

RESOLUTION NO. R-90- 1456

RESOLUTION APPROVING ZONING PETITION NO. 90-27
SPECIAL EXCEPTION PETITION OF HERRELL CHAMPION
BY STEPHEN M. SINCLAIR

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. 90-27 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on May 24, 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. 90-27, the petition of HERRELL CHAMPION, BY STEPHEN M. SINCLAIR, AGENT, for a SPECIAL EXCEPTION FOR AN OFFICE/WAREHOUSE on a parcel of land lying in Lots 6 through 15, inclusive, Lots 44 and 45 and the East 15.00 feet of Lot 43, Block 29, Westgate Estates, (Northern Section), Plat Book 8, Page 38, Section 30, Township 43 South, Range 43 East and being located on the north side of Westgate Avenue, bound on the north by Cherokee Avenue, approximately 150.00 feet east of Osceola Drive in a CG-General Commercial Zoning District, was approved on May 24, 1990, as advertised, subject to the following conditions:

1. This special exception is granted concurrent with a rezoning. Any other use other than office/warehouse shall be subject to a subsequent special exception

2. Prior to Site Plan Review submittal, the site plan shall be amended to indicate:
 - a. Upgraded landscaping on the west property line abutting a residential zoning district, to include a row of native canopy trees, twelve (12) feet tall spaced twenty (20) feet on center, sixteen (16) foot tall native palms spaced twenty (20) feet on center, a five (5) foot tall native hedge and a six (6) foot solid masonry and stucco wall.

If a variance is granted for the CBS wall, a fence shall be maintained in good repair acceptable to the Director of Code Enforcement. If the adjacent property does not convert to a commercial use within three (3) years, the fence shall be replaced with a CBS wall.
 - b. Frontages on Westgate Avenue and Cherokee Avenue shall comply with the streetscape design guidelines of the Westgate/Belvedere Homes Community Redevelopment Area Plan;
 - c. Landscaping, exterior speaker systems, sign area, lighting, building design and fences shall comply with the "special development standards for non-residential development" in Section 627.F.2.
 - d. Compliance with all minimum property development regulations and land development regulations.
 - e. The location and orientation of storage bay doors, loading areas and office doors.
3. Concurrent with Site Plan Review submittal, the petitioner shall submit conceptual building elevations with a list of specifications for all proposed materials and colors, including signs and lighting.
4. **No** retail business shall be permitted in this development.
5. Parking shall be permitted in designated parking spaces only. **No** parking within rights-of-way, landscape strips or access ways shall be permitted.
6. There shall be a maximum of one fifteen (15) foot access to Cherokee Avenue.
7. Security lighting shall be low intensity and directed away from surrounding residences through the use of house side shields. Lighting fixtures shall not be greater than twelve (12) feet tall.
8. **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.

9. This site shall be limited to **8,785** square feet of office-warehouse uses.
10. Building height shall not exceed twenty-five (**25**) feet.
11. The live oak and banyan trees on site shall be preserved in place.
12. 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.
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. **No** portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10D-6 F.A.C.
17. 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.
18. The Property owner shall fund construction of a five (**5**) foot wide concrete sidewalk along Westgate Avenue and a four (**4**) foot wide concrete sidewalk along Cherokee Avenue. All funding shall be made available to the CRA prior to the issuance of the first Building Permit.

19. 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 at the time of the Building Permit presently is **\$7,150.00** (130 trips X **\$55.00** per trip).
20. In addition the Developer shall contribute the amount of **\$348.00** as established in Article V Section 3 (Insignificant Project Standard) of the Traffic Performance Standards Code. These total funds of **\$7,498.00** shall be paid prior to the issuance of the first Building Permit.
21. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of **\$348.00** shall be credited toward the increased Fair Share Fee.
22. The Property owner shall construct Cherokee Avenue from Osceola Avenue to the project's entrance road. This construction shall be to local street standards minimum 2-10 foot travel lanes concurrent with on site paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy.
23. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Title on the subject property subject to approval by the County Attorney.
24. 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 :

Richard Altus
COUNTY ATTORNEY

BY:

Vicki Bellamy
DEPUTY CLERK