

RESOLUTION NO. R- 87-1110-A

RESOLUTION APPROVING ZONING PETITION 84-68(D): 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. 84-68(D) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on March 26, 1987 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 required site plan modifications, this proposal ~~will~~ be consistent with the requirements of the Comprehensive Plan and local land development regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, assembled in regular session that Petition No. 84-68(D), the petition of DIVERSIFIED CENTERS, INC., AND DIVERSIFIED CENTERS I, LTD., by Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION TO AMEND AND EXPAND THE SITE PLAN FOR A PLANNED COMMERCIAL DEVELOPMENT INCLUDING A LARGE

SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET OF FLOOR AREA PREVIOUSLY APPROVED UNDER ZONING PETITION 84-68(C) TO INCREASE THE ACREAGE BY 14.69 ACRES AND TO INCREASE THE BUILDING SQUARE FOOTAGE on a parcel of land in Section 36, Township 43 South, Range 41 East, said parcel of land being specifically described as follows: Tract 6: Block 9, Palm Beach Farms Company Plat No. 3 according to the plat thereof recorded in Plat Book 2, Page 46, Together With the East 1/2 of Tract 7, Block 9, Palm Beach Farms Company Plat No. 3, as recorded in Plat Book 2, Page 46, less the West 200 feet of the South 425 feet thereof; and ~~LESS~~ and ~~EXCEPTING~~, however, the following described parcels: ~~Parcel 1:~~ The South 100 feet of the West 150 feet of said Tract 6. ~~Parcel 2:~~ The East 200 feet of the South 200 feet of said Tract 6; more particularly described as follows: Beginning at a Point where the North right-of-way line of State Road No. 80 intersects the West right-of-way line of State Road No. 7 (U.S. Highway No. 441) and running West along the North right-of-way line of State Road No. 80, a distance of 200 feet to a pipe; thence North parallel to West right-of-way line of State Road No. 7 (U.S. Highway No. 441), a distance of 200 feet to a pipe; thence East, parallel to the North right-of-way line of State Road No. 80, a distance of 200 feet to a pipe in the West right-of-way line of State Road No. 7 (U.S. Highway No. 441); thence, South along the West right-of-way line of State Road No. 7 (U.S. Highway No. 441) a distance of 200 feet to Point of Beginning, less that portion of the Southeast Corner of hereinabove described premises formed by a 100-foot radius having points of tangency 95.2 feet from said right-of-way intersection. ~~Parcel 3:~~ Commencing at the Southwest corner of said Tract 6; thence Easterly, along the South line of Said Tract 6, a distance of 150 feet to the point of beginning; thence, continue along said South line, a distance of 141.35 feet; thence Northerly, along a line parallel to the West right-of-way line of State Road No. 7, a distance of 400.47 feet; thence Westerly, parallel with the South

line of said Tract 6, a distance of 158.02 feet: thence Southerly, parallel with the West line of said Tract 6, a distance of 400 feet to the point of beginning. Parcel 4: The East 200 feet of the West 400 feet of the South 425 feet of the east 1/2 of Tract 7, Block 9, Palm Beach Farms Company Plat No. 3, as recorded in Plat Book 2, Page 46. Together with the following described parcel: The West 1/2 of Tract 7, Block 9, Palm Beach Farms Company, Plat No. 3, as recorded in Plat Book 2, Pages 45 through 54, excepting the right-of-way for State Road 80. The property is located on the west side of U.S. 441 (SR 7) approximately 150 feet north of SR 80 and was approved as advertised subject to the following conditions:

1. The developer shall comply with all previous conditions of approval unless expressly modified herein.

2. Condition No. 9 presently states:

"9. The developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as presently exist or as it may from time to time be amended. Fair Share Fee for this project presently is \$328,124.00 (12,245 trips X \$26.79 per trip).

Based on the Traffic Performance Standards (Category "A"), the developer shall contribute an additional \$471,876.00 toward Palm Beach County's existing Roadway Improvement Program. Any remaining funds from the total \$800,000.00 after receiving credit for the construction of State Road 7 as outlined in the condition above shall be deposited in the Palm Beach County within 24 months of Special Exception approval."

is hereby modified to state:

"9. The property owner 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 \$397,564.00.

Based on the Traffic Performance Standards (Category "A"), the developer shall contribute an additional \$477,436.00 toward Palm Beach County's existing Roadway Improvement Program. Any remaining funds from the total \$875,000.00 after receiving credit for the construction of State Road 7 as outlined in the condition above shall be deposited with Palm Beach County within 24 months of Special Exception approval."

3. Condition No. 3 of Zoning Petition No. 84-68 which states:

"3. The property owner shall dedicate the ultimate right-of-way as shown on the special intersections in accordance with Palm Beach County's Thoroughfare Right of Way Protection Map within 30 days of adoption of the Resolution by the Board of County Commissioners or prior to certification of the Master Plan whichever shall first occur. This is an additional 130 feet ultimate right-of-way for Southern Boulevard."

is hereby modified to state:

"3. The property owner shall dedicate the ultimate right-of-way as shown on the special intersections in accordance with Palm Beach County's Thoroughfare Right of Way Protection Map within 30 days of adoption of the Resolution by the Board of County Commissioners or prior to certification of the Master Plan whichever shall first occur. This is an additional 130 feet ultimate right-of-way for Southern Boulevard (measured at the intersection of State Road 7) and a total of not more than 200 feet from the range line for the ultimate right-of-way for State Road 7 on an alignment approved by the Florida Department of Transportation and the Palm Beach County Engineering Office."

4. Prior to site plan approval, petitioner shall record a Unity of Title Agreement covering the entire site.

5. Prior to site plan certification, petitioner shall amend its site plan as follows:

a) A general retail center and an office center separated by phase lines.

b) The office center shall consist of 60,000 square feet of gross floor area in three (3) buildings having 20,000 square feet each of gross building area.

c. Development of the office center shall proceed in phases based upon demonstrated demand. Evidence of demand shall be executed leases for office space. No building permits shall be issued for the office center except as indicated below:

(1) Leases for the first 10,000 square feet shall result in building permits for 20,000 square feet of gross building area (Building 1);

(2) Leases for a second 10,000 square feet shall result in building permits for 20,000 square feet of gross building area (Building 2); and

(3) Leases for a third 10,000 square feet shall result in building permits for 20,000 square feet of gross building area (Building 3).

6. No building permit shall be issued for the subject property until such a time that the site is connected to a public sewer system.

7. Since sewer and water service is available to the property, neither septic tank nor well shall be approved for use on the property.

8. Prior to site plan certification, petitioner shall obtain conceptual approval of its surface water management plan from South Florida Water Management District. No building permits shall be issued for this project until a surface water management plan is filed with the County Engineer for inclusion in the official Zoning file.
9. Condition No. 5 of Zoning Petition No. 84-68(C) which presently states:

"5. There shall be a minimum of 30,000 square feet of the proposed project to be used as general office with a maximum of 223,229 square feet to be used as retail."

is hereby modified to state:

"5. There shall be a minimum of 60,000 square feet of the proposed project to be used as general office with a maximum of 310,869 square feet to be used as retail."
10. Condition No. 7 of Zoning Petition No. 84-68 (Resolution R-85-285), which presently states:

"7. This development shall be permitted only one turnout onto Southern Boulevard, per the County Engineer's approval."

is hereby repealed.
11. Condition No. 16 of Zoning Petition No. 84-68 (Resolution R-85-285), which presently states:

"16. It is understood and agreed that the respective obligations of the developer and Palm Beach County as contained in paragraphs 10 through 16 are conditioned upon the scheduling and acceleration and joint cooperation as described above and the failure of these factors to materialize shall relieve the parties for enumerated responsibilities hereunder and the parties agree in such event that the petition shall be re-addressed by the Board of County Commissioners."

is hereby repealed.
12. Condition No. 3 of Zoning Petition No. 84-68(C), which presently states:

"3. Prior to site plan certification the petitioner shall redesign the building location, traffic circulation, parking configuration and pedestrian access within the southwestern portion of the site adjacent to the State Road 80 access point."

is hereby repealed.
13. Prior to site plan certification, petitioner shall amend its site plan to delete reference to a motion picture theater.
14. If other adjacent parcels are acquired by the petitioner, the overall gross building area of this petition shall not be enclosed. The maximum gross building area of this project shall be 370,869 square feet.

15. No additional curb cuts on State Road 7 or State Road 80 shall be permitted for this project.

Commissioner Adams, 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:

Carol A. Roberts	-- Aye
Karen T. Marcus	-- Aye
Dorothy V. Ven	-- Nay
Kenneth M. Adams	-- Absent
Carol J. Elmquist	-- Aye

The foregoing resolution was declared duly passed and adopted this 28th day of July, 1987 confirming action of March 26, 1987.

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: Kathryn S. Miller
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



County Attorney