

RESOLUTION NO. R-91- 1477

RESOLUTION APPROVING ZONING PETITION NO. 91-28
SPECIAL EXCEPTION PETITION OF LANTEX REALTY 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. 91-28 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on July 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. 91-28, the petition of LANTEX REALTY CORPORATION, BY ALAN PELLINGRA AND JOHN C. CORBETT, for a SPECIAL EXCEPTION TO ALLOW A DRIVE-IN RESTAURANT on a parcel of land Being Lots 1166 through Lot 1174, of KENWOOD, as recorded in Plat Book 3, Page 44 and 45, LESS the Westerly 5.00 feet of said Lot 1174, together with that portion of Tract 20 of MODEL LAND CO. SUBDIVISION of the North 1/2 of Section 24, Township 44 South, Range 42 East, as in Plat Book 5, Page 76, all of the above being more fully described as follows: BEGIN at the Southeast corner of said Lot 1166; thence North 89°16'00" West along the Southerly lines of said Lots 1166 through 1174 (inclusive), said Southerly lines also being the Northerly road right-of-way line of Weymouth Street as shown on said Plat of KENWOOD for 220.00 feet; thence North 00°02'01" West along a line parallel with and 5.00 feet East of the Westerly line of said Lot 1174 and the East line of the West 266.09 feet of said Lot 20 for 194.78 feet to a point on the Southerly road right-of-way line of Tenth Avenue North; thence South 89°25'50" East along said road right-of-way line, said Southerly right-of-way line being 20.00

feet South of the Northerly line of said Tract 20 for 220.00 feet; thence South 00°01'34" East along the Northerly extension of the East line of said Lot 116 for 195.41 feet to the POINT OF BEGINNING, and being located on the S SIDE OF 10TH AVE. N, BOUND ON THE S BY WEYMOUTH ST., APPROX. .1 MILE E OF MILITARY TR., was approved on July 25, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Prior to site plan certification, 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. 26). 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) or required by the conditions of approval.

B. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall:
 - a. Be confined to areas designated on the site plan and shall be screened by a solid opaque enclosure constructed of brick, concrete, concrete block, or other decorative masonry, or comparable wood or steel, consistent with the architectural character of the development or principal building. The open end of the enclosure shall have an obscuring, opaque gate.
 - b. All exterior sides of such enclosures, except the open end, shall be landscaped with thirty-six (36) inch high shrub and hedge material planted twenty-four (24) inches on center.

C. 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. No portion of this project is to be approved on potable well or septic tank, existing or new. Existing septic tanks are to be abandoned, in accordance with Chapter 10-D-6, F.A.C.

D. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation preservation conditions of approval.

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. Prior to Site Plan Review approval, the property owner shall convey right-of-way warranty deeds, to be held in escrow by the County Attorney's office, for the expanded intersection right-of-way in accordance with Palm Beach County's Typical Expanded intersection detail for 10th Avenue North, free of all encumbrances and encroachments. Developer 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.
3. 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.
4. Prior to Site Plan approval, the property owner shall place in escrow with the County Attorney's office an executed Unity of Title.

F. LANDSCAPING

1. Landscaping within the required buffer strips along the north and south perimeters shall be upgraded to include:
 - a. One twelve (12) foot tall native canopy tree for every twenty (20) feet on center. A group of three (3) or more palm tree may supersede the requirement for a canopy tree in those locations.

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- b. One twelve (12) foot tall native palm tree for each thirty (30) linear feet of the required landscape strip.
 - c. Thirty-six (36) inch tall hedge or shrub material planted twenty-four (24) inches on center.
2. Landscape areas provided adjacent to all parking areas shall be upgraded to include a minimum of one (1), ten (10) foot tall native tree for every twenty (20) feet on center.

G. 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 twenty (20) feet in height.

H. 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.

I. RECYCLE SOLID WASTE

1. The property owner shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products.

J. SIGNS

1. Signs for the property shall be limited as follows:
 - a. One (1) sign shall be permitted on the perimeter of the site abutting 10th Avenue North. No signs shall be permitted along Weymouth Street.
 - b. Maximum total sign face area = 100 square feet.
 - c. Maximum sign height = Ten (10) feet.
2. Prior to site plan certification, the petitioner shall submit a Master Sign Program to the Zoning Division which specifies sign location, sign dimensions, unified color, unified graphics, typical base planting details, and conformance to all sign related conditions of approval.
3. No snipe signs, balloons, banners, billboards or other prohibited types of advertisement or signs shall be permitted on-site. The roof shall not contain lighting or neon, except for security lighting.
4. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive or permissive than the conditions of approval, the regulations of the amended Sign Code shall supersede all sign-related conditions of approval.

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5. The existing billboard on the site shall be removed within 90 days of approval of this petition.

K. SITE SPECIFIC

1. The petitioner shall submit an approved, executed cross-access agreement in recordable form to the County Attorney's Office to be held in escrow, prior to site plan approval.
2. The petitioner shall revise the site plan prior to certification by the Site Plan Review Committee, to include:
 - a. Ultimate right-of-way from the centerline of Weymouth Street.
 - b. Required landscaping on the site.
3. The development on the site is limited to 1,200 square feet of total floor area.
4. Development of a sit down restaurant on the site shall be subject to the approval of the Board of County Commissioners.

L. USE LIMITATION

1. Operation hours shall be limited to 6:00 a.m. to 11:00 p.m. from Sunday to Thursday and 6:00 a.m. to 12:00 p.m. on Fridays and Saturdays.

M. VEGETATION PROTECTION/PRESERVATION

1. Prior to issuance of a Vegetation Removal Permit for this site, the following shall be completed:
 - a. All trees to be relocated, preserved, or removed shall be identified, tagged, numbered and recorded on the landscape plan.
 - b. No clearing shall commence until all protective devices are installed by the petitioner and inspected and approved by the Zoning Division.
2. The petitioner shall preserve or relocate transplantable existing native vegetation on site and shall incorporate it into the project design. Clearing of vegetation shall be limited to the building pad area 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.

N. COUNTY ATTORNEY

1. Petitioner shall record Right-of-way Deeds, a Unity of Title and a Cross-Access Agreement, which are being held in escrow by the County Attorney's office, on or before April 24, 1992.

O. COMPLIANCE

1. As provided in 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 Roberts moved for approval of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted this 8th day of October, 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