

RESOLUTION NO. R-89-1384

RESOLUTION APPROVING ZONING PETITION NO. 87-11  
SPECIAL EXCEPTION PETITION OF K.E.I. PALM BEACH CENTER, LTD.

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. 87-11 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on September 30, 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, 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 made the following findings of fact:

1. This proposal is 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, that Petition No. 87-11, the petition of K.E.I. PALM BEACH CENTER, LTD., for a SPECIAL EXCEPTION TO ALLOW A PLANNED COMMERCIAL DEVELOPMENT on a parcel of land lying in Section 5, Township 44 South, Range 43 East, being more particularly described as follows: Beginning at the Northwest corner of Lot 67 of the Plat "Morrison Homes", as recorded in Plat Book 23, Page 189, 190; thence South 87 degrees 33' 00" East along the North line of Lots 67, 69-76 inclusive, a distance of 1155.04 feet to the Southwest corner of Lot 28A of said "Morrison Homes"; thence North 03 degrees 26' 12" East along the West line of said Lot 28A, a distance of 100.01 feet to the Northwest corner thereof; thence South 87 degrees 33' 00" East along the North line of said Lot 28A, a distance of 153.75 feet to the Northeast corner thereof; thence North 03 degrees 26' 12" East along the East line of said "Morrison Homes" a distance of 320.06 feet; thence South 87 degrees 33' 00" East a distance of 676.11 feet to a point of intersection with the West line of the East 1/2 of Government Lot 3, Section 5, Township 44 South, Range 43 East; thence South 03 degrees 37' 18" West along said West line, a distance of 600.13 feet to a point of intersection with the North line of the Right-Of-Way as described in Deed Book 931, Pages 19 and 21; thence North 87 degrees 33' 00" West along said North line of a distance of 337.35 feet to a point of intersection with the Northerly projection of the East line of Lot 14 of the Plat "Morrison Suburban Development", as recorded in Plat Book 20, Page 40; thence South 03 degrees 26' 12" West along said projection line and the East line of said Lot 14, a distance of 223.88 feet to the Southeast corner of the North 1/2 of said Lot 14; thence North 87 degrees 33' 00" West along the

South line of said North 1/2 of Lot 14, a distance of 316.81 feet to a point of intersection with the centerline of "Farmdale Road" as shown on said "Morrison Suburban Development; thence North 03 degrees 26' 12" East along said centerline, a distance of 190.88 feet to a point of intersection with the South line of said Government Lot 3; thence North 87 degrees 33' 00" West along said South line and the centerline of "Gun Club Road" as shown on said "Morrison Homes" Plat, a distance of 123.66 feet to a point of intersection with the northerly projection of the East line of Lot 80 of said "Morrison Homes"; thence South 02 degrees 27' 00" West, along said projection line and the East line of said Lot 80, a distance of 212.30 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; thence 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", a 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, a 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, located on the northeast corner of the intersection of Congress Avenue (SR 807) and Ranch House Road, in a CG-General Commercial Zoning District, was approved as advertised, subject to the following conditions:

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 tree in each terminal island.
  - d. No signs encroaching either the required five (5) foot setback or 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.
- 2. A Unity of Title shall be executed covering the entire site. Two (2) copies of properly executed Unity of Title documents shall be submitted to the Zoning Division simultaneously with the Site Plan Review Committee submittal.
- 3. Outdoor lighting used to illuminate the premises shall be low intensity and directed away from adjacent properties and streets, shining only on the subject site.
- 4. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pre-treatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works, are constructed and used by project tenants or owners generating such effluents.
- 5. No Certificate of Occupancy shall be issued for the subject property until such a time that the site is connected to a public sewer system.
- 6. Since sewer and water service are available to the property, neither septic tank nor potable water well shall be approved for use on property.
- 7. The developer shall retain the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite three (3) inches of the stormwater runoff generated by a three (3) year-(1) one hour storm per requirements of the Permit Section, Land Development Division. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system **is** not adequately maintained as determined by the County Engineer this matter will be reviewed by the Code Enforcement Board for enforcement.
- 8. The property owner shall convey for the ultimate right-of-way of:
  - a. Gun Club Road extension, a maximum of **80** feet as approved by the County Engineer, depending upon a decision regarding roadways as outlined in Condition **No. 14**.
  - b. East Grace Drive, **40** feet from centerline.
  - c. Additional right-of-way required for the Australian Avenue extension on an alignment approved by the County Engineer.
- 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.

- 1.0. 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.

- 1.1. The property owner shall contribute **50%** of the cost of signalization if warranted as determined by the County Engineer at Gun Club Road Extension and Congress Avenue. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.
12. The property owner shall construct concurrent with the construction for Phase 1:

- a. Gun Club Road Extension from Congress Avenue east to the project's East property line as a 2-lane section minimum **2-12** foot travel lanes including drainage on an alignment approved by the County Engineer.
- b. East Grace realignment (minimum **2-10** foot travel lanes).

NOTE: This property owner shall bear all costs associated with any right-of-way required for this construction for either Gun Club Road or for East Grace realignment. This property owner shall enter into a written agreement with Land Acquisition Section for this right-of-way prior to special exception approval or prior to the issuance of the Site Plan whichever shall first occur.

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.

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 immediate area, including East Grace and the proposed Gun Club Road Extension. 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.
15. No building permits shall be approved for this site unless in each case petitioner substantiates that each building is designed to achieve an outdoor to indoor Noise Reduction Level of twenty-five (25) decibels through incorporation of Noise Attenuation techniques into their design and construction. At a minimum, substantiation shall consist of a written certification to this effect bearing the seal of an architect licensed to practice in the State of Florida.
16. No building, structure, vegetation or other object or improvement shall be permitted to project more than fifty (50) feet above the average grade of the site. Should any improvement or vegetation intrude beyond this fifty (50) foot height limitation, employees of the Palm Beach County Airport Department shall have the right to enter upon the property to remove the obstruction or to take such other action as necessary to cause the obstruction to be removed. If County employees enter upon the property, Palm Beach County shall be held harmless from any liability which may occur as a result of legitimate action.
17. 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.
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.
19. Petitioner shall abandon all public Rights-of-way within the subject site prior to site plan approval.
20. Prior to site plan certification, petitioner shall submit evidence of conceptual approval of the project's surface water management system by South Florida Water Management District and the County Engineer.

21. All mechanical and air conditioning equipment shall be roof mounted and screened with parapets or be contained within the enclosed loading and service area.
22. NO stock loading or dumpster pickup will be permitted between the hours of 8:00 P.M. and 8:00 A.M.
23. Petitioner shall amend the site plan to show one twenty-five (25) foot access point on proposed Gun Club Road, said access point being west of East Grace Drive.
24. Prior to site plan certification, petitioner shall present evidence of cross parking and cross access easements for the existing Day Care Center subject to approval by the County Attorney, for any loss of parking spaces or any relocation or loss of entrances as determined by the County Engineer.
25. Prior to site plan certification, petitioner shall amend plan to indicate vehicular access to the adjacent Day Care Center satisfactory to the County Engineer. Access to the Day Care Center shall be entirely internal to the project.
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.
27. No off-premise signs shall be permitted on the site.
28. The easternmost building designated as "E" on the proposed plan shall be located no closer than 100 feet from the easternmost property line.
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.
30. No more than one (1) restaurant shall be permitted on site, and it shall be located in Building "A". The proposed bank shall not be located in Building "B" and "C". Occupancy of Buildings "B" and "C" shall be

limited to general business offices. No medical offices shall be permitted in Buildings "B" and "C".

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; construction, right-of-way acquisition, tapers, design changes, ~~or~~ utility relocations.
32. Prior to site plan certification the Petitioner shall record a Unity of Title agreement covering this entire site.
33. Prior to site plan certification, petitioner shall present evidence in the form of access easements permitting adjacent property owners to the north of phases 1 and 2 of the project access through the project to Gun Club Road extension.

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
Carol J. Elmquist	--	Aye
Karen T. Marcus	--	Aye
Dorothy Wilken	--	Nay
Kenneth M. Adams	--	Aye

The foregoing resolution was declared duly passed and adopted this 25th day of July, 1989 confirming action of September 30, 1987.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

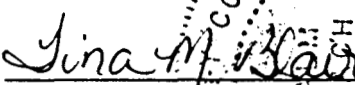
BY:

  
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:

  
DEPUTY CLERK

