

ORIGINAL

RESOLUTION NO. R-92- 351

RESOLUTION APPROVING ZONING PETITION NO. 91-47  
SPECIAL EXCEPTION PETITION OF  
FRED & BETTY THOMPSON & THE ESTATE OF RALPH L. & GERTRUDE WADE

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. 91-47 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on January 3, 1992; 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. 91-47, the petition of FRED AND BETTY THOMPSON AND THE ESTATE OF RALPH L. AND GERTRUDE WADE, BY KIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION TO ALLOW A PLANNED COMMERCIAL DEVELOPMENT (PCD) INCLUDING AN AUTO SERVICE STATION (MAJOR REPAIRS), CONVENIENCE STORE, ACCESSORY CAR WASH, AND PERMITTED USES IN THE CG ZONING DISTRICT on a parcel of land situated in Tract 8 and the West 1/2 of Tract 7, Block 55, PALM BEACH FARMS CO., PLATE NO. 3, Section 28, Township 45 South, Range 42 East, Plat Book 2, Page 50, LESS the North 55 feet for right-of-way for Lake Worth Drainage District Lateral Canal No. 24 and LESS the West 25 feet for right-of-way for Hagen Ranch Road, and being located ON THE E SIDE OF HAGEN RANCH RD., APPROX. 80' S OF BOYNTON BEACH BLVD., BOUND ON THE N BY THE LWDD LATERAL CANAL 24, was approved on January 3, 1992, as advertised, subject to the following conditions:

A. ALL PETITIONS

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. 3). 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 contained herein.
3. The petitioner shall submit an application to the Site Plan Review Committee for the certification of the site plan approved by the Board of County Commissioners for this site prior to April 7, 1992.

B. ACCESS

1. Prior to site plan certification, the petitioner shall record in the public record a cross access agreement which provides access to the property owner to the east (Petition No. 90-17) in a form acceptable to the County Attorney.

C. AUTO SERVICE (WITH REPAIRS)

1. The car wash facility shall utilize a 100% water recycling system.
2. No outdoor speaker or public address systems which are audible off-site shall be permitted.
3. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.
4. Vehicles shall not be tested off-site on residential streets.
5. There shall be no outdoor repair or storage of vehicles.
6. 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 service station facility shall provide air and water for minor vehicle maintenance to the public at no charge.

D. BUILDING AND SITE DESIGN

1. Prior to site plan certification, the applicant shall amend the site plan to indicate that the total square footage (for the northern-most local retail near the center of the east property line) is 14,966 square feet. The site plan shall also be amended to indicate the cross-access point to be shared with Petition No. 90-17.
2. Total gross floor area shall be limited to 65,230 square feet. Additional square footage may be permitted in accordance with Zoning Code Section 402.7 (E)2(b) (Site Plan Review Committee Powers and Standards of Review).
3. Architectural character and treatment which is compatible and harmonious with abutting residential development

shall be provided on the rear facades of the retail buildings.

4. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material.

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 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.
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 March 15, 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 Hagen Ranch Road, 60.5 feet from centerline 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.
4. The Property owner shall construct Hagen Ranch Road as a 3 lane section minimum 3-12 foot travel lanes from Boynton Beach Boulevard to the project's southernmost entrance on Hagen Ranch Road plus the appropriate paved tapers concurrent with onsite paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. This construction may be phased subject to approval by the County Engineer.
5. Prior to site plan approval:
  - a. The site plan shall be revised to relocate the proposed north entrance onto Hagen Ranch Road a distance of 120 feet to the south.
  - b. The property owner shall convey an access easement to the adjoining property owner to the east. Location to be approved by the County Engineer.

6. 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 \$230,670.00 (4,178 trips X \$55.00 per trip).
7. The property owner shall convey to the Lake Worth Drainage District the north 75 feet of the subject tracts the required right-of-way for Lateral Canal No. 24, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to March 15, 1992.
8. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the proposed uses and square footage identified in the proposed site plan Exhibit #3 which generates 4,178 net trips on the surrounding roadway network. Changes in the square footage or uses requires a concurrency equivalency determination.
9. The property owner shall fund any required signal modifications in conjunction with roadway improvements. Funding shall include design and construction of the signal modifications as required by the Palm Beach County Traffic Division.
10. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Title on the subject property subject to approval by the County Attorney. This Unity of Title may be broken upon approval by the County Engineer and the Executive Director of the Planning, Zoning and Building Department.

F. CANAL BANK MAINTENANCE

1. Prior to site plan certification, the petitioner shall obtain permission, if possible, from the Lake Worth Drainage District to sod, irrigate and perpetually maintain the adjacent bank of all abutting canals.

G. DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT

1. The extent of soil and groundwater contamination shall be defined and summarized in a complete Contamination Assessment Report (CAR) to 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.
2. Prior to issuance of building permits, all petroleum contaminated soils located in stormwater retention areas, building or parking areas, driveways, or other areas to be covered by slabs, foundations, paving, or ex-filtration trenches, shall be removed to levels designated by the Department of Environmental Resources Management and the area(s) shall be backfilled with clean, non-deleterious material. Petroleum contaminated soils in other areas shall be assessed and remediated in accordance with Chapter 17-770, Florida Administrative Code and Department of Environmental Regulation guidelines.

3. Remediation of contaminated groundwater shall be performed by the petitioner in accordance with Chapter 17-770, Florida Administrative Code requirements. Time frames and schedules described in the rule shall be met by the petitioner unless extensions are granted by the Department of Environmental Resources Management.
4. Plans for any underground storage tanks must be signed off by ERM 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.
5. Secondary containment for stored Regulated Substances- fuels, oils, solvents, or other hazardous chemicals is required. ERM staff are willing to provide guidance on appropriate protective measures.

H. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, shall be concealed behind a solid enclosure. The open end of the enclosure shall have an obscuring, opaque gate.
2. There shall be no dumpsters located within fifty (50) feet of any residentially zoned property.

I. 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 ensures proper re-use or disposal of waste oil.
5. 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.

J. IRRIGATION QUALITY WATER

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

K. 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.

2. All trees planted on-site shall be a minimum of fourteen (14) feet in height at installation with a minimum diameter of three and one-half (3.5) inches measured at a point which is at least four and one-half (4.5) feet above existing grade level.
3. All planted on-site trees shall have a minimum of five (5) feet of clear trunk and a minimum seven (7) foot canopy spread.

L. LANDSCAPING - INTERIOR

1. The interior of the vehicular use areas shall be upgraded to include landscape material planted and maintained pursuant to Section 500.35.G.2.a.(2)(b), which allows Interior Grade-Level Tree Plantings. One native canopy tree shall be provided for each planting area.
2. Prior to site plan certification, the site plan shall be amended to include:
  - a. Five (5) foot wide landscape strips along the rear of the 14,966 square foot and 29,540 square foot retail buildings, except adjacent to access points to the rear of each building. The landscape strips shall be planted with a minimum of thirty (30) inch tall hedge or shrub material planted twenty-four (24) inches on center.
3. Prior to site plan certification, the site plan shall be amended to indicate typical landscape island grade level planters, subject to approval by the Zoning Division.

M. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING BOYNTON BEACH BOULEVARD)

1. Landscaping along Boynton Beach Boulevard shall be upgraded to include:
  - a. A minimum fifteen (15) foot wide landscape buffer strip.
  - b. One fourteen (14) foot tall tree for each twenty (20) linear feet of frontage;
  - c. Thirty (30) inch tall hedge or shrub material planted twenty-four (24) inches on center.

N. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping within a fifteen (15) foot wide buffer strip along the south property line shall be upgraded to include:
  - a. A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development.

2. The following landscaping requirements shall be installed on the exterior side of the required wall:
  - a. One fourteen (14) foot tall tree for each twenty (20) linear feet.
  - b. Thirty (30) inch high shrubs or hedge material spaced no more than twenty four (24) inches; on center at installation, to be maintained at a minimum height of forty-eight (48) inches.
3. The following landscaping requirements shall be installed on the interior side of the required wall:
  - a. Twenty-four (24) inch high shrubs or hedge material spaced no more than twenty four (24) inches, on center, to be maintained at a minimum height of thirty-six (36) inches.

0. LANDSCAPING ALONG THE EAST PROPERTY LINE

1. Landscaping within a ten (10) foot wide buffer strip along the east property line shall be upgraded to include:
  - a. A six (6) foot high opaque concrete wall for that portion of the property line abutting property with residential land use. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development.
  - b. The following landscaping requirements shall be installed on the exterior side of the required wall:
    1. One fourteen (14) foot tall tree for each twenty (20) linear feet.
    2. Thirty (30) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches.
  - c. The following landscaping requirements shall be installed on the interior side of the required wall:
    1. Twenty-four (24) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches.
  - d. For the portion of the east property line abutting commercial zoning, the following landscape requirements shall be installed within the required ten (10) foot wide landscape strip:
    1. One fourteen (14) foot tall tree for each twenty (20) linear feet.
    2. Twenty-four (24) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches.

P. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING HAGAN RANCH ROAD)

1. Landscaping within the required fifteen (15) foot buffer along Hagan Ranch Road shall be upgraded to include:
  - a. One fourteen (14) foot tall tree for each twenty (20) linear feet of frontage;
  - b. Thirty (30) inch tall hedge or shrub material planted twenty-four (24) inches on center.

Q. LANDSCAPE WITHIN MEDIAN

1. Prior to site plan certification, the petitioner shall apply for, and make good faith efforts to obtain, permission from the Florida State Department of Transportation (FDOT) or the County Engineer to landscape the median of all abutting rights-of-way. This landscaping shall consist of a minimum of one (1) twelve (12) foot tall native tree for each thirty (30) linear feet of the adjacent median and appropriate ground cover. Trees may be planted singly or in clusters, with a maximum spacing or sixty (60) feet on center. All landscape material shall be selected according to xeriscape principles from the following list.

Trees:

Turkey Oak  
Live Oak  
Slash Pine  
Sabal Palmetto

Groundcover:

Wedilia  
Bahia Grass

Alternative species may be allowed subject to approval by the Zoning Division. All plant material shall be installed according to xeriscape principles and shall conform with the following:

- a. All plants shall be container grown, except sabal palms.
- b. Except for sabal palms, the bottom cushion of each planting area shall include a minimum four (4) inch thick, high moisture retaining, marl based soil.
- c. Potting soil shall be placed around the plant root balls at time of planting.

This landscaping shall be the daily irrigation responsibility (minimum 90 days from installation) and daily maintenance obligation (in perpetuity) of the property owner.

R. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed downward and away from adjacent properties and streets.
2. Lighting fixtures shall not exceed twenty (20) feet in height. Lighting fixtures within one hundred and sixty (160) feet of residential areas shall not exceed twelve (12) feet in height.



3. All outdoor lighting within fifty (50) feet of residential areas shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement.
4. There shall be no rooftop lighting allowed on-site. Lighting fixtures shall be limited to the minimum needed for essential lighting of the site and structures.

S. PARKING

1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within the loading and delivery areas designated on the site plan.
2. No parking of any vehicles shall be permitted along the rear of the facility except in parking spaces or unloading areas designated on the site plan.

T. RECYCLE SOLID WASTE

1. The property owner and/or all lessees 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.

U. SCHOOL BOARD

1. The petitioner shall install stop bars and stop sign; at the project's entrances on Boynton Beach Boulevard and Hagan Ranch Road in accordance with the manual of Uni-Pom 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 Hagan Road Elementary School between the hours of 7:30 a.m. - 8:15 a.m. and 2:00 p.m. - 2:45 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,

V. SIGNS

1. Signs fronting on Boynton Beach Boulevard shall be limited as follows:
  - a. Maximum sign height - ten (10) feet.
  - b. Maximum total sign face area per sign - 100 sq. ft. total.
  - c. Maximum number of signs - one (1) monument type sign.
2. Signs fronting on Hagan Ranch Road shall be limited as follows:
  - a. Maximum sign height - ten (10) feet.
  - b. Maximum total sign face area - 100 sq. ft. total.
  - c. Maximum number of signs - one (1) monument type sign.

3. 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.
4. 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 all sign-related conditions of approval.
5. The service station gasoline price information shall comply with the minimum requirements of the applicable County Ordinance.

**W. UNITY OF CONTROL**

1. Prior to site plan certification, the petitioner shall record in the public record a Unity of Control for the entire subject property in a form acceptable to the County Attorney.

**X. USE LIMITATION**

1. Retail business activities, excluding the auto service station and convenience store, shall not be allowed on site, including deliveries, prior to 6:00 a.m. nor continue later than 11:00 p.m. The fast food facility may be open until 12 o'clock midnight.
2. No storage or placement of any material, refuse, equipment or debris shall be permitted in the rear of any of the facilities.
3. No outdoor retail business activities shall be allowed on the site, excluding deliveries.

**Y. UTILITIES**

1. The developer shall design the project on-site irrigation system to facilitate a suitable connection to a future reclaimed water transmission main on Hagan Ranch Road. The irrigation system shall be designed to allow a disconnection of the irrigation well and/or surface water irrigation pump providing irrigation water on an interim basis until connection to the reclaimed water system becomes available. There shall be no physical connection between the irrigation system and the potable water system. The design of the irrigation system shall be subject to the review and approval of the Palm Beach County Water Utilities Department.
2. Upon the availability of reclaimed water from the Palm Beach County Southern Region Wastewater Treatment Plant, the Property Owner will enter into a Reclaimed Water Use Agreement with Palm Beach County and the Palm Beach County Water Utilities Department for the provision of reclaimed water to the project for the purpose of irrigating grassed and landscaped areas.
3. The developer shall extend the 16-inch water main in Boynton Beach Boulevard, from the west property line of Palm Isles PUD to Hagan Ranch Road, and thence extend a 20-inch water main in Hagan Ranch Road, from the north

side of Boynton Beach Boulevard to the entrance of Hagan Ranch Commerce Center, in accordance with Palm Beach County Water Utilities Department requirements.

4. The developer shall construct a 6-inch force main from the existing 8-inch force main in Boynton Beach Boulevard, at the entrance to the Palm Isles PUD development to the project site, in accordance with Palm Beach County Water Utilities Department requirements.

**Z. 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.
2. 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 McCarty moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	Aye
Carole Phillips	--	Aye
Carol A. Roberts	--	Absent
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 10th day of March, 1992.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY


PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

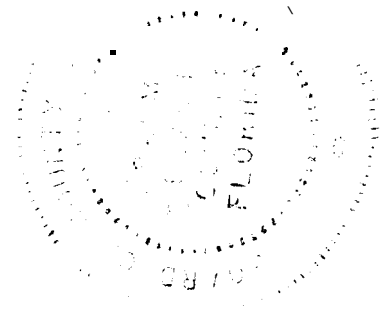
**MILTON T. BAUER, CLERK**  
**Board of County Commissioners**

BY:

  
COUNTY ATTORNEY

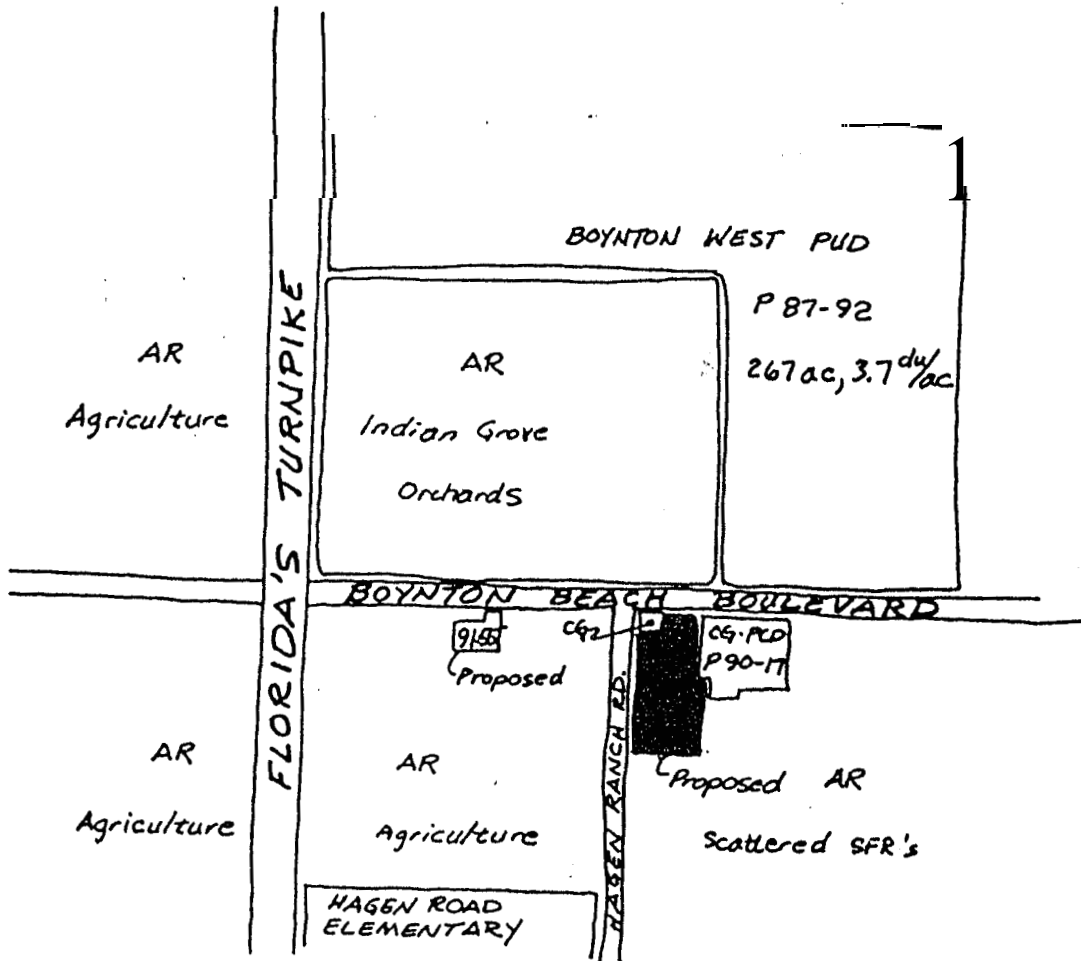
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DEPUTY CLERK



Sec. 28 Twp. 45 Rng. 42  
 Quadrant Sheet: 50  
 Aerial Page: 301

VICINITY  
 Sketch



**Request:**

A REZONING in part, and from the General Commercial (CG) Zoning District, District, to the General Commercial (CG) Zoning District entirely and a SPECIAL EXCEPTION for a Planned Commercial Development (PCD), including an auto service station (major repairs), a convenience store and an accessory car wash.

PETITION NO: 91-47

BCC DISTRICT: 5