

RESOLUTION NO. R-90- 1427

RESOLUTION APPROVING ZONING PETITION NO. 77-13(I)
MODIFICATION OF COMMISSION REQUIREMENTS
PETITION OF BOCA GREENS ASSOCIATES (PUD)

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. 77-13(H) was presented to the Board Of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on April 30, 1990; 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. 77-13(I), the petition of BOCA GREENS ASSOCIATES, BY CURTIS L. SHENKMAN, AGENT, for a MODIFICATION OF COMMISSION REQUIREMENTS FOR BOCA GREENS PUD on a parcel of land lying in Section 11, Township 47 South, Range 41 East, "Florida Fruitlands Company Subdivision No. 2", Plat Book 1, Page 102 being a portion of Tracts 1 through 6 inclusive, lying within the North 3/4 of the East 1/2 of the Northeast 1/4 of said Section 11, excepting a portion of said Tract 1, lying within 80.00 feet of the North line of said Section 11, and excepting a portion of said Tracts lying within the West 100.00 feet of the East 170.00 feet of said Section 11; a portion of Tract 8, lying within the South 1/2 of the South 1/2 of the Southeast 1/4 of the Northeast 1/4 of said Section 11, excepting a portion lying within the West 100.00 feet of the East 170.00 feet of said Section 11; all portions of Tract 49 through 52, lying in the Northeast 1/4 of the Southeast 1/4 of said Section 11, excepting from aforesaid Tract 50, a portion commencing at the Southeast corner of Section 12, Township 47 South, Range 41 East; thence Northerly along the East line of said Section 12, a distance of 1967.00 feet, more or less, to the Point of Beginning, of a strip of land 80.00 feet in width lying 40.00 feet of either side of the following described centerline said Point of Beginning being the intersection of the centerline of a roadway intersecting from a Westerly direction; thence Westerly making an angle of 90 Degrees 57', as measured from South to West from the preceding course, a distance of 1.25 miles, more or less, to an intersection with the quarter, quarter

line of the Southeast 1/4 of Section 11, Township 47 South, Range 41 East, and the terminus of said centerline, and excepting from said Tracts, a portion lying in the West 100.00 feet of the East 170.00 of said Section 11, excepting a portion lying in the West 100.00 feet of the East 170.00 feet of said Section 11; a portion of Tracts 57 through 60, lying in the Southwest 1/4 of the Southeast 1/4 of Section 11; a portion of Tracts 61 and 62, lying in the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of said Section 11, excepting from said Tract 62, a portion lying within 80.00 feet of the North line of said South 1/2 of the Northwest 1/2 of the Southeast 1/4; a portion of Tracts 11 and 12, lying in the North 1/2 of the Southwest 1/4 of the Northeast 1/4 of said Section 11; a portion of Tracts 14 through 16, lying in the North 3/4 of the Northwest 1/4 of the Northeast 1/4 of said Section 11, excepting from said Tract 16, a portion lying within 80.00 feet of the North line of said North 3/4 of the Northwest 1/4 of the Northeast 1/4; all that portion of Section 12, Township 47 South, Range 41 East, lying Westerly of the westerly right-of-way line of State Road No. 7, (U.S. Highway No. 441) as now located and constructed, excepting the North 80.00 feet thereof, and excepting therefrom a parcel commencing at the Southeast corner of said Section 12, a distance of 1967.00 feet, more or less, to the Point of Beginning, of a strip of land 80.00 feet in width lying 40.00 feet on either side of the following described centerline; thence Westerly making an angle of 90 Degrees 57', as measured from South to West with the preceding course, a distance of 1.25 miles, more or less, to the intersection with the quarter, quarter line of the Southeast 1/4 of Section 11, Township 47 South, Range 41 East, and the terminus of said centerline. Together With the North 1/2 of the Northeast 1/4 of Section 14, Township 47 South, Range 41 East, less the West 100.00 feet of the East 170.00 feet thereof, and less the East 15.00 feet of said Section 14. TOGETHER WITH all of Tracts 1 through 4, lying Westerly of the Westerly Right-of-way line of State Road No. 7, and Tract 13 through 20, 29, 30 and 31, lying in said Florida Fruit Lands Company Subdivision No. 2 and being located APPROXIMATELY .4 MILE NORTH OF STATE ROAD 808, APPROXIMATELY .1 MILE EAST OF PROPOSED UNIVERSITY PARKWAY. EXT., BOUND ON THE EAST BY U.S. 441 AND ON THE NORTH BY 190TH STREET SOUTH, IN THE RE-RESIDENTIAL ESTATE ZONING DISTRICT, was approved on April 30, 1990, as advertised, subject to the following conditions:

1. The petitioner shall comply with all previous conditions unless expressly modified herein.
2. Condition No. 8 of Petition 77-13 (B) (Resolution No. 85-703) which states:

"8. The shopping center shall be limited to one hundred twenty thousand (120,000) square feet and provide one hundred (100) foot setback from the ultimate right-of-way line of State Road No. 7."

Is hereby modified to state:

"The shopping center shall be limited to one hundred thirty seven thousand one hundred twenty-two (137,122) square feet and provide a one hundred (100) foot setback from the ultimate right-of-way line of State Road No. 7."

3. Landscaping along the northern and western property lines (adjacent to the outparcels) of the commercial center shall be upgraded to include:
 - a. Twelve (12) foot tall native canopy trees twenty (20) feet on center and a thirty-six (36) inch ficus hedge placed on the exterior of the required wall.

- b. A six foot masonry wall.
 - c. A 10 foot wide landscape strip.
 - d. Fifty percent (50%) of the existing landscape terminal islands and landscape medians shall be upgraded to meet current Landscape Code requirements within nine (9) months of Board of County Commissioners approval (January 30, 1991).
4. Waste paper and other debris shall not be permitted to accumulate on site.
 5. Building height shall be limited to a maximum of 25 feet.
 6. Lighting on the northwestern outparcels of the shopping center shall be low intensity, directed away from surrounding residential properties with reflective shields and a maximum of twelve (12) feet in height. Existing mast lighting shall be shielded to direct lighting away from residential properties to the west.
 7. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment 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.
 8. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
 9. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
 10. The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products, as programs are available.
 11. Condition Number 13 of Zoning Petition 77-13(B), Resolution Number R-85-703, which presently states:

"13. The Kimberly Boulevard access to the commercial tract shall be restricted to pedestrian and bicycle traffic. The petitioner shall construct a sidewalk and bicycle path from Cain Boulevard to this pedestrian/bicycle access point."

Is hereby modified to include:

The petitioner shall complete construction of the pedestrian/bicycle path from the paved portions of the shopping center to Kimberly Boulevard by January 30, 1991 or prior to any further Certificates of Occupancy for any outparcels.
 12. Condition Number 9 of Zoning Petition 77-13(B) Resolution Number R-85-703 presently states:

"9. A fifty (50) foot landscaped buffer zone, shall be provided within the one hundred (100) foot setback. Furthermore, vehicular access to the commercial tract shall be limited to the New England Boulevard access and one additional access to U.S. 441 (State Road 7). The additional access to U.S. 441 shall be subject to

- a. a left turn lane south approach,
- b. a right turn lane north approach,
- c. signalization, when warranted by the County Engineer."

Is hereby modified to read:

"A fifty (50) foot landscaped buffer zone, shall be provided within the one hundred (100) foot setback. Vehicular access to the commercial tract shall be limited to three access points onto State Road 7 as follows, at the property owners expense;"

- a. New England Boulevard access point
- b. Central median opening access point with the construction of the following:
 - 1) a left turn lane, south approach,
 - 2) a right turn lane, north approach,
 - 3) a left turn lane, and a right turn lane, west approach; and
 - 4) signalization, when warranted by the County Engineer.
- c. Southern access point with the construction of the following:
 - 1) a right turn lane, north approach.

This construction shall be included in Palm Beach County's Road Program for State Road 7 adjacent to this site. Funding shall be made available when requested by Palm Beach County. This petitioner may construct any of the above turn lanes in accordance with permits from the Florida Department of Transportation. Should these turn lanes be constructed, it shall not be funded by Palm Beach County and not exempt this property owner from funding required above.

- 13. The property owner shall replat the subject property to reflect all associated outparcels prior to March 1, 1991.
- 14. 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 additional square footage presently is \$24,090.00 (438 trips X \$55.00 per trip).
- 15. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Control on the subject property subject to approval by the County Attorney.
- 16. If the State permits landscaping within the median, the petitioner shall obtain appropriate permits for all landscaping and irrigation within the 441 median in front of the site. Landscaping shall consist of one (1) 10 foot (10') tall native canopy tree for each thirty (30) linear feet and appropriate ground cover.

All planting shall comply with Xeriscape Principles. All landscaping and irrigation shall be the maintenance obligation of the property owners.

17. As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:
- a. The denial or revocation of a building permit; the issuance of a stop work order; the denial of a certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
 - c. A requirement of the development to conform with updated standards of development, applicable at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Marcus moved for approval of the Resolution.

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

Carol J. Elmquist, Chair	--	AYE
Karen T. Marcus	--	AYE
Carol Roberts	--	AYE
Ron Howard	--	AYE
Carole Phillips	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 28th day of August, 1990.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS
JOHN B. DUNKLE, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK