

RESOLUTION NO. R-89-1038

RESOLUTION APPROVING ZONING PETITION NO. 80-173(A)
SPECIAL EXCEPTION PETITION OF TOMAS DATORRE

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. 80-173(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on September 23, 1988; 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. 80-173(A) the petition of TOMAS DATORRE, by Paul Parker, Agent, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET OF TOTAL FLOOR ~~AREA~~ PREVIOUSLY APPROVED UNDER ZONING PETITION NO. 80-173 TO : 1] REDESIGN THE SITE AND TO INCLUDE; 2] AN AUTO SERVICE STATION (NO MAJOR REPAIRS); AND 3] A CAR WASH (SELF SERVICE OR AUTOMATIC) on a parcel of land lying on a parcel of land lying in the Southwest 1/4 of Section 1, Township 45 South, Range 42 East, said parcel being more particularly described as follows:

Commencing at the South 1/4 corner of said Section 1; thence North 00 degrees 11' 39" West along the East line of said Southwest 1/4 of Section 1, a distance of 104.06 feet; thence North 89 degrees 22' 47" West, a distance of 73.34 feet to the Point of Beginning of the parcel to be herein described; thence North 89 degrees 22' 47" West, a distance of 200.02 feet; thence North 89 degrees 22' 47" West, a distance of 200.02 feet; thence North 00 degrees 13' 47" West, a distance of 1068.81 feet: thence

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South 89 degrees 28' 27" East, a distance of 596.97 feet; thence South 00 degrees 11' 39" East, a distance of 889.95 feet to the Point of Curvature of a Curve Concave to the West: thence Southerly along the arc of said curve having a central angle of 01 degrees 54' 37" and a radius of 11392.19 feet, a distance of 379.83 feet to the Point of Beginning afore described of the South 80.00 feet thereof, being located on the northwest corner of the intersection of Hypoluxo Road and Military Trail (SR 809), in a CG-General Commercial Zoning District, was approved as advertised, subject to the following conditions:

1. The developer shall comply with all previous conditions of approval, unless expressly modified herein.
2. Prior to site plan certification, Parcel "C" shall be redesigned to eliminate conflicts between the required stacking lanes and other vehicular circulation areas on-site by shifting all proposed improvements on parcel "C" to the west.
3. Prior to certification, the site plan shall be amended to indicate the following:
 - a. Required twenty-five (25) foot wide perimeter landscape strip separating all vehicular use areas from both Hypoluxo Road and Military Trail:
 - b. The tabular data for parcel "C" indicating eight (8) required parking spaces:
 - c. The required stacking lanes for all gasoline pump islands and the car wash facility:
 - d. Relocation of all signs out of required landscape areas; and
 - e. Graphic depiction of the loading area.
4. All off-premises signs shall be removed prior to issuance of the first building permit.
5. All sabal palms on-site shall be preserved or relocated to required landscape areas.
6. At a minimum, landscaping shall be installed as indicated on Exhibit No. 16, including the combination of landscaped divider medians and interior landscape islands. Trees may be spaced as provided by Section 500.35 of the Zoning Code.
7. All mechanical and air conditioning equipment shall be mounted and screened with parapets or be contained within the enclosed loading and service area.
8. No stock loading or dumpster pick-up will be permitted between the hours of 8:00 p.m. and 8:00 a.m.

9. No storage or placement of any stock materials, refuse, equipment or accumulated debris shall be permitted in the rear of the shopping center.
10. No parking of any vehicles shall be permitted along the rear of the shopping center except in designated spaces or unloading areas.
11. The western rear facade(s) of the shopping center shall be given architectural treatment consistent with the front of the center.
12. Outdoor lighting used to illuminate the premises shall be shielded, low intensity and directed away from adjacent properties and streets. Lighting standards along the perimeter of the site shall not exceed twenty (20) feet in height.
13. 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.
14. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
15. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
16. The developer shall provide discharge control and treatment for 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 the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. 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 referred to the Code Enforcement Board for enforcement.
17. If required by the County Engineer or the South Florida Water Management District the developer shall design the drainage system such that storm water runoff from the parking areas and paved surfaced area shall be separate from those areas which may contain hazardous or undesirable waste from the proposed site.

18. Prior to October 1, 1988 or prior to Site Plan approval whichever shall first occur, the property owner shall convey to Palm Beach County by road right-of-way warranty deed for:
 - a. Hypoluxo Road, 114 feet north of the existing south right-of-way line of Hypoluxo Road; and
 - b. Military Trail, 80 feet from centerline;all free of all encumbrances and encroachments. Petitioner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer.
19. The property owner shall cause to be constructed concurrent with the four laning of Military Trail:
 - a. Left turn lane, and a right turn lane, south approach on Military Trail at the project's main entrance (adjacent to WalMart);
 - b. Right turn lane, north approach, at the project's main entrance; and
20. 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. The Fair Share Fee for this project presently is \$249,308.00 (9,306 trips X \$26.79 per trip). These funds shall be paid prior to February 1, 1989 or prior to issuance of the first building permit whichever shall first occur.
21. In order to comply with the mandatory traffic performance standards the property owner shall be restricted to the following phasing schedule:
 - a) No building permits, except for the Wal-Mart and the proposed gasoline station and car wash building permit, shall be issued until construction has begun for Military Trail as a minimum 4 lane section adjacent to the site currently scheduled for the Fiscal Year 1988-1989.
22. Condition No. 1 of Zoning Petition No. 80-173 (Resolution No. R-81-57) which presently states:
 - "1. Within ninety (90) days of Special Exception approval, petitioner shall convey to Palm Beach County one hundred fourteen (114) feet from the south section line of Section 1, Township 45 South, Range 42 East for the ultimate right-of-way of Hypoluxo Road."

Is hereby deleted.

23. Condition No. 2 of Zoning Petition No. 80-173 (Resolution No. R-81-57) which presently states:

"2. Within ninety (90) days of Special Exception approval, petitioner shall convey to Palm Beach County sixty-seven (67) feet from the centerline for the ultimate right-of-way of Military Trail."

Is hereby deleted.

24. Condition No. 3 of Zoning Petition No. 80-173 (Resolution No. R-81-57) which presently states:

3. Petitioner shall not be permitted a median opening on Hypoluxo Road when Hypoluxo Road is constructed to a four-lane median divided facility."

Is hereby deleted.

25. Condition No. 4 of Zoning Petition No. 80-173 (Resolution No. R-81-57) which presently states:

"4. Petitioner shall only be permitted one median opening on Military Trail to be located a minimum distance of 660 feet from the centerline of Hypoluxo Road."

Is hereby deleted.

26. Condition No. 5 of Zoning Petition No. 80-173 (Resolution No. R-81-57) which presently states:

"5. Petitioner shall construct at the project's north entrance and Military Trail:

- a. right turn lane, north approach
- b. left turn lane, south approach
- c. one lane entering, two lanes exiting."

Is hereby deleted.

27. Condition No. 6 of Zoning Petition No. 80-173 (Resolution No. R-81-57) which presently states:

"6. Petitioner shall construct at the project's middle entrance and Military Trail one lane entering and two lanes exiting."

Is hereby deleted.

28. Condition No. 7 of Zoning Petition No. 80-173 (Resolution No. R-81-57).which presently states:

"7. Petitioner shall contribute One Hundred Twenty Thousand Six Hundred Sixty-three Dollars (\$120,663.00) toward the cost of meeting this project's direct and identifiable traffic impact to be paid at the time of issuance of the building permit(s). The \$120,663.00 impact fee may be applied toward the cost of construction of improvements as outlined in Conditions No. 8 and 9."

Is hereby deleted.

29. Condition No. 8 of Zoning Petition No. 80-173 (Resolution No. R-81-57) which presently states:

"8. Petitioner shall construct Hypoluxo Road to a four-lane median divided section from approximately 600 feet east of Military Trail to a point approximately 660 feet west of Military Trail."

Is hereby deleted.

30. Condition No. 9 of Zoning Petition No. 80-173 (Resolution No. R-81-57) which presently states:

9. Petitioner shall construct Military Trail to a four-lane median divided section from Hypoluxo Road to the project's north property line."

Is hereby deleted.

31. Failure to comply with the conditions herein may result in 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. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Violations of the condition herein shall constitute violations of the Palm Beach County Zoning Code.

Commissioner Marcus moved for approval of the petition. The motion was seconded by Commissioner Watt and, upon being put to a vote, the vote was as follows:

Carol A. Roberts	--	Absent
Carol J. Elmquist	--	Aye
Karen T. Marcus	--	Aye
Dorothy Wilken	--	Absent
James Watt	--	Aye

The foregoing resolution was declared duly passed and adopted this 6th day of June, 1989 confirming action of September 23, 1988.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: *Barbara Allen*
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: *Sumner J. Hardy*
DEPUTY CLERK

