

RESOLUTION NO. R-91- 378

RESOLUTION APPROVING ZONING PETITION NO. 90-24(A)
SPECIAL EXCEPTION PETITION OF SEVCO LAND CORPORATION

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. 90-24(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on November 29, 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 the 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, Chapter 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. 90-24(A), the petition of SEVCO LAND CORPORATION, BY GARY M. BRANDENBURG, AGENT, for a SPECIAL EXCEPTION FOR A PLANNED COMMERCIAL DEVELOPMENT CONSISTING OF A LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET, AN AUTO SERVICE STATION (NO REPAIRS) WITH A CONVENIENCE STORE, AND A FINANCIAL INSTITUTION WITH FOUR DRIVE-THRU TELLERS on a parcel of land lying in a portion of Lots 109, 110, 111, 112 and 116, and all of Lots 113, 114 and 115, Block 77, of Palm Beach Farms Company Plat No. 3, Plat Book 2, Pages 45 through 54, located in Sections 17 and 18, Township 47 South, Range 42 East; Commencing at the Southwest corner of Section 18, thence North 00 degrees 50'58" West, along the West line of said Section 18, a distance of 1158.02 feet; to an intersection with the Westerly prolongation of the Southerly Right-of-Way of S.R. 808, per Florida Department of Transportation Right-of-Way maps for Section 93004-2409; thence North 89 degrees 38'00" East, along said prolongation, a distance of 82.00 feet to the POINT OF BEGINNING; thence continue North 89 degrees 38'00" East, along said proposed Southerly Right-of-way line, a distance of 1295.00 feet; thence South 00 degrees 50'58" East, a distance of 1275.35 feet to the South line of said Lot 116; thence South 89

degrees 38'00" West, along the South line of Lots 116, 115, 114 and 113, a distance of 1294.90 feet to the Southwest corner of said Lot 113; thence North 00 degrees 53'51" West, along the West line of said Lot 113, a distance of 118.06 feet; thence North 00 degrees 50'58" West, along the West line of said Lots 113 and 112, a distance of 1157.30 feet to the POINT OF BEGINNING, and being located on the S.E. CORNER OF THE INTERSECTION OF GLADES RD. AND SR 7, BOUNDED ON THE S. BY LWDD LATERAL CANAL E-46, was approved on November 29, 1990, as advertised (subject to the following voluntary commitments), was approved on November 29, 1990, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County.
2. 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 (Exhibit No. 23) 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. BUILDING AND SITE DESIGN

1. The minimum setback for structures adjacent to residential areas shall be fifty (50) feet.
2. Receptacles (i.e. dumpsters) for the storage and disposal of trash, garbage or vegetation shall not be located within seventy (70) feet of the east property line.
3. All areas or receptacles (i.e. dumpsters) for the storage and disposal of trash, garbage or vegetation shall be screened by an enclosure constructed of brick, decorative concrete, other decorative masonry consistent with the architectural character of the development, or comparable wood or steel. The open end of the enclosure shall have an obscuring opaque gate. Enclosures shall be landscaped with thirty-six (36) inch high shrubs and hedges planted at two (2) foot intervals. This provision shall not apply to litter containers provided for the convenience of pedestrians.
4. The maximum height, from grade to roof line, for all structures shall not exceed thirty-five (35) feet.
5. All mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the principle structure.
6. The rear portion of all structures shall be stucco. The petitioner shall provide graphical illustrations which indicate areas of such architectural treatment prior to site plan certification.
7. All out-parcels shall be no less than 3/4 acre in size.
8. Prior to site plan certification, the petitioner shall amend the site plan and the Concurrency Reservation for the project (Case #90-08-02-001C) to reflect the deletion of the car wash facility.

C. CANAL BANK MAINTENANCE

1. The petitioner shall perpetually maintain the landscaping on both banks of the canal which abuts the west property line of the site.

D. ENGINEERING

- E1. 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.
- E2. 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.
- E3. Prior to August 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 Land Development Division by road right-of-way warranty deed for Glades Road, 80 feet from centerline plus right turn lane right of ways (minimum of 150 feet in length, 12 feet in width, with taper lengths of 180 feet) all free of encumbrances and encroachments. Locations of all right turn lane right of ways on Glades Road and on State Road 7 shall be where warranted as determined by the County Engineer. 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.
- E4. The property owner shall fund the construction of the following geometrics:
 - A. At the Palmetto Park Road and State Road 7 intersection:
 1. east approach: 2 left turn lanes,
3 thru lanes,
1 right turn lane;
 2. west approach: 2 left turn lanes,
3 thru lanes,
1 right turn lane;

3. north approach: 2 left turn lanes,
3 thru lanes,
1 right turn lane;

4. south approach: 1 left turn lane,
2 thru lanes.

B. At the Glades Road and State Road 7 intersection:

1. east approach: 1 combined left turn/thru
lane,
1 thru lane,
1 right turn lane;**

2. west approach: 2 left turn lanes,
2 thru lanes,
1 right turn lane;

3. north approach: 2 left turn lanes,
3 thru lanes,
1 right turn lane;**

4. south approach: 2 left turn lanes,
2 thru lanes,
1 right turn lane.

*In order to accept the construction of the dual left turn lanes from the north approach the departure lanes on the east approach shall be widened to an appropriate width as determined by the County Engineer and Florida Department of Transportation.

**The third thru lane shall transition back to two thru lanes at an appropriate taper and distance north of the intersection, as determined by the County Engineer. The right turn lane shall be constructed with an appropriate width, length and taper as determined by the County Engineer.

C. At each of the project's 2 western entrances (labelled #1 and #2 on Figure 4 of the project Traffic Impact Analysis) and Glades Road:

1. west approach: 2 thru lanes,
1 right turn lane, including
appropriate taper if
required,

2. south approach: 1 right turn lane.

D. At the project's main entrance and Glades Road:

1. west approach: 2 thru lanes,
1 right turn lane;

2. east approach: 1 left turn lane,
2 thru lanes,
1 right turn lane;

3. south approach: 1 left turn lane,
1 right turn lane.

- E. Construct at the project's entrance on Glades Road (labelled #4 on Figure 4 of the project Traffic Impact Analysis):
 - 1. west approach: 2 thru lanes;
 - 2. south approach: 1 right turn lane.
- F. At the project's south entrance on State Road 7:
 - 1. south approach: 2 thru lanes,
1 right turn lane;
 - 2. north approach: 3 thru lanes,
1 left turn lane;
 - 3. east approach: 1 left turn lane,
1 right turn lane.
- G. At the project's north entrance on State Road 7:
 - 1. south approach: 2 thru lanes,
1 right turn lane
 - 2. east approach: 1 right turn lane.

All concurrent with onsite paving and drainage improvements. Construction shall be substantially completed (open to traffic) prior to the issuance of the first Certificate of Occupancy. The property owner shall provide completed plans immediately for the construction of all the geometric construction required under this condition (E4) permittable by the Florida Department of Transportation, including all permits. These plans shall be immediately permittable by Florida Department of Transportation and shall be provided to Palm Beach County prior to June 1, 1991. If this deadline is not met, Palm Beach County may stop all inspections and permitting of the project. Acceptable surety shall be posted for all improvements listed in condition number E4 and E8 prior to June 1, 1991 or prior to the issuance of a Building Permit which ever shall first occur. Funding shall be limited to either an acceptable Letter of Credit (as currently defined and approved by O.F.M.B.) or cash. These funds shall also include inspection fees and contingencies. As soon as practical after receiving these plans and funds, Palm Beach County shall construct these improvements.

- E5. 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 \$508,255.00 (9,241 trips X \$55.00 per trip). Note: No impact fee credit shall be given for any roadway improvements identified in condition number E4 which are not compatible with the Florida Department of Transportation Ultimate Section. The County Engineer shall make the sole determination as to what is compatible with ultimate construction.
- E6. The property owner shall convey to the Lake Worth Drainage District the west 45 feet of Tracts 112 and 113, Block 77 Palm Beach Farms Company Plat No. 3 for the

required right-of-way for Equalizing Canal No. 3, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to August 1, 1991.

- E7. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:
- A. No Building Permits shall be issued until Yamato Road from State Road 7 to Jog Road is under construction.
 - B. This entire Center including all out parcels shall be built out with certificates of occupancy issued for not less than 80% as defined in Ordinance 90-7 prior to March 15, 1992. On or about March 15, 1992, developer shall provide proof of the percentage of occupancy of the entire center. No Building permits or certificate of occupancy shall be issued after March 15, 1992 until the following roadway improvements are completed, if it has not been shown that 80% of the Center is occupied:
 - 1. At the intersection of State Road 7 & Glades Road:
 - a. east approach: a thru lane in addition to the geometrics specified in E4 (b).
- E8. The Developer shall install signalization if warranted as determined by the County Engineer at the project's entrance(s) and State Road 7 as well as the project's entrances and Glades Road. Should signalization not be warranted after 24 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.
- E9. Any traffic signal modifications required by the construction in E4 and E7 (B) shall be funded by the developer.
- E10. The Property Owner shall convey an access easement at the northeast corner of the site to the Property Owner of the adjacent property to the east for future pedestrian/vehicular access. This easement shall be recorded subject to approval by the County Engineer and the County Attorney's Office prior to Plat recordation.
- E11. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall revise the site plan to reflect a maximum of four (4) entrances onto Glades Road and a maximum of two (2) entrances onto State Road 7.
- E12. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision and Required Improvements Regulations 90-8 as amended. The platting of this property may be phased in accordance with a phasing plan acceptable to the office of the County Engineer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety.
- E13. Prior to issuance of the first building permit, the petitioner shall show proof of a completion bond for the

construction of the entire center, within the time frame as outlined in the conditions of approval. The proof shall be submitted to the Zoning Division and shall be subject to confirmation by the County Attorney's office.

E. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored regulated substances (i.e. fuels, oils, solvents, or other hazardous chemicals) is required. The Department of Environmental Resources Management staff shall provide guidance on appropriate protective measures.
2. Plans for underground storage tanks shall be approved by the Department of Environmental Resources Management prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chance of groundwater contamination. Double walled tanks and piping with corrosion protection or their equivalent shall be a part of those measures.
3. 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 Department of Environmental Resources Management (ERM) concurrent with Site Plan Review application and approved by ERM prior to site plan certification.

F. HEALTHY

1. The generation and disposal of hazardous effluents into any sanitary sewerage system shall be prohibited unless adequate pretreatment facilities are approved by the Florida Department of Environmental Regulation (FDER), the Palm Beach County Public Health Unit and the Palm Beach County Water Utilities Department.
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 all facilities 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 10D-6 Florida Administrative Code.

G. 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.

H. LANDSCAPING - GENERAL

1. The petitioner shall submit a Master Landscape Plan for review and approval by the Zoning Division prior to site plan certification. The Master Landscape Plan shall demonstrate conformance to all Landscape Code requirements and conditions of approval.
2. All trees on site shall be permitted to reach and be maintained at a minimum mature height of fifteen (15) feet. Maintenance shall conform to Arbor Society recommended practices.
3. All landscaped areas shall be fully irrigated.
4. Landscape tabular data on the site plan shall be revised to reflect conformance to minimum Landscape Code requirements and all landscape conditions prior to site plan certification.
5. If permitted by the Florida State Department of Transportation or the County Engineer, the petitioner shall landscape the median of all abutting rights-of-way. This landscaping shall consist of one twelve (12) foot tall native canopy tree planted an average of thirty (30) feet on center, ground cover which meets minimum Zoning Code requirements, and automatic irrigation. All material shall be selected, maintained and installed according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation of the property owner.

I. LANDSCAPING - INTERIOR

1. One landscape island shall be provided for every ten (10) cars.
2. Landscaped terminal islands shall be provided for all rows of parking.
3. Fifty percent (50%) of all trees within the interior parking area shall be twelve (12) feet in height or greater. The remaining fifty percent (50%) shall be flowering trees ten (10) feet in height or greater..

J. LANDSCAPING ALONG NORTH PROPERTY LINE

1. Landscaping within the required landscape buffer abutting Glades Road shall be upgraded to include:
 - a. Native canopy trees an average of twenty (20) feet on center.
 - b. The minimum height of these trees shall be as follows:

- 1) Fifty percent (50%) - fourteen (14) feet tall.
 - 2) Twenty-five percent (25%) - twelve (12) feet tall.
 - 3) Twenty-five percent (25%) - ten (10) feet tall.
- c. One (1) Washingtonia palm tree, a minimum of ten (10) feet in overall height, shall be planted for each thirty (30) linear feet.
- d. A continuous opaque hedge a minimum of thirty-six (36) inches in height at installation, to be maintained at a minimum height of forty-two (42) inches within one year, or a minimum forty-two (42) inch high hedge/berm combination.

K. **LANDSCAPING ALONG SOUTH PROPERTY LINE**

1. Landscaping within the required ten (10) foot wide landscape buffer strip along the south property line shall include a six (6) foot high wall, hedge, fence, berm, or combination, and ten (10) foot tall trees spaced no more than thirty (30) feet on center.

L. **LANDSCAPING ALONG EAST PROPERTY LINE**

1. A twenty-five (25) foot wide landscape buffer shall be provided along the entire eastern property line.
2. Landscaping along the eastern property line shall be placed on the exterior side of a required wall and shall be installed prior to issuance of the certificate of occupancy for any building on site. Landscaping and buffering within this perimeter strip shall consist of:
 - a. A six (6) foot tall concrete block and steel wall or equivalent. This wall shall receive stucco and paint finish on both sides in a color compatible with the shopping center.
 - b. A two (2) foot wide landscape strip shall be provided between the curb of the paved vehicular use area and the required six (6) foot wall. This landscape strip shall be supplemented with a thirty-six (36) inch high continuous opaque hedge.
3. Native canopy trees shall be planted an average of twenty (20) feet on center:
 - a. Fifty percent (50%) of these trees shall be fourteen (14) feet tall;
 - b. Twenty-five percent (25%) of these trees shall be twelve (12) feet tall;
 - c. Twenty-five percent (25%) of these trees shall be ten (10) feet tall.
4. One (1) native palm tree shall be planted for each thirty (30) linear feet.

5. A double row of shrubs:
 - a. Planted an average of thirty-six (36) inches on center (833 plants).
 - b. Fifty percent (50%) shall be native.
 - c. Fifty percent (50%) of these shrubs shall be thirty-six (36) inches in height; fifty percent (50%) of these shrubs shall be twenty-four (24) inches in height.
 - d. Shrubs shall be maintained at a height of sixty (60) inches within two (2) years of installation.

M. LANDSCAPING ALONG WEST PROPERTY LINE

1. Landscaping within the required landscape buffer along State Road 7 (US 441) shall be upgraded to include:
 - a. Native canopy trees planted twenty (20) feet on center.
 - b. The minimum height of these trees shall be as follows:
 - 1) Fifty percent (50%) - fourteen (14) feet tall.
 - 2) Fifty percent (50%) - twelve (12) feet tall.
 - c. A continuous opaque hedge a minimum of thirty-six (36) inches in height at installation, to be maintained at a minimum height of thirty-six (36) inches.
 - d. One landscaped island shall be provided for every ten (10) parking stalls abutting this property line.

N. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed away from adjacent properties and streets. Lighting fixtures in the eastern portion of the site shall not exceed twelve (12) feet in height. Lighting in the western portion of the center shall not exceed forty (40) feet in height.
2. All outdoor lighting behind the shopping center and/or within one-hundred feet of the east property line, shall be extinguished no later than 11:00 p.m. All other outdoor lighting shall be extinguished no later than 2:00 a.m. Security lighting only is excluded from this requirement.

O. PARKING AND CROSS ACCESS

1. A maximum of 1,487 parking spaces shall be permitted on site.
2. All uses shall utilize shared parking and circulation arrangements acceptable to the Planning, Zoning and Building Department. Shared parking and cross access

agreements shall be recorded with the Zoning Division prior to site plan certification.

P. RECYCLE SOLID WASTE

1. 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 of Palm Beach County.

Q. RECYCLE WATER

1. The design of the car wash facility shall use a water recycling system.

R. SIGNS

1. No off-premise signs shall be permitted on site.
2. Pole mounted signs shall not be permitted on site.
3. No flashing or electronic message boards sign types shall be permitted on site.
4. Monument signs shall not exceed fifteen (15) feet in height nor a total of 1,200 square feet in area.
5. Two (2) point of purchase signs shall be permitted on Glades Road. Two (2) point of purchase signs shall be permitted on State Road 7 (US 441).
6. Prior to site plan certification, the petitioner shall submit a Master Sign Program which specifies sign location, sign dimensions, unified color, unified graphics, and conformance to all sign conditions for all point of purchase and monument signs on site.
7. All other signs shall comply with the Palm Beach County Sign Code Ordinance 72-23, and shall indicate principle use only. Specifically, no snipe signs, banners, balloons or other prohibited type of advertisement shall be permitted on site.
8. 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.

S. UNITY OF CONTROL

1. The entire property shall be master planned as a single Planned Commercial Development (PCD) and shall be subject to a Unity of Control. A Unity of Control for the site shall be approved by the County Attorney prior to site plan certification.

T. USE LIMITATIONS

1. No cocktail lounge shall be permitted in the east wing of the shopping center. This condition does not prohibit restaurants with beverage service representing less than 50% of net proceeds.

2. Hours of operation for local retail shops (with the exception of restaurant uses) and financial institutions shall be from 6:00 a.m. to 11:00 p.m.

U. 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.

2. The architectural elevations and renderings presented to the Board of County Commissioners at the November 29, 1990, Zoning Authority Hearing, shall be made part of the record and submitted to the Zoning Division prior to site plan certification. They shall be submitted in a form and size which enables the exhibits to be made part of the permanent record in the zoning file. The appearance of the development shall be consistent with these elevations and renderings prior to issuance of a certificate of occupancy for any portion of the project.

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

