

ORIGINAL

RESOLUTION NO. R-92-⁹⁴⁵

RESOLUTION APPROVING ZONING PETITION NO. 90-37
SPECIAL EXCEPTION PETITION OF W. L. AND DOROTHY I. WILKERSON

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. 90-37 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on March 26, 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. 90-37, the petition of W. L. AND DOROTHY I. WILKERSON, BY ALAN J. CIKLIN, AGENT, for a SPECIAL EXCEPTION TO ALLOW A PLANNED COMMERCIAL DEVELOPMENT TO INCLUDE A CONVENIENCE STORE WITH GASOLINE SALES (NO REPAIRS) AND AN ACCESSORY AUTOMATIC CAR WASH FACILITY on a parcel of land lying within a portion of Tract 1, Block 22, of "Palm Beach Farms Company Plat No. 3", Section 22, Township 44 South, Range 42 East, Plat Book 2, Page 47. Commencing at the North 1/4 corner of said Section 22; Thence run South 02 degrees 07'07" W along the center section line of said Section 2 for a distance of 1,062.04 feet to a point that is 220.00 feet North as measured at right angles from the South line of said Tract 1; Thence run South 89 degrees 01'35" W for a distance of 40.06 feet to a point on the West right-of-way line of Jog Road, said point also the Point of Beginning of a parcel of land hereinafter described; Thence run South 89 degrees 01'35" West along a line that is 220.00 feet North of and parallel to the South line of said Tract 1 for a distance of 407.83 feet to a point on the West line of said Tract 1; Thence run North 00 degrees 27'32" East along the West line of said Tract 1 for a distance of 195.52 feet to a point on the South right-of-way line of 10th Avenue North, Official Record Book 4758, Pages 0515 through 0518; Thence run South 89

degrees 00'41" East along the said South right-of-way line for a distance of 387.48 feet to a point; Thence run South 43 degrees 26'47" East for a distance of 35.70 feet to a point on the West right-of-way line of Jog Road; Thence run South 02'07'07" West along the said West right-of-way line for a distance of 156.08 feet to the Point of Beginning, and being located **ON THE SW CORNER OF THE INTERSECTION OF JOG RD. & 10TH AVE. N**, was approved on March 26, 1992, 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. (Zoning)
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 3) 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). (Zoning)

B. AUTO SERVICE (NO REPAIRS)

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. (Building)
2. Outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent properties and streets and shall be a maximum of fourteen (14) feet in height. (Code Enforcement/Building)
3. The car wash facility shall utilize a 100% water recycling system. (Building)
4. No outdoor speaker or public address systems which are audible from the exterior of the site shall be permitted. (Code Enforcement)
5. There shall be no repair or maintenance of vehicles on site. (Code Enforcement)
6. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (Code Enforcement)
7. Vehicle parking shall be limited to the parking areas designated on the approved site plan. **No** parking of vehicles shall be allowed in landscaped areas, right-of-way or interior drives. (Code Enforcement)
8. 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. (Zoning/Code Enforcement)
9. 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. (Zoning)

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances (e.g. fuels, oils, solvents, or other hazardous chemicals) is required. The Department of Environmental Resources Management will provide guidance on appropriate protective measures. (ERM)
2. Plans for underground storage tanks shall be signed off by the Department 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 shall be a part of those measures. (ERM)
3. The petitioner shall install an on site groundwater monitoring well prior to the issuance of a Certificate of Occupancy for the project and shall provide the Department of Environmental Resources Management test results on a semi-annual basis, beginning after issuance of the Certificate of Occupancy. (ERM\Building Division)

D. 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. (HRS)
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (HRS)
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (HRS)
4. The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil. (HRS)
5. No portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10-D-6 F.A.C. (HRS)

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. (Engineering Department)

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. (Engineering Department)
3. Prior to December 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 Land Development Division by road right-of-way warranty deed for:
 - a. Jog Road, 64 feet from centerline
 - b. 10th Avenue North, 71.5 feet from centerline

Free of all encumbrances and encroachments. Property owner 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. (Monitoring)

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. The Fair Share Fee for this project at the time of the Building Permit presently is \$21,340.00 (776 trips X \$27.50 per trip). (Impact Fee Coordinator)

F. 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. (Utilities)

G. LANDSCAPE

1. Landscaping shall be upgraded along north and east property lines to include:
 - a. Fourteen (14) foot tall native canopy trees, placed twenty (20) feet on center;
 - b. A thirty-six (36) inch high continuous opaque hedge. (Zoning)
2. A ten (10) foot wide landscape buffer strip shall be provided along the south property line. This landscape strip shall be supplemented with fourteen (14) foot tall native canopy trees, planted fifteen (15) feet on center and a thirty-six (36) inch high continuous opaque hedge. A six (6) foot high solid wall, with compatible architectural treatment, shall be provided or the

interior side of the landscape strip. No wall shall be required adjacent to the vegetation preserve area. (Zoning)

3. A five (5) foot landscape buffer strip shall be provided between the vegetation preservation area and the western perimeter of the developed portion of the site. This landscape strip shall be supplemented with fourteen (14) foot tall native canopy trees, planted twenty (20) feet on center and a thirty-six (36) inch high continuous opaque hedge. (Zoning)
4. All required trees in landscape buffer strips shall meet at a minimum the following standards:
 - a. Tree height: fourteen (14) feet minimum.
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
 - c. Canopy diameter: seven (7) feet minimum, The diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (Zoning)

H. SCHOOL BOARD

1. Petitioner shall install stop bars and stop signs at the project's entrances on Tenth Avenue North and Jog Road 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 Liberty Park 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. (Zoning/School Board)

I. SIGN CONTROL

1. Freestanding point of purchase signs permitted on site shall be limited as follows:
 - a. a maximum ten (10) feet in height, measured from finished grade;
 - b. 100 square feet in sign area per side;
 - c. a maximum of one (1) sign;
 - d. prior to site plan certification, the petitioner shall submit a master sign program which specifies: sign location, sign size, and unified graphics and color. (Building Division\Zoning)
2. 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 the sign related conditions of approval. (Building Division\Zoning)

3. 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. (Code Enforcement)

J. SITE SPECIFIC

1. The consumption of alcoholic beverages shall not be permitted on site. (Code Enforcement)
2. Hours of operation shall be limited to 6:00 am to 11:00 pm, Sunday through Thursday, and 6:00 am to 12:00 am, Friday and Saturday. (Code Enforcement)
3. Total building floor area on site shall be limited to a maximum of 1,935 square feet. (Building)
4. Prior to site plan certification, the required handicapped parking stall shall be relocated adjacent to the proposed ramp. (Zoning)
5. The delivery and/or unloading of all goods and services including, but not limited to, fuel and products intended for retail sales, shall be limited Monday through Friday to the hours between 9:00 a.m. and 2:00 p.m. only.

K. 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 two (2) parcels. This document shall be in a form acceptable to the County Attorney prior to Site Plan certification. (County Attorney)

L. VEGETATION PROTECTION

1. The petitioner shall establish, prior to site plan certification, a preserve area easement on the western portion of the property. This preserve area easement shall be a minimum of 170 feet wide. This easement shall permit no development activity to take place within it. (Zoning)
2. No structures or utilities shall be located within the preserve area. (Zoning)
3. 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 in the field, tagged and numbered according to the tree survey;
 - b. Trees to be preserved shall receive appropriate protection during site development. Protection devices shall be in place and approved by the Zoning Division prior to commencing any clearing activity; and,

- c. **No** vegetation removal or development activity such as trenching, grade changes **or** grubbing that may cause injury to the vegetation shall be permitted in required buffer areas **or** preservation areas. (Zoning)
4. Prior to removal of any vegetation, the petitioner shall schedule a pre-clearing inspection with the Zoning Division. (Zoning)

M. VEGETATION PRESERVATION PROGRAM

1. Prior to site plan certification, the petitioner shall submit a Vegetation Preservation Report which details methods of preservation. These methods shall be approved **by** the Zoning Division and be in place prior to final issuance **of** the Vegetation Removal Permit. (Zoning)
2. Native vegetation not located within preservation/relocation areas and deemed relocatable by the Department **of** Environmental Resource Management and the Zoning Division shall be relocated to perimeter buffers **or** other open space areas on site. (Zoning)
3. The petitioner shall preserve/relocate existing native vegetation on site and shall incorporate it into the project design. Clearing of the vegetation shall be limited to the building pad areas, retention 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. (Zoning)
4. **No** native vegetation shall be removed from the preserve area. At the time of Site Plan Review Committee application for the site plan, the following vegetative information shall be submitted:
 - a. A detailed vegetation preservation, relocation, donation and removal program. This program **;** shall include a site plan at the same scale **as** the tree survey.
 - b. This plan shall:
 - 1) Clearly identify all oak, slash pine and cypress trees and whether they are to be preserved, relocated or removed. At a minimum, this plan shall incorporate all oaks trees greater than thirty (30) inches in diameter, unless it is the opinion **of** the Zoning Director that such trees impose **undue** constraints on the efficiency planning or engineering of the property, at which time, the developer shall relocate said tree(s) in accordance with Arbor Society Standards.
 - 2) Relocate all oak trees between five (5) and twenty-nine (29) inches in diameter.
 - 3) Preserve or relocate all cypress trees which can be moved with a tree spade.

- 4) Preserve or relocate all slash pine trees which can be moved with a tree spade.
- 5) Justify all relocation or removal.
- 6) Detail methods to be used in relocation, preservation and removal.
- 7) Palms trees growing within required buffer and preserve areas shall be preserved where possible. Palm trees growing within the developable portions of the site shall not be removed until a Relocation Program is developed and approved. (Zoning)

N. 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. (Zoning/Monitoring)

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 15th 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	--	ABSENT
Carol A. Roberts	--	AYE
Carol J. Elmquist	--	AYE
Mary McCarty	--	ABSENT
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

The Chair thereupon declared the resolution was duly gassed and adopted this 7th day of July, 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:

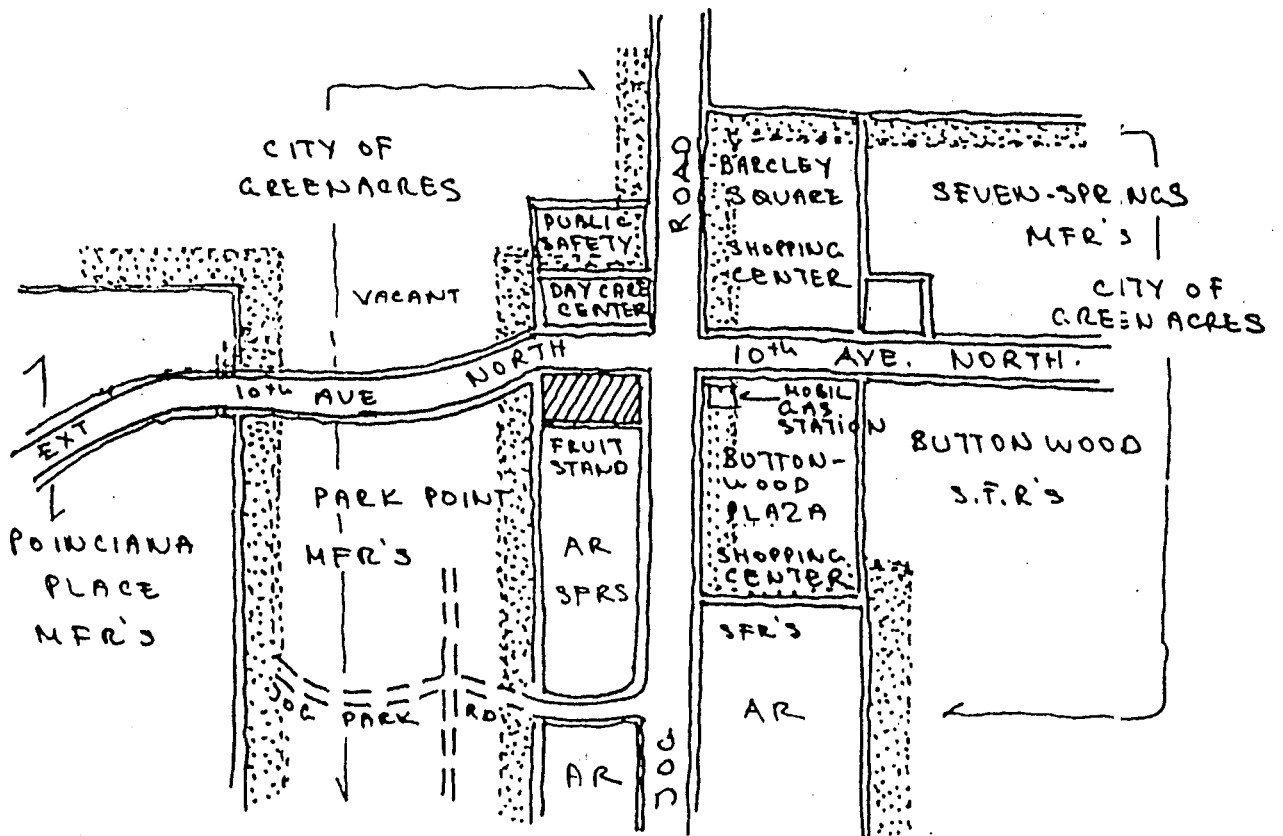
Barbara Altemus
COUNTY ATTORNEY

BY:

By *Michelle P. Crowl*
DEPUTY CLERK
DEPUTY CLERK

Sec. 22 Twp. 44 Rng. 42
Quadrant Sheet: 33
Aerial Page: 287

Vicinity Sketch



Request:

REZONING: Agricultural Residential (AR) to General Commercial (CG). SPECIAL EXCEPTION: Planned Commercial Development to include a convenience store with gasoline service station (no repairs) and a car wash facility.

PETITION NO: 90-37

BCC DISTRICT: 2