

RESOLUTION NO. R-90-348

RESOLUTION APPROVING ZONING PETITION NO. 87-11(A)
MODIFICATION OF COMMISSION REQUIREMENTS
AND SPECIAL EXCEPTION PETITION OF
X.E.I. PALM BEACH CENTRE, LTD.,
BROWARD TRADE CENTRE SOUTH, INC. AND
KNIGHT ENTERPRISES, INC.

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 have been satisfied; and

WHEREAS, Petition No. 87-11(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on October 4, 1989; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, 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, this approval is subject to Zoning Code Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive and local land development regulations.

WHEREAS, 402.5 of the Zoning Code requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that Petition No. 87-11(A), the petition of K.E.I. PALM BEACH CENTRE, LTD., BROWARD TRADE CENTRE SOUTH, INC. AND KNIGHT ENTERPRISES, INC., by Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A PLANNED COMMERCIAL DEVELOPMENT TO DECREASE THE LAND AREA WITH A CONCURRENT MODIFICATION OF COMMISSION REQUIREMENTS, on a parcel of land lying in Section 5, Township 44 South, Range 43 East, beginning at the Northwest corner of Lot 67 of "Morrison Homes", Plat Book 23, Page 189 and 190; thence South 87 Degrees 33' 00" East along the North line of Lots 67 and 69-76, a distance of 1155.04 feet to the northwest corner of Lot 77 of said "Morrison Homes" thence South 03 Degrees 26' 12" west along the west line of Lot 77 and 78 of said "Morrison Homes" and the Southerly projection thereof, a distance of 246.03 feet to a point of intersection with the north line of Lot 80 of said "Morrison Homes", thence South 87 Degrees 33' 00" East along said North line, a distance of 50.66 feet to the Northeast corner thereof; thence South 02 Degrees 27' 00" West, along the East line of said Lot 80, a distance of

179.30 feet to the Southeast corner thereof; thence North 87 Degrees 33' 00" West along the South line of said Lot 80, a distance of 55.00 feet; North 02 Degrees 27' 00" East, a distance of 50.00 feet; thence North 87 Degrees 33' 00" West, a distance of 45.00 feet to a point of intersection with the West line of said Lot 80; thence South 02 Degrees 27' 00" West along said West line, a distance of 50.00 feet to the Southwest corner thereof; thence North 87 Degrees 33' 00" West, along the South line of said "Morrison Homes", distance of 700.00 feet to the Southeast corner of Lot 88 of said "Morrison Homes"; thence North 02 Degrees 27' 00" East along the East line of said Lot 88, a distance of 212.30 feet to a point of intersection with the centerline of "Gun Club Road", as shown on said "Morrison Homes", thence North 87 Degrees 33' 00" West along said centerline, distance of 161.39 feet; thence South 02 Degrees 27' 00" West along a line 38.61 feet East of and parallel with the West line of Lot 89 of said "Morrison Homes", a distance of 212.30 feet; thence North 87 Degrees 33' 00" West, along the South line of said "Morrison Homes", a distance of 244.65 feet to the Southwest corner thereof; thence North 03 Degrees 04' 00" East along the West line of said "Morrison Homes", a distance of 425.32 feet to the Point of Beginning; and, being located on the northeast corner of the intersection of Congress Avenue and Ranch House Road, in the CG-General Commercial Zoning District, was approved on October 4, 1989 as advertised, subject to the following conditions:

1. The petitioner shall comply with all previous conditions of approval unless expressly modified herein.
2. Prior to site plan review committee submittal, the petitioner shall:
 - a. Amend the site plan to indicate phasing of the project as indicated on Exhibit 23 of Petition No. 87-11 as required by the condition herein; and
 - b. Submit to the Zoning Division a tree survey indicating location of existing native vegetation.
3. The petitioner shall preserve and or relocate sabal palms and oaks to the required perimeter landscape strips adjacent to existing residential areas along the north and the west half of the south property line. The petitioner shall arrange a preclearing inspection with the Zoning Division to verify conditions of approval.
4. The petitioner shall provide Alternative Perimeter Landscape No. 3 along the north property line. The landscape strip shall include ten (10) foot high native canopy trees, a hedge/berm combination, supplemented with preserved and/or relocated existing native vegetation.
5. Landscape strips abutting existing and proposed rights-of-way shall be supplemented with a continuous thirty-six inch high hedge, at time of planting.
6. Condition No. 1 of Zoning Petition No. 87-11 which currently states:

- "1. Prior to site plan certification, the site plan shall be amended to include the following:
 - a. One (1) of three (3) alternative perimeter landscape strips adjacent to existing residential lots.
 - b. A terminal island adjacent to the temporary access off of Congress Avenue.
 - c. The required three in each terminal island.
 - d. No signs encroaching either the required five (5) foot setback of landscape strip.
 - e. A statement to the effect that future construction shall meet the noise attenuation requests of Condition No. 15 placed upon this Zoning Petition.
 - f. A twenty (20) foot wide easement to provide access to Palm Beach County's existing forty-two (42) inch sewer line running through the property, subject to approval by the Palm Beach County Utility Department.
 - g. Proposed interior landscaping in the site data table.
 - h. Building "E" located a minimum of 100 feet from the easternmost property line.
 - i. Additional landscaping along the easternmost property line."

Is hereby deleted.

7. Condition No. 23 of Zoning Petition No. 87-11 which currently states:

"23. Petitioner shall amend the site plan to show the twenty-five (25) foot access point, location subject to approval by the County Engineer and one (1) eighty (80) foot wide access point on Gun Club Road Extension approximately in the middle of what is indicated as Phase 2 of the project."

Is hereby amended to read as follows:

"Prior to site plan approval, the petitioner shall amend the site plan to show a perpetual forty (40) foot wide road access and utility easement from Gun Club Road extension to the adjacent property to the north owned by C.H.S. Properties (hereinafter the "northerly property owner"). This easement shall be located and designed to meet the requirements and approval of the County Engineer. Utilities to serve future development of the properties to the north may be constructed by the northerly property owner or its successor in interest in the easement provided that such utilities are constructed at or prior to the time petitioner completes its onsite utility system to serve this petition. Petitioner shall make this easement available for purchase by the northerly property owner at fair market value, to be determined

as the average of three independent appraisals of its value, done by professional M.A.I. or S.R.A. appraisers. One appraiser each shall be promptly chosen by the petitioner, by the northerly property owner, and by Palm Beach County Engineering Department. All three appraisals shall be completed on or before January 15, 1990, and the cost thereof shall be paid equally by petitioner and the northerly property owner. The northerly property owner shall have the right to purchase such easement from petitioner commencing upon January 16, 1990 and ending on October 1, 1990. The expense of maintaining such easement shall be the sole responsibility of petitioner, except for the C.H.S. utilities which is the property owner to the north. Such easement shall be maintained in a manner satisfactory to the County Engineering Department."

8. Condition No. 28 of Zoning Petition No. 87-11 which currently states:

"28. The easternmost building designated as "E" on the proposed plan shall be located no closer than 100 feet from the easternmost property line."

Is hereby deleted

9. Condition No. 29 of Zoning Petition No. 87-11 which currently states:

"29. Petitioner shall install a twenty five (25) foot wide special landscape strip along the easternmost property line supplemented with a berm, wall, fence, hedge, or any combination of them, to a height of six (6) feet. Native canopy trees ten (10) to twelve (12) feet in height shall be planted with the special landscape strip along the easternmost property line. These trees shall be twenty five (25) feet on center."

Is hereby deleted.

10. Condition No. 32 of Zoning Petition No. 87-11 which currently states:

"32. Prior to site plan certification the Petitioner shall record a Unity of Title agreement covering this entire site."

Is hereby deleted.

11. Condition No. 10 of Zoning Petition 87-11 which currently states:

"10. 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 \$98,640.00 (3,682 trips X \$26.79 per trip).

Based on the Traffic Performance Standards (Category "A"), the developer shall contribute

an additional \$49,320.00 toward Palm Beach County's existing Roadway Improvement Program, these total funds of \$147,960.00 to be paid prior to the issuance of the first building permit or prior to July 1, 1987 whichever shall first occur.

If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$49,320.00 shall be credited toward the increased Fair Share Fee."

is hereby amended to read as follows:

"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.

Based on the Traffic Performance Standards (Category "A"), the developer shall contribute additional funding toward Palm Beach County's existing Roadway Improvement Program, total funds of \$125,000 to be paid prior to the issuance of the first building permit or prior to April 1, 1990 whichever shall first occur.

If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, additional funding in excess of the Fair Share Fee shall be credited toward the increased Fair Share Fee."

12. Condition No. 14 of Zoning Petition 87-11 which currently states:

"14. No site plan shall be certified until a public hearing has been held, and a decision rendered by the Board of County Commissioners, regarding the alignment and or closure of roadways in the area. In the event that said public hearing is not held within nine (9) months of the date of the resolution approving this project, the petitioner shall be entitled to site plan certification in accordance with the existing rights-of-way. Petitioner shall be responsible for paying any and all costs associated with acquiring or condemning property necessary to accommodate the alignment of East Grace and the Gun Club Road Extension, or other roadways. Petitioner shall not be vested on the site plan shown in any manner whatsoever until said public hearing is held."

is hereby deleted.

13. Condition No. 31 of Zoning Petition 87-11 which currently states:

"31. If closure of Gun Club Road is required, sufficient right-of-way (in accordance with County standards) shall be dedicated to accommodate the closure or cul-de-sac. This petitioner shall bear all costs associated with

this closure including, but not limited to, right-of-way tapers, design changes, or utility relocations."

is hereby deleted.

14. Condition No. 26 of Zoning Petition No. 87-11 which currently states:

"26. In the event that appropriate right-of-way for access for commercial or industrial use of the property presently owned by Mr. L. Ray Bevins to the north of this project is either not (a) provided for in any development plans for property located to the west of Mr. Bevins, or (b) arranged by Mr. Bevins, or (c) arranged by any successor in title to his property, the petitioner shall provide such access at a place to be determined by petitioner at its sole discretion. If this access point is to be provided, it shall first be approved by the County Engineer and the Executive Director of Planning, Zoning, and Building, or any other governmental agency of like powers and authority as may be created in the future. The access provided shall meet all the current code requirements for the point of access, width, frontage, and any other land development regulations necessary to certify the Bevins property for governmental action to permit rezoning or a special exception for a commercial or industrial use. Nothing herein shall be construed as committing the Board of County Commissioners to approving any commercial or industrial rezoning or special exception on this site in the future."

Is hereby deleted.

15. Condition No. 9 of Zoning Petition No. 87-11 which currently states:

"9. The property owner shall provide to Palm Beach County a road drainage easement within the project's internal lake system which is adjacent to the property capable of accommodating all runoff from those segments of Gun Club Road and Australian Avenue along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along Gun Club Road and Australian Avenue. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge requirements of the applicable County Control District and South Florida Water Management District. The design of the system shall assume the ultimate Thoroughfare Plan Section road drainage runoff."

Is hereby amended to read as follows:

"The property owner shall provide to Palm Beach County a road drainage easement within the project's internal lake system which is adjacent to the property capable of accommodating all runoff from those segments of Gun Club Road and

Australian Avenue as determined by the County Engineer, along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along Gun Club Road and Australian Avenue as determined by the County Engineer. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge requirements of the applicable County Control District and South Florida Water Management District. The design of the system shall assume the ultimate Thoroughfare Plan Section road drainage runoff."

16. East Grace Drive shall be dedicated to the public concurrent with the abandonment of the existing public rights-of-way.

17. Condition No.13 of Zoning Petition No.87-11 which currently states:

"13. This property owner shall be required to construct at Congress Avenue and the new aligned Gun Club Road:

- a. left turn lane, north approach
- b. left turn lane, south approach
- c. left turn lane, east approach
- d. left turn lane, west approach
- e. right turn lane, east approach
- f. right turn lane, north approach
- g. right turn lane, west approach

These costs for b, d, f, and g shall be on a pro-rata basis approved by the County based upon the development's traffic and the cost shall be borne solely by the petitioner and not on a pro-rata basis."

Is hereby amended to read as follows:

"This property owner shall be required to construct at Congress Avenue and the new aligned Gun Club Road:

- a. left turn lane, north approach
- b. left turn lane, south approach
- c. left turn lane, east approach
- d. left turn lane, west approach
- e. right turn lane, east approach
- f. right turn lane, north approach
- g. right turn lane, west approach.

These costs for b, d, f, and g shall be on a pro-rata basis based upon the combined traffic of the petitioner and Petition No.89-96 approved by the County based upon the development's traffic and the rest shall be borne solely by the petitioner and not on a pro-rata basis."

18. Condition No.17 of Zoning Petition No. 87-11 which currently states:

"17. Prior to site plan certification, petitioner shall provide an aviation easement covering the entire property which is satisfactory to the Department of Airports and the County Attorney."

Is hereby amended to read as follows:

"Prior to site plan certification, petitioner shall provide a navigation easement covering the entire property which is satisfactory to the Department of Airports and the County Attorney."

19. Condition No.18 of Zoning Petition No.87-11 which currently states:

"18. East Grace right-of-way shall be dedicated to the public concurrent with the abandonment of the existing public rights-of-way. There will be one access located east of Congress and west of East Grace, the location of which is subject to the approval of the County Engineer. There will be an 80' collector roadway running from the southern boundary of the property north known as East Grace Road or Drive. Finally, there will be an 80' wide north south access running north south east of East Grace."

Is hereby deleted.

Commissioner Marcus moved for approval of the Resolution.

The motion was seconded by Commissioner Roberts and, upon being put to a vote, the vote was as follows:

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|--------------------------|----|-----|
| Carol J. Elmquist, Chair | -- | Aye |
| Karen T. Marcus | -- | Aye |
| Carol Roberts | -- | Aye |
| Ron Howard | -- | Aye |
| Carole Phillips | -- | &e |

The Chair thereupon declared the resolution was duly passed and adopted this 27th day of February, 1990

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: [Signature]
COUNTY ATTORNEY

BY: [Signature]
DEPUTY CLERK

