

RESOLUTION NO. R-86-478

RESOLUTION APPROVING ZONING PETITION 85-162, 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. 85-162 was presented to the Board of County Commissioners of Palm Beach County at its [REDACTED] conducted on the [REDACTED] 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.
2. The School Board of Palm Beach County has demonstrated that the schools serving Petition No. 85-162 are operating at or above capacity and that plans exist for additional facilities to alleviate overcrowding and to house additional students generated by new residential growth. The petitioner has voluntarily agreed to participate in the School Board's Site Acquisition Program by contributing \$258.00 for each dwelling unit within the subject development. Funds will be used by the School Board for the acquisition of sites, and/or the construction of facilities serving subject petition.
3. Payment in full shall be due the School Board of Palm Beach County at time of issuance of the first residential permit.
4. Petitioner shall enter into formal contract with School Board of Palm Beach County to assure timely payment.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUGTY, FLORIDA, assembled in regular session this the 3rd of January 1986, that petition No. 85-162 the petition of STEVEN GLASSMAN, JOHN A. MELEAR AND BARBARA J. STARKEY,

By Alan J. Ciklin, Esquire, for a SPECIAL EXCEPTION TO ALLOW A PLANNED UNIT DEVELOPMENT on the East 1/2 of the East 1/2 of the Southeast 1/4 lying Northerly of the Northerly Right-of-way line of Boynton Beach Boulevard, as now located and constructed, in Section 22, Township 45 South, Range 42 East, together with a parcel of land in the West 1/2 of Section 23, Township 45 South, Range 42 East, including portions of the plat of Boynton Gardens, as recorded in Plat Book 6 at Page 32, being more particularly described as follows: All of Tracts 49 thru 56 inclusive, together with that certain roadway lying Westerly of, and adjacent to said Tracts 49 thru 55; and together with that certain roadway lying Easterly of said Tracts 49 thru 54 and Tract 56; all of Tract 69 thru 72 inclusive; all of Tracts 49, 60, 63, 64, 65 and 66, together with that roadway lying Easterly of said Tracts 60, 65 and 66; excepting therefrom that portion thereof lying within the Right-of-Way of Boynton Beach Boulevard; the Northeast 1/4 of the Southwest 1/4 of said Section 23; all of Tracts 41 thru 48 inclusive, according to the Subdivision of Section 26, Township 45 South, Range 42 East, as recorded in Plat Book 6 at Page 26; together with the East 1/2 of that certain roadway lying West of and adjacent to said Tracts 41 thru 48 inclusive. Subject to existing Rights-of-Ways over the South 10 feet of said Tract 41, and the North 53 feet of said Tract 48.

Together with:

The Southeast 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 22, Township 45 South, Range 42 East, together with those portions of the plat of Boynton Beach Gardens, as recorded in Plat Book 6 at Page 32, described as follows:

All of Tracts 39 thru 48 inclusive, all of Tracts 73 thru 78 inclusive, together with that certain roadway lying Southerly of and adjacent to said Tracts 39 thru 46 inclusive, and together with that certain roadway, lying West and East of and adjacent to Tracts 47 and 48, according to said plat of Boynton Gardens. Said property located on the north and south sides of Boynton Beach Boulevard (S.R. 804), being bounded on the east by Lake Worth Drainage District Equalizing Canal No. 3 and on the north by the Boynton Canal, approximately .4

mile east of Jog Road was approved as advertised subject to the following conditions:

1. Prior to site plan certification, the site plan shall be revised to reflect two percent (2%) of the gross area of the planned unit development as designated to civic space.

2. 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.

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

4. This development shall retain onsite the first one inch of the stormwater runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended.

5. The property owner shall convey for the ultimate right-of-way for: *AMENDED 95.162 A*

a) Boynton Beach Boulevard, 120 feet north of the north right-of-way line of the L-24 Canal.

b) The construction of a separate right turn lane at each of the project's entrances. This right-of-way shall be in addition to the 12 foot right-of-way and shall be for a minimum of 150 feet long and 12 feet wide and a taper length of 180 feet long, within 90 days of adoption of the Resolution by the Board of County Commissioners; all conveyances must be accepted by Palm Beach County prior to issuance of first Building Permit.

6. The property owner shall construct right and left turn lanes east and west approaches on all project's entrance roads onto Boynton Beach Boulevard concurrent with the construction of project's entrance road onto Boynton West Road.

7. 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 Boynton West Road along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along Boynton West Road. The drainage system within the project shall have sufficient retention/detention capacity to accommodate the ultimate Thoroughfare Plan Section road drainage runoff and be subject to all governmental agency requirements.

8. 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 \$920,902.00 (11,454 trips x \$80.40 per trip).

9. *95.162(A) AMENDED* Based on the Traffic Performance Standards (Category "A"), the Developer shall make roadway improvements in an amount as follows:

| | |
|--|---------------------------------|
| <u>Amount</u> | <u>Building Permits Maximum</u> |
| \$100,000 to be paid prior to June 1, 1986 | 400 |

10. The property owner shall install signalization if warranted as determined by the County Engineer at the project's entrance(s) and Boynton Beach Boulevard. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.

11. *95.162(A) AMENDED* The petitioner shall convey to the Lake Worth Drainage District:

a) The North 80.00 feet of the South Half (S 1/2) of that portion of Sections 22 and 23 lying within the boundaries of the subject property for the required right-of-way for Lateral Canal No. 23

(L-23), and

- b) A parcel eighty (80) feet in width lying immediately south of and continuous to the South right-of-way line of Boynton West Road for the required right-of-way for Lateral Canal No. 24 (L-24), and
- c) The South ten (10) feet of Tract 41, P.B. 6, P. 26, for the required right-of-way for Lateral Canal No. 25 (L-25), and
- d) The West twenty-five (25) feet of the East sixty-five (65) feet of that part of the East Half (E 1/2) of Section 23 within the boundaries of the subject property and the East ten (10) feet of Tracts 41 to 48 inclusive per P.B. 6, P. 26, for the required right-of-way for Equalizing Canal No. 3 (E-3),

by Quit Claim Deed or an Easement Deed in the form provided by said District within ninety (90) days of adoption of the resolution by the Board of County Commissioners.

12. All property included in the legal description of this Zoning Petition shall be subject to a Declaration of Restrictions and Covenants, acceptable to County Attorney's office, which shall provide, among other things, for the following: Formation of a single "master" property owners' association, and automatic membership in the "master" property owners' association by any party holding title to any portion of the property included in the P.U.D.

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

14. The petitioner shall dedicate the civic site to the Board of County Commissioners per P.U.D. Requirements.

15. The petitioner shall place the civic site in a location where expansion or additional land can be added to make a more usable site for a combination park and school site.

16. The petitioner shall meet with the County School Board, Parks and Recreation Department to coordinate efforts in the establishment of a school/public recreation area. This shall be done within one year of Commission approval.

17. a) The property owner shall provide Palm Beach County with all associated right-of-way documents including but not limited to surveys, property owner's maps, legal descriptions for acquisition, parcelled right-of-way maps, required for the acquisition of Boynton Beach Boulevard a total of 120 feet right-of-way ultimate section from Military Trail west to a point 200 feet west of El Clair Ranch Road plus the appropriate tapers per the County Engineer's approval.

The right-of-way shall be obtained within 12 months of Special Exception approval or prior to the issuance of 100 building permits, whichever shall first occur. This property owner shall enter into a written agreement with the Land Acquisition Section within 30 days of Special Exception approval for which this property owner shall fund all costs for this right-of-way acquisition.

b) The property owner shall construct Boynton Beach Boulevard from the proposed 4-lane terminus west of Military Trail west to a point 200 feet west of El Clair Ranch Road plus the appropriate paved tapers per the County Engineer's approval as a 4-lane median divided section (expandable to 6 lanes with all drainage sized and placed to accommodate the ultimate 6 lane section) per Palm Beach County's approved construction plans. This construction shall include a 6-lane ultimate structure over the E-3 Canal as approved by the County Engineer and the Lake Worth Drainage District. This construction shall be completed within 30 months of Special Exception approval or prior to issuance of 500 building permits, whichever shall first occur. Credit for the impact fee shall be given for this road construction as outlined in Conditions 17(a), 17(b) and 9.

Should government or other third parties construct (or be

constructing) this section of Boynton Beach Boulevard within this 30 month time period, this developer shall make available to Palm Beach County that equivalent amount of monies, certified by a signed and sealed estimate by a registered professional engineer, necessary to satisfy this construction of Boynton Beach Boulevard. Monies shall be made available within 90 days notification by the Office of the County Engineer. The intent of the use of these monies will be for the construction of Military Trail from Hypoluxo Road to Old Boynton Beach Boulevard.

Surety required for this offsite road improvement(s) as outlined in Conditions 17(a) and 17(b) shall be posted with the Office of the County Engineer prior to the issuance of 300 building permits or prior to July 1, 1986, whichever shall first occur.

Commissioner Spillias, 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:

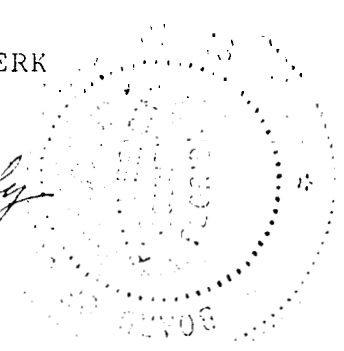
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|--------------------------------|----|-----|
| Ken Adams, Chairman | -- | AYE |
| Karen T. Marcus, Vice Chairman | -- | AYE |
| Kenneth Spillias, Member | -- | AYE |
| Jerry L. Owens, Member | -- | AYE |
| Dorothy Wilken, Member | -- | AYE |

The foregoing resolution was declared duly passed and adopted this 8th day of April, 1986 confirming action of the 3rd January 1986.

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: Barbara G. Goly
Deputy Clerk



APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Barbara G. Goly
County Attorney