

ORIGINAL

RESOLUTION NO. R-92- 354

RESOLUTION APPROVING ZONING PETITION NO. 91-55
SPECIAL EXCEPTION PETITION OF HERBERT & HEINZ KAHLERT, CO-TRUSTEES

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. 91-55 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. 91-55, the petition of HERBERT AND HEINZ KAHLERT, CO-TRUSTEES, BY KIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION TO ALLOW A CONVENIENCE STORE WITH GASOLINE STATION (NO REPAIRS) AND ACCESSORY CAR WASH on a parcel of land lying in Tracts 11 and 12, Block 55, Palm Beach Farms Company Plat No. 3, recorded in Plat Book 2, Pages 45 through 54, Section 27, Township 43 South, Range 42 East; COMMENCING at the intersection of the North line of said Block 55 with the centerline of Hagen Road (said centerline also being the centerline of the 30.00 foot roadway shown on said Palm Beach Farms Company Plat No. 3); run thence South 89°25'54" West along said North line, a distance of 950.00 feet to the POINT OF BEGINNING; thence South 44°25'54" West (departing from said North line), a distance of 35.36 feet; thence South 00°34'06" East, a distance of 240.00 feet; thence South 89°25'54" West, a distance of 295.00 feet; thence North 00°34'06" West, a distance of 235.00 feet; thence North 89°25'54" East, a distance of 270.00 feet; thence North 00°34'06" West, a distance of 30.00 feet to a point on the said North line of Block 55; thence North 89°25'54" East along said North line, a distance of 50.00 feet to the POINT OF BEGINNING, and being located APPROX. 30' S OF BOYNTON BEACH BLVD., APPROX. .2 MILE E OF FLORIDA'S TURNPIKE AND .2 MILE W OF HAGEN RANCH RD., was

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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. 24). 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. AUTO SERVICE (NO REPAIRS)

1. No outdoor speaker or public address systems which are audible off-site shall be permitted.
2. No outside storage of vehicles, disassembled vehicles, or parts thereof, shall be permitted on site.
3. There shall be no repair of vehicles allowed on site.
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 service station facility shall provide air and water for minor vehicle maintenance to the public at no charge.

C. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 2,400 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).
2. 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.
3. Prior to site plan certification, the petitioner shall amend the site plan to indicate the correct ultimate right-of-way.
4. Prior to site plan certification, the petitioner shall amend the site plan to indicate a fifteen (15) foot landscape strip along the north property line and a minimum five (5) foot landscape strip along the west property line.

D. CANAL BANK MAINTENANCE

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

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. 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 \$50,490.00 (918 trips X \$55.00 per trip).
4. The property owner shall convey to the Lake Worth Drainage District the property 80 feet of the right-of-way lying South of and adjacent to the South right-of-way line for Boynton Beach Boulevard in the form provided by said District prior to March 15, 1992.
5. Prior to Site Plan approval by the Site Plan Review Committee, the property owner shall record a Unity of Title on the C-5 zoned property, subject to approval by the County Attorney. The Unity of Title shall be released upon the recording of a plat of the C-5 zoned area.

F. 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.

G. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The proposed car wash shall have a 100% water recycling system.

2. 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.
3. 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.

H. HEALTH

1. The application and engineering plans, calculations, etc. to construct well and/or septic tank must be submitted to the Health Department prior to site plan approval.
2. 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.
3. When water and/or sewer become available to the site, the petitioner shall connect to the system.

I. 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.

J. 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 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 trees shall have a minimum of five (5) feet of clear trunk and a minimum seven (7) foot canopy spread.

K. LANDSCAPING ALONG THE NORTH PROPERTY LINE

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.
 - c. Thirty (30) inch tall hedge or shrub material planted twenty-four (24) inches on center at

installation, to be maintained at a minimum height of forty-eight (48) inches.

L. LANDSCAPING ALONG THE SOUTH PROPERTY LINE

1. Landscaping within the five (5) foot wide buffer along the south property line shall be upgraded to include:
 - a. One fourteen (14) foot tall tree for each twenty (20) linear feet.
 - b. Twenty-four (24) 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 thirty-six (36) inches.

M. LANDSCAPING ALONG THE EAST PROPERTY LINE

1. Landscaping within the ten (10) foot wide buffer along the east property line shall be upgraded to include:
 - a. One fourteen (14) foot tall tree for each twenty (20) linear feet.
 - b. Twenty-four (24) 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 thirty-six (36) inches.

N. LANDSCAPING ALONG THE WEST PROPERTY LINE

1. Landscaping within the required minimum five (5) foot wide buffer along the west property line shall be upgraded to include:
 - a. One fourteen (14) foot tall tree for each twenty (20) linear feet.
 - b. Twenty-four (24) 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 thirty-six (36) inches.

O. 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:

Laurel 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, for a minimum 90 days from installation, and daily maintenance obligation, in perpetuity, of the property owner.

P. 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.

Q. RECYCLE SOLID WASTE

1. The property owner and/or 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.

R. 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 - 100 sq. ft. total.
 - c. Maximum number of signs - one (1) monument type sign.
2. Signs fronting on the future internal access road along the east property line shall be limited as follows:
 - a. Maximum sign height - eight (8) feet.
 - b. Maximum total sign face area - 80 sq. ft. total.
 - c. Maximum number of signs - one (1).
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.

S. 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

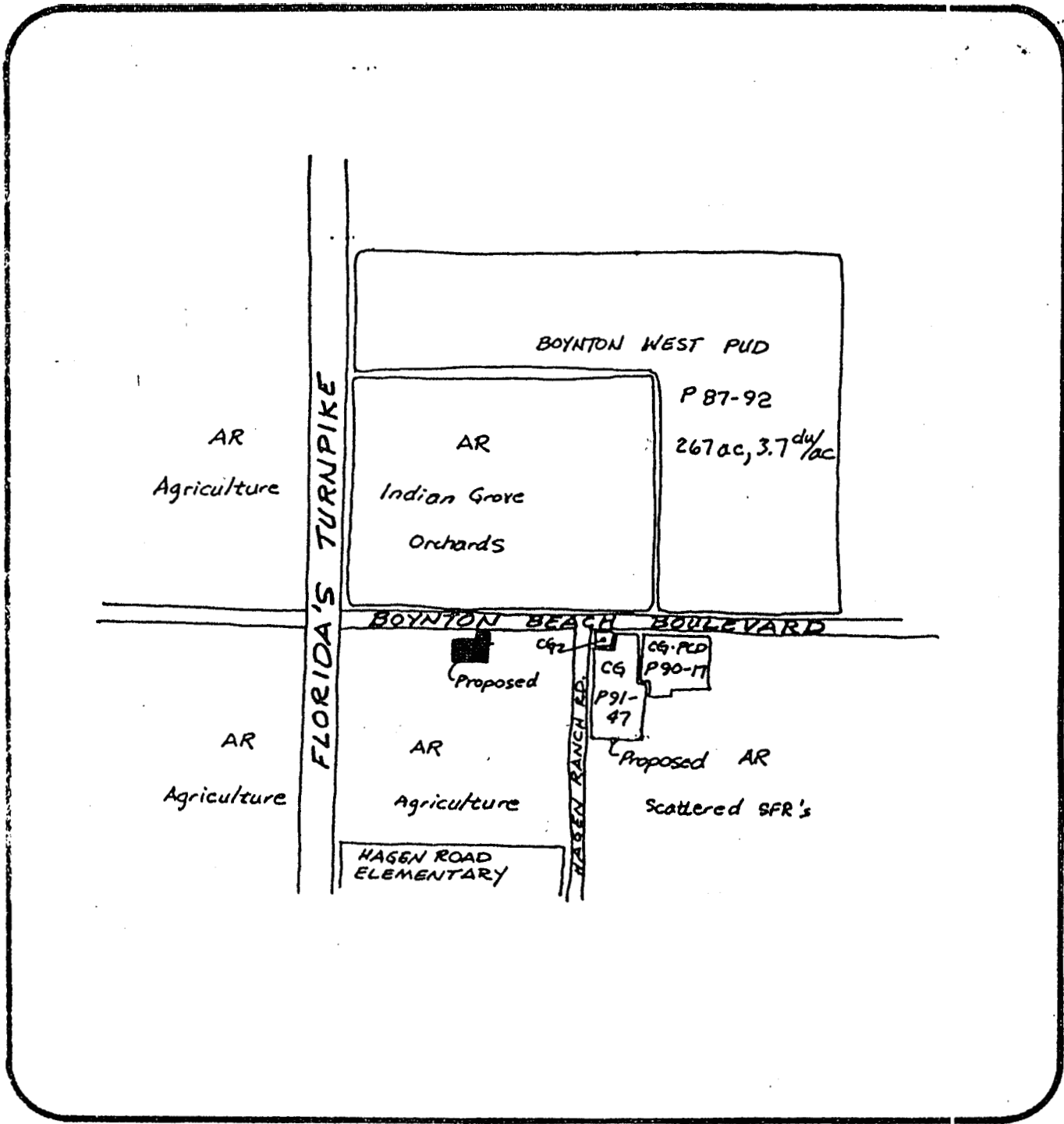
MILTON T. BAUER, CLERK
Board of County Commissioners

BY : *Barbara Otter*
COUNTY ATTORNEY

By *Jan Havelly*
BY : OEPUNCLERK
DEPUTY CLERK

Sec. 28 Twp. 4S Rng. 42
Quadrant Sheet: 50
Aerial Page: 301

Vicinity Sketch



Request:

A REZONING from the Agricultural Residential (AR) Zoning District to the General Commercial (CG) Zoning District and a SPECIAL EXCEPTION for a convenience store with a gasoline station (no major repairs) and an accessory car wash.

PETITION NO: 91-55

BCC DISTRICT: 5