

27/43/42

RESOLUTION NO. R-91- 362

RESOLUTION APPROVING ZONING PETITION NO. 74-117(C)
SPECIAL EXCEPTION PETITION OF
AMERICAN FINANCIAL LIFE INSURANCE COMPANY

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. 74-117(C) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on October 25, 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. 74-117(C), the petition of AMERICAN FINANCIAL LIFE INSURANCE COMPANY, BY KIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A PREVIOUSLY APPROVED PCD TO INCREASE THE LAND AREA AND PERMIT AN OFFICE/WAREHOUSE COMBINATION, CAR WASH, AND CONVENIENCE STORE WITH GASOLINE STATION (NO REPAIRS), on a parcel of land lying in Tract 10, block 1, Palm Beach Farms Company Plat No. 9, Plat Book 5, page 58, Section 29, Township 43 South, Range 42 East; Commencing at a point 50.00 feet west of and 70.00 feet south of the northeast corner of said Tract 10; thence south parallel with the east line of Tract 10, a distance of 603.12 feet to the Point of Beginning; thence continue south along said parallel line, a distance of 158.61 feet to a point; thence west, a distance of 279.99 feet to the west line of the east 1/2 of Tract 10; thence north along said west line, a distance of 168.61 feet; thence east, a distance of 279.99 feet to the Point of Beginning; together with a parcel; beginning at a point 50.00 feet west of and 70.00 feet south of the northeast corner of said Tract 10; thence south, a distance of 603.12 feet to a point; thence west, a distance of 279.99 feet to a point; thence north, a distance of 614.03 feet to a point; thence south 87 degrees 46' 06" east, a distance of 280.20 feet to the Point of Beginning, and located on

the S.W. CORNER OF SANSBURY'S WAY AND OKEECHOBEE BLVD., IN THE CG ZONING DISTRICT, was approved on October 25, 1990, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The petitioner shall comply with all previous conditions of approval, unless expressly modified herein.
2. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.
3. This special exception is granted concurrent with a rezoning. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section 402.7 (E)2(B) (Site Plan Review Committee Powers and Standards of Review).

B. STANDARD CONDITIONS FOR AUTO SERVICE (WITHOUT REPAIRS)

1. The car wash facility shall utilize a water recycling system.
2. There shall be no outdoor repair or major repairs of vehicles on site.

C. STANDARD CONDITIONS FOR PLANNED COMMERCIAL DEVELOPMENT

1. Outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent properties and streets.
2. No outdoor speaker or public address systems which are audible from the property line, shall be permitted on site.
3. NO outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.
4. Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles is to be allowed in landscaped areas, right-of-way or interior drives.
5. Hours of operation for the office/warehouse shall be limited to 6 a.m. - 10 p.m.

D. BUILDING

1. Building height shall be limited to a maximum of 25 feet.
2. All sides of the proposed buildings shall be given architectural treatment consistent with the front facade.
3. Bay door openings shall be limited to a maximum height of ten (10) feet.

E. DUMPSTER

1. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind enclosure having an architectural treatment compatible with the principal building. The open end of the enclosure shall have an obscuring, opaque gate.

F. ENGINEERING

1. All Engineering conditions of previous Zoning approval, Zoning Petition 74-117, are hereby deleted in its entirety. These are as follows:

"Prior to the issuance of any building permits the developer shall deed to Palm Beach County the necessary right-of-way for Rubin Road;"

"Developer shall up-grade the intersection of Rubin Road and Okeechobee Boulevard in accordance with traffic demands of the development."

2. 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.
3. **The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site.**
4. Prior to March 1, 1991 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County **Roadway Production** by road right-of-way warranty deed for Sansbury Way (Lyons Road), 64 feet from centerline free of all encumbrances and encroachments. Property owner 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. This right-of-way shall be in accordance with Palm Beach County's expanded intersection detail.

5. Prior to site approval the Site Plan shall be amended to reflect two entrances onto Sansbury Way aligning with the proposed entrances from Zoning Petition 88-127.
6. The Property owner shall construct a left turn lane, south approach on Sansbury Way at the project's south entrance concurrent with the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy.
7. 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.

G. ENVIRONMENTAL RESOURCE MANAGEMENT

1. Secondary containment for stored Regulated Substances-fuels, oils, solvents, or other hazardous chemicals- is required. Environmental Resources Management Department staff are willing to provide guidance on appropriate protective measures.
2. Plans for underground storage tanks must be signed off by the Dept. of Environmental Resources Management prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chances of contamination of the groundwater. Double walled tanks and piping with corrosion protection or their equivalent shall be a part of those measures.
3. The northeastern corner of the property shall be set aside and platted as a 0.14 acre preserve with intact canopy, understory and groundcover. No stormwater runoff in excess of pre-development levels or point source discharge shall be permitted through the preserve area.
4. Native trees that are not located within the preserve area or worked into the site plan shall be relocated on-site to the greatest extent possible.
5. A management plan for the preserve area shall be submitted to Environmental Resources Management concurrent with the Site Plan Review application and approved by ERM prior to Site Plan certification.
6. All finished excavated lakes shall possess a littoral shelf area. A littoral shelf shall be an area with a slope not greater than six (6) feet horizontal to one (1) foot vertical, ranging in depth from ordinary high water (OHW) or the controlled water level (CWL) to four feet below OHW or CWL. A minimum of 30% of the lake surface area shall be planted with native aquatic vegetation on a minimum of three foot centers. A littoral shelf planting plan and maintenance plan shall be submitted to the Dept. of Environmental Resources Management concurrent with Site Plan Review

application and approved by **ERM** prior to Site Plan certification.

H. HEALTH

1. 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.
2. **Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.**
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
4. The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil.
5. 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 10-D-6 F.A.C.

I. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within five-hundred (500) feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

J. LANDSCAPE

1. Trees shall be maintained at a minimum height of fifteen (15) feet according to Arbor Society Standards.
2. All plant material shall be fully irrigated and maintained in a healthy viable condition.
3. Landscape Alternative No. 3 shall be provided along the south property line and the south 250 feet of the west property line. Alternative #1 shall be provided for the balance of the west property line. These landscape strips shall be supplemented with fourteen (14) foot tall native canopy trees, planted fifteen (15) feet on center. A six (6) foot high solid visual screen shall be provided on the interior side of the landscape strip.
4. The landscape strip along the west property line, beginning at the south end of the car wash and continuing behind the southern most building, shall be a minimum of ten (10) feet wide.

K. LANDSCAPE WITHIN MEDIAN

1. If permissible by the State Department of Transportation or County Engineering Department, the petitioner shall landscape the median of all abutting right-of-ways. This landscaping shall consist of: one ten (10) foot tall native canopy tree planted an average of thirty (30) feet on center, and appropriate ground cover and irrigation. All materials shall be selected, maintained and installed according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation of the property owner.

L. PRESERVATION

1. The petitioner shall preserve/relocate existing native vegetation on site and shall incorporate it into the project design. Clearing of the vegetation shall be limited to the building pad areas, retention areas and vehicular use areas. The areas of preservation shall receive appropriate protection from damage and disturbance in accordance with Section 500.36 of the Zoning Code, during the site development and construction phase.
2. The petitioner shall reconfigure the parking area or eliminate all excess parking stalls to allow for the preservation of existing vegetation on site.
3. Prior to Site Plan Review Committee, the petitioner shall submit a Vegetation Preservation Report which details methods of preservation. These methods shall be approved by the Zoning Division.
4. The petitioner shall submit a tree survey to locate and verify the preservation of existing native trees within all perimeter landscape strips, interior landscape islands and medians.

M. RECYCLE

1. 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.

N. SIGN

1. All on site signs shall comply with the Palm Beach County Sign Code, Ordinance No. 72-23, and shall indicate principal uses only. Specifically, no snipe signs, banners, balloons or other prohibited types of advertisement shall be permitted on site.
2. No objects, gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors, or upon any building, vehicle or wall, other than inside a window except as may be permitted by the Sign Code,
3. Signs fronting on Okeechobee Boulevard shall be limited as follows:

- a. Maximum sign height - fifteen (15) feet.
 - b. Maximum total sign area - 140 square feet..
 - c. Maximum number of signs - two (2)
4. Prior to Site Plan Review Committee approval, a Master Sign Program shall be submitted, **which** specifies: sign location, sign size, and unified graphics and color.
 5. Signs fronting on Sansbury's Way shall be limited as follows:
 - a. Maximum sign height - fifteen (15) feet.
 - b. Maximum sign area - Three hundred eighty (380) square feet.
 - c. Maximum number of signs - three (3).
 6. No off-premise signs shall be permitted on site.
 7. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supersede the sign related conditions of approval.

O. SITE DESIGN

1. The southern portion of the site which extends beyond the mapped commercial line shall be developed as water retention, landscaping, and/or on-grade parking only.
2. Total floor area shall be limited to a **maximun** of 26,700 square feet.
3. Building height shall be limited to a maximum of twenty-five (25) feet.

P. COMPLIANCE

1. **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 Foster moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	ABSENT
Carol A. Roberts	--	ABSENT
Carol J. Elmquist	--	ABSENT
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 26th day of March, 1991.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

JOHN B. DUNKLE, CLERK

BY:


DEPUTY CLERK

