

RESOLUTION NO. R-90- 1296

RESOLUTION APPROVING ZONING PETITION NO. 77-133(C)  
SPECIAL EXCEPTION PETITION OF WESPAC INVESTORS TRUST II  
BY MICHAEL W. CONNORS, AGENT

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. 77-133(C) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on February 22, 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 Plan 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. 77-133(C), the petition of WESPAC INVESTORS TRUST II, BY MICHAEL W. CONNORS, AGENT, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET TO INCREASE BUILDING SQUARE FOOTAGE AND EXTINGUISH AN AUTO SERVICE FACILITY on a parcel of land commencing at the 1/4 Corner **on** the North line of Section 25, Township 43 South, Range 42 East, run thence Southerly along the Quarter Section line 45.00 feet; thence Easterly along the South right-of-way line of Okeechobee Boulevard and the Westerly extension as shown **on** Road Plat **Book** 2, Pages 130 through 133 and Pages 138 through 141, a distance of 338.91 feet to the beginning of a curve concave to the North having a radius of 5,789.65 feet and a central angle of 02 Degrees 36'13"; thence Easterly along the arc of said curve subtending an angle of **01** Degrees **16'39"**, a distance of 129.09 feet to the POINT OF BEGINNING; thence continue Easterly along the arc of said curve subtending an angle **of** 01 Degrees **19'34"**, a distance **of** 134.00 feet to the end of said curve; thence continue Easterly along said right-of-way line and along the tangent of the just described curve 400.00 feet to the beginning of a curve concave to the North, having a radius

of 5,669.65 feet and a central angle of 02 Degrees 36'13"; thence Easterly along the arc of said curve and along said right-of-way line, subtending an angle of 02 Degrees 30'31", a distance of 247.96 feet; thence Southerly parallel to the East line of the Northwest 1/4 of the Northeast 1/4 of said Section 25, 98.41 feet; thence Easterly forming an angle of 90 Degrees 00'00" with the preceding course 100.00 feet to a point in the East line of the Northwest 1/4 of the Northeast 1/4; thence Southerly along just said line forming angle with the preceding course of 90 Degrees 00'00", a distance of 1,193.53 feet to point in the North right-of-way line of Westgate Avenue; thence Westerly along the North right-of-way line of Westgate Avenue forming an angle of 90 Degrees 39'01" with preceding course, a distance of 1,094.83 feet; thence Northerly forming an angle of 89 Degrees 23'43" with the preceding course, a distance of 175.00 feet; thence Westerly forming an angle of 89 Degrees 23'43" with the preceding course, a distance of 200.00 feet to a point on the Easterly right-of-way line of Military Trail (S.R. 809); thence Northerly along said right-of-way line forming an angle of 89 Degrees 23'43" with the preceding course, a distance of 530.46 feet, thence Northeasterly forming an angle of 135 Degrees 00'00" with the preceding course, a distance of 140.00 feet; thence Southeasterly forming an angle of 90 Degrees 00'00" with the preceding course, a distance of 15.00 feet; thence Northeasterly forming an angle of 90 Degrees 00'00" with the preceding course, 387.67 feet; thence Northwesterly forming an angle of 90 Degrees 00'00" with the preceding course, 15.00 feet; thence Northeasterly forming an angle of 90 Degrees 00'00" with the preceding course 66.50 feet; thence Northerly forming an angle of 132 Degrees 51'44" with the preceding course when measured from Southwest to North, a distance of 139.88 feet, more or less, to the POINT OF BEGINNING. TOGETHER WITH a parcel commencing at the Northeast corner of the Northwest 1/4 of the Northeast 1/4 of said Section 25, run thence Southerly along the East line of said Northwest 1/4 of the Northeast 1/4, a distance of 15.00 feet to the POINT OF BEGINNING; thence Westerly along a line parallel to and 15.00 feet Southerly from (as measured at right angles to) the North line of said Section 25 and along the South line of Okeechobee Road, a distance of 90.33 feet to the beginning of a curve concave to the South having a radius of 5,669.65 feet and a central angle of 02 degrees 36'13"; thence Westerly along the arc of said curve, subtending an angle of 00 Degrees 05'52", a distance of 9.68 feet; thence Southerly parallel to the East line of the Northwest 1/4 of the Northeast 1/4, a distance of 98.41 feet; thence Easterly forming an angle of 90 Degrees with the preceding course, a distance of 100.00 feet to a point in the East line of the Northwest 1/4 of the Northeast 1/4; thence 100.00 feet North along said East line to the POINT OF BEGINNING. TOGETHER WITH a parcel of land in the Northwest 1/4 of the Northeast 1/4 of said Section 25, beginning at the point of intersection of the Easterly right-of-way line of Military Trail and the North right-of-way line of Westgate Avenue, said intersection point being 53.00 feet Easterly from, (as measured at right angles to) the North-South 1/4 Section line and also being 40.00 feet North of the South line of the Northwest 1/4 of the Northeast 1/4, run thence Easterly along said North right-of-way line of Westgate Avenue, a distance of 200.00 feet; thence Northerly forming an angle with preceding course of 90 Degrees 36'17", a distance of 175.00 feet; thence Westerly parallel with the South line of the Northwest 1/4 of the Northeast 1/4, a distance of 200.00 feet to a point in the Easterly right-of-way line of Military Trail; thence Southerly along the East right-of-way line of Military Trail, 175.00 feet to the POINT OF BEGINNING. TOGETHER WITH the Southerly 425.00 feet of the West

1/2 of the Northwest 1/4 of the Southeast 1/4 of the Northeast 1/4 of said Section 25, less the West 20.00 feet thereof for Westgate Avenue Outfall, Road Plat Book 4, Page 52. **TOGETHER WITH** the Westerly 20.00 feet of the West 1/2 of the Northwest 1/4 of the Southeast 1/4 of the Northeast 1/4 of said Section 25, less the North 40.00 feet thereof for Westgate Avenue, Road Plat Book 2, Page 205, less the West 20.00 feet thereof for said Westgate Avenue Outfall, less the South 425.00 feet thereof. **TOGETHER WITH** a parcel commencing at the point of intersection of the southerly right-of-way line of Okeechobee Road, Road Plat Book 2, Pages 130 through 133 and Pages 138 through 141, with the Easterly right-of-way line of Military Trail, (S.R. 809), Road Plat Book 2, Page 233, (for the purpose of this description, the North line of said Section 25, is assumed to bear East and West and all other bearings mentioned herein are relative thereto); thence East along said Southerly line of Okeechobee Road, a distance of 175.00 feet to the POINT OF BEGINNING of the herein described parcel; thence continuing East along the said Southerly line of Okeechobee Road, a distance of 110.91 feet to the beginning of a curve concave to the North having a radius of 5,789.65 feet and a central angle of 02 Degrees 36'13"; thence Easterly along the arc of said curve and through a central angle of 01 Degrees 16'39", a distance of 129.09 feet; thence South 01 Degrees 16'39" East, a distance of 139.88 feet; thence South 45 Degrees 51'37" West, a distance of 66.50 feet; thence South 44 Degrees 08'23" East, a distance of 15.00 feet; thence South 45 Degrees 51'37" West, a distance of 387.67 feet; thence North 44 Degrees 08'23" West, a distance of 15.00 feet; thence South 45 Degrees 51'37" West, a distance of 140.00 feet to a point in the said Easterly right-of-way line of Military Trail; thence North 00 Degrees 51'37" East along said Easterly right-of-way line of Military Trail a distance of 377.25 feet; thence East a distance of 175.00 feet (to a point being hereafter described as the point aforescribed); thence North 00 Degrees 51'37" East, a distance of 175.00 feet to the POINT OF BEGINNING. **AND LESS** a parcel commencing at the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of said Section 25, thence South 01 Degrees 53'54" West, along the West line of the Northwest 1/4 of the Northeast 1/4 of said Section 25, a distance of 220.03 feet to a point on a line lying 220.00 feet South of, when measured at right angles, and parallel with the North line of the Northwest 1/4 of the Northeast 1/4 of said Section 25, thence South 88 Degrees 57'24" East, along the said parallel line, a distance of 53.01 feet to a point on a line lying 53.00 feet East of, when measured at right angles, and parallel with the West line of the Northwest 1/4 of the Northeast 1/4 of said Section 25 and the POINT OF BEGINNING of the parcel to be herein described; thence South 01 Degrees 53'54" West, along the said parallel line, a distance 360.00 feet to a point; thence North 04 Degrees 25'06" East, a distance of 250.24 feet to a point on a line lying 64.00 feet East of, when measured at right angles, and parallel with the West line of the Northwest 1/4 of the Northeast 1/4 of said Section 25; thence North 01 Degrees 53'54" East, along the said parallel line, a distance of 110.05 feet to a point on a line lying 220.00 feet South of, when measured at right angles, and parallel with the North line of the Northwest 1/4 of the Northeast 1/4 of said Section 25; also being the POINT OF BEGINNING. **TOGETHER WITH** the West 1/2 of the Northwest 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 25; less the North 40.00 feet thereof for said Westgate Avenue, less the West 40.00 feet, and less the South 425.00 feet thereof. **TOGETHER WITH** the West 3/4 of the North 1/4 of the Southwest 1/4 of the Northeast 1/4 of said Section 25; less the West 533.00 feet thereof; and less the North 40.00 feet thereof for Westgate

Avenue right-of-way and being located at the southeast corner of Okeechobee Boulevard and Military Trail, bounded on the south by Westgate Avenue in a CG-General Commercial Zoning District, was approved on February 22, 1990 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, the petitioner shall amend the site plan to indicate:
  - A. A five (5) foot landscape buffer shall be installed along Okeechobee Boulevard to be supplemented with solid thirty-six (36) inch hedge material and native canopy trees twelve (12) feet in height at time of planting and to be planted thirty (30) feet on center.
  - B. The landscape strip separating the proposed restaurant parking from the existing access way off Okeechobee Boulevard shall be upgraded to include a solid twenty-four (24) inch hedge and native trees to be planted thirty (30) feet on center.
3. The petitioner shall install adequate signage in the parking lot to direct vehicular traffic. There shall be signage to identify designated parking areas for particular uses on site.
4. Vehicular parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles shall be allowed in landscaped areas, right-of-way, or interior drives.
5. No storage or placement of any stock materials, refuse, equipment or accumulated debris shall be permitted in the parking lots or access ways of the shopping center.
6. When the right-of-way for Okeechobee Boulevard and Military Trail is constructed, the petitioner shall satisfy the minimum landscape requirements on the portion of the site affected by the right-of-way taking, to the maximum amount possible. This may require parking stalls along Okeechobee Boulevard and Military Trail to be redesigned to accommodate angle parking to provide the maximum landscaping possible.
7. No advertising flags, foreign flags, pennants, banners, streamers or balloons shall be permitted on site. No gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors or upon any building, vehicle or wall, or other than inside a window as may be permitted by the Sign Code. Also, flashing signs, electronic message boards, etc., shall not be permitted on-site.
8. 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.

9. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
10. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
11. 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 on site 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.
12. Prior to Site Plan approval the property owner shall enter into a written agreement with Palm Beach County for the reservation of additional right of way required by the Florida Department of Transportation for: **(A) the eight (8) laning of Okeechobee Boulevard from the centerline of the eastern drive onto Okeechobee Boulevard to the west property line (maximum seventy (70) feet from centerline as identified in the thoroughfare right-of-way protection map); (B) the ultimate urban interchange from the centerline of the existing eastern drive onto Okeechobee Boulevard to the project's eastern property line (maximum eighty (80) feet from the centerline of Okeechobee Boulevard as identified in the thoroughfare right-of-way protection map).**
13. 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 **\$51,865.00 (943 trips X \$55.00 per trip)**.
14. As part of any site plan application for any portion of the project, the developer shall submit a solid waste stream reduction/recycling plan approvable by the Solid Waste Authority or Palm Beach County or any other applicable regulatory agencies.

15. 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 7th 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: *Richard Altman*  
COUNTY ATTORNEY

BY: *John B. Dunkle*  
DEPUTY CLERK