

RESOLUTION NO. R-91-989

RESOLUTION APPROVING ZONING PETITION NO. 89-115(A)
SPECIAL EXCEPTION PETITION OF
MILITARY TRAIL ASSOCIATES PARTNERSHIP

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. 89-115(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on April 25, 1991; 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. 89-115(A), the petition of MILITARY TRAIL ASSOCIATES PARTNERSHIP, BY F. MARTIN PERRY, AGENT, for a SPECIAL EXCEPTION ON A PCD INCLUDING A LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 30,000 SQUARE FEET AND A PRIVATE UTILITY SERVICE (WATER AND WELL SYSTEM) on a parcel of land lying in Tract 16, MARY A. LYMAN, ET. AL., amended plat of Section 12, Township 45 South, Range 42 East; as recorded in Plat Book 9, Page 74, and being located ON THE W. SIDE OF MILITARY TR., APPROXIMATELY .4 MILE S. OF HYPOLUXO RD., BOUNDED ON THE S. BY L.W.D.D. LATERAL CANAL NO. 19, was approved on April 25, 1991, 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.
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. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Zoning Code Section **402.7 (E)2** (b) (Site Plan Review Committee Powers and Standards of Review).

B. ADVERTISING

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.

C. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation (i.e. dumpsters) 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 obscure, opaque gate.
2. All exterior sides of enclosures surrounding dumpsters, except the open end, 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 or trash compactors.

D. ENVIRONMENTAL RESOURCES 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.

E. ENGINEERING

1. 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.

2. If required by the County Engineer or the South Florida Water Management District 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.
3. Prior to September 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 the construction of a right turn lane on Military Trail at the project's entrance road. This right-of-way shall be a minimum of 150 feet in storage length, twelve feet in width and a taper length of 180 feet.
4. The Property owner shall construct a right turn lane and fund the construction of a left turn lane on Military Trail at the project's main entrance road concurrent with on-site paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. Funding shall be completed prior to September 1, 1991.
5. 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 \$269,455.00 (4,899 trips X \$55.00 per trip).
6. The property owner shall convey to the Lake Worth Drainage District the south 10 feet of Tract 16, Mary A. Lyman, et. al., amended plat of Section 12, Township 45 south, Range 42 East as recorded in Plat book 9, Page 74 for the required right-of-way for Lateral Canal No. 19, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to August 1, 1991.
7. The Developer shall install signalization if warranted as determined by the County Engineer at the project's entrance road and Military Trail. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.
8. 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.
9. prior to Site Plan approval the developer shall align this project's main entrance with Trails End Plaza located on the east side of Military Trail.

F. 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. The application and engineering plans to construct on site potable water supply and/or on-site sewage disposal system must be submitted to the Health Unit prior to site plan approval.
3. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
4. The owner, occupant or tenant of the facility shall participate in an oil recycling program which ensures proper re-use or disposal of waste oil.
5. When the Palm Beach County Public Health Unit determines that available capacity exists in the City of Boynton Beach water supply system, this project shall connect within ninety (90) days and abandon the on-site non-transient non-community water supply system, in accordance with applicable codes.
6. This project shall connect to the City of Boynton Beach water supply system prior to the issuance of the first Certificate of Occupancy (C.O.) for any building on-site.

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. LANDSCAPE - GENERAL

1. 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 and Zoning Code requirements.
2. All plant material shall be fully irrigated and maintained in a healthy viable condition.
3. The petitioner shall sod, irrigate and perpetually maintain both banks of all abutting canals, subject to approval by the Lake Worth Drainage District.
4. All landscape buffers shall be installed prior to issuance of a Certificate of Occupancy for Phase I. Undeveloped portions of the development shall be cleared, seeded and maintained until construction commences on Phase 2.

I. LANDSCAPE - INTERIOR

1. Prior to site plan certification, the petitioner shall submit a Landscape Betterment Plan for the perimeter of the retention area, subject to approval by the Zoning Division.

2. One landscape island shall be provided for every ten **(10)** parking spaces. Each landscape island shall be planted with a minimum of one native canopy tree or two native palm trees, and appropriate ground cover. The maximum spacing between landscape islands shall not exceed one hundred **(100)** linear feet.
3. Landscaped divider medians shall be provided between all abutting rows of parking spaces. The minimum width of this median shall be five **(5)** feet. One native canopy tree or two native palm trees and appropriate ground cover shall be planted for each thirty **(30)** linear feet of the divider median, with a maximum tree spacing of sixty **(60)** feet on center.
4. All trees within the interior parking area shall be twelve **(12)** feet in height or greater.
5. Prior to site plan certification, the site plan shall be amended to indicate typical tree planter details, subject to approval by the Zoning Division.

J. LANDSCAPING ALONG NORTH, WEST AND SOUTH PROPERTY LINES

1. A minimum **15** foot wide landscape buffer strip shall be installed on the north, west and south sides of the property.
 - a. Landscaping shall be placed on both sides of the fence and shall be installed prior to issuance of the Certificate of Occupancy for any building on site.
 - b. Landscaping and buffering within this perimeter strip shall consist of:
 - 1) A three **(3)** foot minimum height berm.
 - 2) A green chain link fence, a minimum of four **(4)** feet in height.
 - 3) A double row of hedge material, one row on each side of the fence.
 - a) Planted an average of twenty-four **(24)** inches on center.
 - b) Fifty **(50)** percent shall be native.
 - c) Thirty-six **(36)** inches in height at time of planting.
 - d) Visually opaque.
 - 4) Native canopy trees a minimum of twelve **(12)** feet in height shall be planted an average of twenty **(20)** feet on center.

K. LANDSCAPING ALONG EAST PROPERTY LINE ABUTTING MILITARY TRAIL

1. Landscaping within the twenty-five **(25)** foot landscape buffers abutting Military Trail shall be upgraded to include:

- a. Native canopy trees an average of twenty **(20)** feet on center.
- b. Trees shall be a minimum of twelve **(12)** feet in height at planting.
- c. One **(1)** native palm for each thirty **(30)** linear feet of required buffer.
- d. A continuous hedge a minimum of thirty-six **(36)** inches in height at installation to be maintained at forty-two **(42)** inches.
- e. Hedge material shall consist of native shrubs (coco plum, saw palmetto and wax myrtle, an average of **24** inches on center).

L. LANDSCAPE WITHIN MEDIAN

- 1.** If permitted by the State Department of Transportation or County Engineering Department, the petitioner shall landscape the median of all abutting rights-of-way. **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. Landscaping shall be completed prior to June **1, 1992**.

M. 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.
- 2.** Lighting fixtures shall not exceed fifteen **(15)** feet in height.
- 3.** **All** outdoor shall be extinguished no later than **11:00 p.m.** Security lighting only is excluded from **this** requirement.

N. PARKING

- 1.** Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking **of** vehicles shall be permitted in landscaped areas, right-of-way or interior drives.
- 2.** Prior to site plan certification, the site plan shall be amended to reflect the location **of** shopping cart storage and retrieval areas within all parking areas.

O. RECYCLE SOLID WASTE

- 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.

P. RESTRICTIVE COVENANT

1. Prior to site plan certification, the petitioner shall record a copy of a Restrictive Covenant in the public record indicating that all structures and uses within the PCD are part of a single unified planned development, regardless of ownership. This covenant shall not be removed, altered, changed or amended without written approval from the County and shall be in a form acceptable to the County Attorney.

Q. SIGNS

1. **Signs fronting on Military Trail shall be limited as follows:**
 - a. Maximum sign height - ten (10) feet.
 - b. Maximum total sign face area - 120 square feet.
 - c. Maximum number of signs - one (1) monument style.
2. No off-premise signs shall be permitted on site.
3. In the event the Sign Code is amended prior to issuance of a building permit for the project to be more restrictive than the conditions of approval, the petitioner shall comply with the revised Sign Code.
4. Prior to Site Plan Review Committee approval, the petitioner shall submit a Master Sign Program which specifies: sign location, sign size, base planting details, unified color and graphic representation. The ground sign shall indicate the name of the shopping center only.

R. SITE DESIGN

1. A minimum eighty (80) foot setback shall be maintained from the north, west and south property lines and a minimum one-hundred (100) foot setback shall be maintained from the east property line.
2. Building height shall be limited to a maximum of twenty-five (25) feet from grade to the finished roof surface exclusive of towers, parapets and roof mounted equipment which shall have a maximum height of thirty (30) feet.
3. Total floor area shall be limited to a maximum of 98,200 square feet.
4. All sides of the proposed building shall be given architectural treatment consistent with the front facade.
5. **All** mechanical and air-conditioning equipment shall be roof mounted and screened within parapets or be contained within an enclosed loading and service area.
6. **All** buildings shall be limited to one-story in height and be designed with sloping mansard roofs that present a residential appearance.

7. The perimeter of the vehicle delivery area shall be screened by a twelve (12) foot high enclosure consistent with the design and material of the principal structure. The open end of the enclosure shall have an obscuring, opaque gate.
8. Overnight storage of trucks or delivery vehicles, outside of the vehicle delivery area, shall not be allowed on site.
9. The architectural elevations and renderings presented to the Board of County Commissioners at the April 25, 1991, 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.

S. UNITY OF TITLE

1. The petitioner shall submit with the Site Plan Review Committee application, two (2) executed copies of a Unity of Title covering the entire property. This document shall be in a form acceptable to the County Attorney prior to Site Plan certification. This document may be broken by the Executive Director of Planning, Zoning and Building if the property is platted in accordance with Subdivision Regulations.
2. Prior to site plan certification, the petitioner shall record in the public record a deed restriction for the subject property limiting the property to no more than 10.03 acres in land area and further precluding future expansion of the property for commercial development, subject to approval by the County Attorney.

T. USE LIMITATION

1. Reasonable precautions shall be taken during construction to insure that fugitive particulates (dust particles) do not become a nuisance to neighboring properties.
2. No outdoor loudspeaker system shall be permitted on site.
3. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.
4. Use of the site shall be limited to permitted CC-Community Commercial Zoning District uses and on-site well supply system.

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.

Commissioner Elmauist moved for approval of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted this 23rd day of July, 1991.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

