

# ORIGINAL

## RESOLUTION NO. R-91- 1712

### RESOLUTION APPROVING ZONING PETITION NO. 91-3(A) SPECIAL EXCEPTION PETITION OF MARY WOOTEN, & FRANCIS W. & SUZANNE MASSIE

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. 91-3(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on August 29, 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. 91-3(A), the petition of MARY WOOTEN AND FRANCIS W. & SUZANNE MASSIE, BY KIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION TO ALLOW AN AUTO SERVICE STATION (NO REPAIRS) AND CONVENIENCE STORE WITH AN ACCESSORY CAR WASH on a parcel of land lying in part of Tract 12, "MODEL LAND CO. SUBDIVISION" of the North 1/2 of Section 24, Township 44 South, Range 42 East; Plat Book 5, Page 76; The South 110.00 feet of the East 165.00 feet of Tract 12, LESS the South 40.00 feet thereof and LESS the East 28.00 feet thereof; the North 110.00 feet of the East 175.00 feet of the South 1/2 of Tract 12, LESS the East 28.00 feet thereof; and the East 165.00 feet of the South 1/2 of Tract 12, LESS the North 110.00 feet thereof, LESS the South 110.00 feet thereof, and LESS the East 28.00 feet thereof, and being located on the NE CORNER OF THE INTERSECTION OF 10TH AVE. N. AND S. MILITARY TR., IN THE CG ZONING DISTRICT, was approved on August 29, 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. 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 Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review).

B. AUTO SERVICE (NO REPAIRS)

1. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.
2. There shall be no repair of vehicles on site.
3. 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.
4. Prior to Site Plan Certification, the site plan shall be amended to indicate facilities for the provision of air and water for minor vehicle maintenance. The owner of the auto service facility shall provide air and water for minor vehicle maintenance to the public at no charge.

C. DUMPSTER

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

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,
2. Plans for any 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 proposed car wash shall have a water recycling system.

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. 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 January 1, 1992, 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 Division by road right-of-way warranty deed for:
  - a. 10th Avenue North, 60.5 feet from centerline
  - b. Military Trail, 71.5 feet from centerlineAll free of 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.
4. 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.
5. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall:
  - a. Record a Unity of Title on the subject property subject to approval by the County Attorney.
  - b. Revise the proposed site plan to reflect one entrance onto Military Trail and one entrance onto 10th Avenue North subject to approval by the County Engineer.

F. HEALTH

1. 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 or prior to issuance of Building Permit for straight rezoning.
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
3. 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.

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

1. All required trees shall be at a limited minimum as follows:
  - a. Height - twelve (12) feet.
  - b. Trunk diameter - 3.5 inches in diameter, measured 4.5 feet at grade.
  - c. Canopy spread - seven (7) feet measured at three points.
2. Prior to site plan certification, the petitioner shall amend the site plan to conform with the requirements of Zoning Code Section 500.35 (Landscape Code) adopted by the Board of County Commissioners on March 5, 1993.

I. LANDSCAPE ALONG RIGHTS-OF-WAY

1. Landscaping along the property lines fronting on Military Trail and 10th Avenue, North shall consist of:
  - a. A landscape strip a minimum of fifteen (15) feet in width.
  - b. Twelve (12) foot tall native canopy trees planted twenty (20) feet on center.
  - c. Twenty-four (24) inch tall native hedge planted twenty-four (24) inches on center.
  - d. Nine (9) native palms per frontage planted with a maximum spacing of sixty (60) feet.

J. LIGHTING

1. Outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed downward and away from adjacent properties and streets.

2. Lighting fixtures shall be a maximum of twenty (20) feet in height.

K. 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.

L. SCHOOL BOARD

1. The petitioner shall install stop bars and stop signs at the projects's entrances on Military Trail and Tenth Avenue North in accordance with the manual of Uniform Traffic Control Device. This petitioner shall also install pedestrian crossing signs warning vehicles entering and exiting this project that school children are crossing in this area to John I. Leonard High School between the hours of 7:15 a.m. - 8:15 a.m. and 3:30 p.m. - 4:15 p.m. Plans detailing these control devices for vehicular and pedestrian traffic safety shall be submitted to the Growth Management Center of the School Board for approval prior to site plan certification.

M. SIGN

1. Freestanding Signs fronting on Military Trail shall be limited as follows:
  - a. Maximum sign height - ten (10) feet.
  - b. Maximum total sign face area, per face - 100 square feet.
  - c. Maximum number of signs - one (1) monument style.
2. Freestanding Signs fronting on 10th Avenue North shall be limited as follows:
  - a. Maximum sign height - ten (10) feet.
  - b. Maximum total sign face area - 100 square feet.
  - c. Maximum number of signs - one (1) monument style.
3. All off-premise signs shall be removed prior to issuance of a Building Permit.
4. In the event the Sign Code is amended prior to issuance of a building permit for the project to be less restrictive than the conditions of approval, the petitioner shall comply with the revised Sign Code.
5. Prior to Site Plan Review Committee approval, the petitioner shall submit a Master Sign Program which specifies: Sign location, sign size, unified color and graphic representation.

N. SITE DESIGN

1. Building height shall be limited to a maximum of 21 feet.
2. Total floor area shall be limited to a maximum of 2,282 square feet.

3. All mechanical and air-conditioning equipment shall be roof mounted and screened within parapets or be contained within an enclosed loading and service area.

0. 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 Elmquist 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:

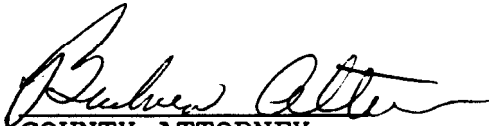
Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	AYE
Carol A. Roberts	--	AYE
Carol J. Elmquist	--	AYE
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

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