for the impact fee shall be given for this road construction as outlined in Conditions No. 23, 24(b), and 24(c).

D) There shall be no Building Permits issued for Phase I until the Florida Department of Transportation has let the contract for the SR 80 and SR 7 intersection improvements.

Phase II - 80,001 to 150,000 square feet of Building Area.

The property owner shall not apply for Building Permits for Phase II construction until the construction contract for the following road contracts have been let:

- a) Okeechobee Boulevard as a 4 lane median divided section from Golden Lakes Boulevard to Royal Palm Beach Boulevard plus the appropriate tapers,
- b) SR 7 as a 4 lane median divided section from SR 80 to the project's main entrance plus the appropriate tapers,

- c) Fairgrounds Road as a 2 lane section from SR 7 to the project's entrance road. This construction shall include left and right turn lanes on the east approach, a left turn lane, north approach and a right turn lane, south approach,
- d) SR 80 from Forest Hill Boulevard to Jog Road as a 4 lane median divided section plus the appropriate tapers.

Phase III - More than 150,000 square feet.

The property owner shall not apply for Building Permits for more than 150,000 square feet until the construction contract for the following road contracts have been let:

- a) Belvedere Road as a 4 lane median divided section from the project's east property to SR 7 plus the appropriate tapers,
- b) Fairgrounds Road as a 2 lane section from Sansbury's Way.

25. The property owner shall construct Fairgrounds Road as a 2 lane section from Rubin Road to SR7 concurrent with onsite paving and drainage improvements pursuant to a Paving and Drainage Permit issued from the Office of the County Engineer. This construction shall include left and right turn lanes on all approaches at:

- a) Fairgrounds Road and Rubin Road
- b) Fairgrounds Road and SR7 to Sansbury's Way

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

27. No development of this site shall be undertaken by the petitioner, or his successor(s) or grantee(s), until such time as a binding letter of interpretation is obtained from the state land planning agency. Should it be determined that this and the contiguous petitions (85-129 and 85-130) are a development of regional impact, the developer shall prepare and present modification petitions to Palm Beach County, to permit the Board of County Commissioners to effect consistency of the development order with the requirements and recommendations of the regional planning agency. No development of the site shall commence until the County has taken final action upon such modification petitions, if required.

For purposes of this condition, the definition of development shall be that set forth in Chapter 380, Florida Statutes.

28. The petitioner shall record a unity of title tying this site to the sites of Petitions 85-130 and 85-131 prior to adoption of the resolution finalizing the zoning action. Such unity of title may not be released until a binding letter is procured, determining that these petitions do not comprise a development of regional impact, or until development of regional impact review process is completed.

29. The property owner shall let the contract to construct SR 7 as a 4 lane section from Okeechobee Boulevard to SR 80 within 5 years from Special Exception Approval by the Board of County Commissioners (as per the plans referenced to in Condition No. 23).

30. Based on the Traffic Performance Standards (Category "A"), the developer shall contribute an additional \$175,230 towards Palm Beach County's existing Roadway Improvement Program, these total funds of \$525,690 to be paid within 30 months of Special Exception Approval.

If the Fair Share Contribution for Road Improvements Ordinance is amended to increase the Fair Share Fee, this additional amount of \$175,230 shall be credited toward the increased Fair Share Fee.

31. Exact copies of all graphics presented at the Planning Commission and Board of County Commissioners public hearings shall be submitted to the Zoning Division for inclusion in the permanent petition file.

32. Landscaping treatment shall be installed as presented on the

graphics presented before the Planning Commission and the Board of County Commissioners.

33. 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.

34. 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.

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	--	ABSENT
Jerry L. Owens, Member	--	AYE
Dorothy Wilken, Member	--	ABSENT

The foregoing resolution was declared duly passed and adopted this day of FEB 11 1986 confirming action of the 30th October 1985.

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: Susan Gray Ellington  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

Sandy Sprague  
County Attorney