

RESOLUTION NO. R-85-1078

RESOLUTION APPROVING ZONING PETITION 83-58(B), Modification

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. 83-58(B) was presented to the Board of County Commissioners of Palm Beach County at its public hearing conducted on the 23rd May 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. This proposal is 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 23rd of May 1985, that Petition No. 83-58(B) the petition of BOYNTON BEACH COUNTRY CLUB, INC., By Paul C. Wolfe, Attorney to MODIFY SPECIAL CONDITIONS PLACED ON ZONING PETITION NO. 83-58(A), PREVIOUSLY APPROVED SEPTEMBER 29, 1983;

CONDITION NO. 3 STATES:

3. The developer shall acquire 120 feet of right-of-way for Boynton Beach Boulevard from the existing 4-lane terminus west of Congress Avenue to the east property line of the development approved as Petition No. 81-152 per the County Engineer's approval. Palm Beach County may acquire the right-of-way at the developer's expense.

MODIFY CONDITION NO. 3 TO READ:

The developer shall acquire 106 feet of right-of-way for Boynton Beach Boulevard from the existing 4 lane terminus west of Congress Avenue to

Lawrence Road and 120 feet from Lawrence Road to the east property line of the development approved as Petition No. 81-152 per the County Engineer's approval. Palm Beach County may acquire the right-of-way at the developers expense.

CONDITION NO. 4 STATES:

4. The developer shall construct Boynton Beach Boulevard as a 4-lane median divided section from the existing 4-lane terminus west of Congress Avenue to the east property line of the development approved as Petition 81-152 including the appropriate tapers, per the existing County Engineer's approved plans. This construction shall be commenced prior to the issuance of the 386 Building Permits and be substantially completed within two years of Special Exception approval, whichever first occurs. Provided that a performance bond is posted to cover permits issued prior to this road construction, this construction will be accepted in lieu of the Fair Share Traffic Impact Fee. Should the developer's cost of this construction (including right-of-way) be less than \$1.2 million, the developer shall pay to Palm Beach County the difference between that amount and actual construction cost as an impact fee; however, should the cost of this construction exceed \$1.2 million, impact fee monies collected by the County through Special Exception approvals for other projects which also impact his link of Boynton Beach Boulevard prior to the completion of this constructed will be applied to this construction in an amount not to exceed \$380,000.

MODIFY CONDITION NO. 4 TO READ:

The developer shall construct Boynton Beach Boulevard as a four lane divided section from the existing four lane terminus west of Congress Avenue to the east property line of the development approved as Petition 81-152 including the appropriate tapers, per the existing County Engineer's approved plans. This construction shall be commenced prior to the issuance of the 714th Building Permit, provided a Letter of Credit in the amount of 1,200,000 dollars is posted with Palm Beach County by June 15, 1985. The road is to be substantially complete within 18 months of issuance of D.O.T. Permit and authorization by the Palm Beach County to proceed with

construction, this construction will be accepted in lieu of the fair share traffic impact fee. Should the developer's cost of this construction (including right-of-way) be less than \$1.2 million, the developer shall pay to Palm Beach County the difference between that amount and actual construction cost as an impact fee; however, should the cost of this construction exceed \$1.2 million, impact fee monies collected by the County through Special Exception approvals for other projects which also impact this link of Boynton Beach Boulevard prior to the completion of this construction will be applied to this construction in an amount not to exceed \$380,000.

CONDITION NO. 5,6,7,9, AND 9 STATE:

5. The developer shall construct Jog Road as a 2-lane section from the north right-of-way line of the Boynton Canal south to Boynton Beach Boulevard (including the bridge over the Boynton Canal) as required by the County Engineer to provide continuity for Jog Road but in no case later than four years after Special Exception approval.
6. The developer shall construct concurrent with the construction of and at both project entrances onto Boynton Beach Boulevard:
 - a) Left turn lane, west approach.
 - b) Right turn lane, east approach.
 - c) Signalization when warranted, as specified by the County Engineer.
7. The developer shall construct at the intersection of Hagen Ranch Road and Boynton West Road concurrent with second plat improvement:
 - a) Left turn lane, east approach.
 - b) Right turn lane, west approach.
8. The developer shall construct concurrent with the construction of Jog Road as outlined in Condition No. 5, above:
 - a) Left turn lane, west approach on Boynton Beach Boulevard at it's intersection with Jog Road.

- b) Right turn lane, east approach on Boynton Beach Boulevard at it's intersection with Jog Road.
 - c) Left turn lane, north approach and a left turn lane, south approach on Jog Road at the project's entrance roads.
 - d) Left turn lane, north approach on Jog Road at it's intersection with Boynton Beach Boulevard.
9. The developer shall install signalization when warranted as specified by the County Engineer, at the intersection of Jog Road and Boynton Beach Boulevard.

Leave Conditions 5,6,7,8 the same, but to condition 9 add:

CONDITION 9 (a) **TO READ:**

With conditions 5,6,7, 8(a), (c), (d) and 9 having Letters of Credit posted by June 1, 1985 with the County Engineer's office, then the total allowable permits of 1446 shall be authorized, provided the County Engineer is satisfied with the general progress of Boynton Beach Boulevard set forth in Condition **No. 4**.

Said property located on the north side of Boynton West Road and on the east and west side of Jog Road in a RS-Residential Single Family District, In-part, and RTS-Residential Transitional District, Inpart, was approved as advertised subject to the following conditions:

1. Conditions previously approved by the Board of County Commissioners shall remain in effect except those conditions modified herein.

2. Condition **No. 3** which states:

"**3.** The developer shall acquire 120 feet of right-of-way for Boynton Beach Boulevard from the existing 4-lane terminus west of Congress Avenue to the east property line of the development approved as Petition **No. 81-152** per the County Engineer's approval. Palm Beach County may acquire the right-of-way at the developer's expense."

Is hereby deleted.

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

"**4.** The developer shall construct Boynton Beach Boulevard as a 4-lane median divided section from the existing 4-lane terminus west of Congress Avenue to the east property line of the development approved as Petition **81-152** including the appropriate tapers, per the existing County Engineer's approved plans. This construction shall be commenced prior to the issuance of the **386** Building Permits and be substantially completed within two years of Special Exception approval, whichever first occurs. Provided that a performance bond is posted to cover permits issued prior to this road construction,

this construction will be accepted in lieu of the Fair Share Traffic Impact Fee. Should the developer's cost of this construction (including right-of-way) be less than \$1.2 million, the developer shall pay to Palm Beach County the difference between that amount and actual construction cost as an impact fee; however, should the cost of this construction exceed \$1.2 million, impact fee monies collected by the County through Special Exception approvals for other projects which also impact this link of Boynton Beach Boulevard prior to the completion of this construction will be applied to this construction in an amount not to exceed \$380,000."

Is hereby amended to state:

"4. a) The Developer shall construct Boynton Beach Boulevard as a four lane median divided section from the existing four lane terminus west of Congress Avenue to the east property line of the development approved as Petition 81-152 plus the appropriate tapers per the County Engineer's Approved Construction Plans. This construction shall be commenced prior to the issuance of the 714th Building permit & shall be substantially completed (open to traffic) prior to July 1, 1986. Acceptable surety shall be posted prior to June 1, 1985 with the County Engineer's office in the amount of 1.2 million dollars. No further building permits beyond the 714th shall be issued until Boynton Beach Boulevard has been substantially completed (open to traffic) between Congress Avenue and the east property line of Petition 81-152.

Should the cost of this construction be less than 1.2 million, the Developer shall pay to Palm Beach County the difference between that amount and the actual certified construction cost toward Palm Beach County road construction program. In the event that this certified construction cost exceeds 1.2 million, the impact fee monies collected by the County through Fair Share Impact Fees, or through Special Exception approvals for other projects impacting this link of Boynton Beach Boulevard, shall be made available to this Developer in an amount not to exceed \$380,000.00.

b) Palm Beach County may elect to participate in the construction of Boynton Beach Boulevard as a 6 lane median divided section from Congress Avenue to Military Trail and to let and administer the contract for this work. Should Palm Beach County participate in this construction then the County, at its option, may elect to do the following:

(1.) Fund the additional cost of 6 laning by paying the difference between 4 laning and 6 laning this section of road.

(2.) This developer shall make available to Palm Beach County the necessary funds to construct Boynton Beach Boulevard as a 4 lane, median divided section as outlined in paragraph a above.

These funds shall be made available within 30 days notification by the office of the County Engineer in which the Developer may elect to substitute the acceptable surety with cash.

4. Acceptable surety shall also be posted for Condition Nos. 5,6,7,8 and 9 of Resolution No. 84-58 prior to June 1, 1985.

5. The Petitioner shall provide Palm Beach County with a road drainage easement and sufficient retention/detention through this project's internal lake system to legal positive outfall for the road drainage of Boynton Beach Boulevard and Jog Road. This drainage easement shall be subject to all governmental agency requirements.

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. Presently The Fair Share Fee for this project is \$603 per approved multi-family dwelling unit and \$804 per approved single

family dwelling unit (under 2000 square feet). Credit for the impact fee shall **be** given toward construction as outlined in Condition #4 above.

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

Commissioner Marcus , 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	--	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 23rd day of July confirming action of the 23rd May 1985.

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: Cheryl Beaupre
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Shirley Springer
County Attorney