

RESOLUTION NO. R-92- 1819

RESOLUTION APPROVING ZONING PETITION NO. 90-23(A)
SPECIAL EXCEPTION PETITION OF SCOTT AND CAROL LEWIS

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. 90-23(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on June 29, 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. 90-23(A), the petition of SCOTT AND CAROL LEWIS, for a SPECIAL EXCEPTION TO ALLOW VEHICLE SALES AND RENTAL SERVICE on a parcel of land lying in Lots 22 through 30, Block 33, WESTGATE ESTATES, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court, in and for Palm Beach County, in Section 30, Township 43, Range 43, as recorded in Plat Book 8, Page 38, and being located on the S.W. CORNER OF WESTGATE AVE. AND SEMINOLE BLVD., IN THE CG ZONING DISTRICT, was approved on June 29, 1992, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Petition 90-23 and all related conditions of approval are hereby extinguished, pursuant to approval of Petition 90-23(A). (ZONING)
2. The petitioner shall receive certification of the site plan approved by the Board of County Commissioners for the subject property, as amended as required by the conditions of approval, by the Site Plan Review Committee on or before October 28, 1992. (MONITORING-ZONING)

3. 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. (ZONING)
4. 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. 30). 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. (ZONING)

B. BUILDING AND SITE DESIGN

1. 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. (BUILDING)
2. Total gross floor area shall be limited to a maximum of **800** square feet (**400** square feet enclosed building, **400** square feet roofed only structure). (ZONING-BUILDING)
3. Prior to site plan certification, the site plan shall be amended to indicate a total gross floor area of **400** square feet of enclosed building, **400** square feet of roofed area only and a maximum floor area ratio of **3%**. (ZONING)
4. Architectural character and treatment which is compatible and harmonious with abutting development shall be provided on all sides of the building. (BUILDING)
5. Prior to site plan certification, the site plan shall be amended to reflect the relocation of the vehicle storage/display spaces currently shown on the site plan (Exhibit 30) along the north and east property lines **so** that no vehicle storage/display spaces are located between the base building line, as defined in Section **200.2** of the Zoning Code, and the paved edge of the public street. The petitioner shall have the option of applying to the Board of Adjustment for variance relief from this requirement. In addition, if, prior to the issuance **of** a building permit for the project, the Zoning Code is amended **to be** less restrictive than this condition of approval/Zoning Code requirement, the regulations of the amended Zoning Code shall apply. (ZONING-BUILDING)

C. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall be confined to areas designated **on** the site plan and shall be screened by a solid opaque enclosure. The open end of the enclosure shall have an obscuring, opaque gate. (ZONING-BUILDING)

All exterior sides of such enclosures, except the open end, shall be landscaped with thirty (30) inch high shrub and hedge material planted twenty-four (24) inches on center at installation. Alternative landscaping may be permitted which is acceptable to the Zoning Division. This provision shall not apply to litter containers provided for the convenience of pedestrians. (BUILDING-ZONING)

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. (HEALTH)**
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (HEALTH)
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (HEALTH)
4. All existing septic tank systems shall be abandoned in accordance with Chapter 10D-6, FAC. (BUILDING-HEALTH)

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)
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)
3. Prior to December 31, 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 a twenty-five (25) foot safe sight corner at the intersection of Westgate Avenue and Seminole Avenue. 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. (MONITORING-BUILDING-ENGINEERING)

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. Presently, the Fair Share Fee for this project is **\$5,390.00** (98 additional trips x **\$55.00** per trip. (IMPACT FEE COORDINATOR)

F. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Plans for any underground storage tanks must be approved 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 with corrosion protection or their equivalent shall be a part of those measures. (BUILDING-EM)
2. **Secondary containment for stored Regulated Substances-fuels, oils, solvents, or other hazardous chemicals is required.** Department of Environmental Resources Management staff are willing to provide guidance on appropriate protective measures. (BUILDING-ERM)

G. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (UTILITIES)

H. 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. (ZONING)
2. All required trees in landscape buffer strips shall meet the following minimum standards:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
 - c. Canopy diameter: seven (7) feet. 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)

I. LANDSCAPING ALONG THE NORTH PROPERTY LINE

1. Landscaping within the required buffer along Westgate Avenue shall be upgraded to include:
 - a. One (1) native canopy tree planted every twenty (20) feet on center.

- b. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (ZONING)

J. LANDSCAPING ALONG THE EAST PROPERTY LINE

1. Landscaping within the required buffer along Seminole Avenue shall be upgraded to include:
 - a. One (1) native canopy tree planted every twenty (20) feet on center.
 - b. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (ZONING)

K. LANDSCAPING ALONG THE WEST PROPERTY LINE

1. The following landscaping requirements shall be installed along the west property line:
 - a. One (1) native canopy tree planted every twenty (20) feet on center.
 - b. Thirty (30) inch high shrub 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. (ZONING)

L. LANDSCAPING ALONG THE SOUTH PROPERTY LINE

1. Landscaping and buffering along the south property line shall be upgraded to include:
 - a. A six (6) foot high opaque wood fence. The exterior side of the fence shall be given a finished treatment which is compatible and harmonious with abutting development. (ZONING)
2. The following landscaping requirements shall be installed on the exterior side of the required fence:
 - a. One (1) native canopy tree planted every twenty (20) feet on center.
 - b. Five (5) foot high continuous hedge installed at a minimum of forty-eight (48) inches high, planted thirty (30) inches on center and shall be maintained at a minimum of sixty (60) inches high. (ZONING)

M. 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. (CODE ENFORCEMENT)
2. All lighting fixtures shall not exceed twenty (20) feet in height. Lighting fixtures within fifty (50) feet of residential areas shall not exceed a height of twelve (12) feet. (BUILDING)

3. All outdoor lighting shall be extinguished no later than **11:00** p.m. Security lighting only is excluded from this requirement. (CODE ENFORCEMENT)

N. RECYCLE OIL

1. 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. (ERM)

O. 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. (SOLID WASTE AUTHORITY)

P. SIGNS

1. 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. (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 all sign-related conditions of approval. (BUILDING-ZONING)

Q. VEHICLE SALES AND RENTAL SERVICE

1. Use **of** the site shall be limited to sales, leasing and detailing as an accessory use **of** new or used vehicles and customary accessory uses. A maximum **of** forty-one (**41**) vehicles for sale or rental shall be stored on site. No gasoline sales shall be permitted on site. (BUILDING-CODE ENFORCEMENT)
2. The time of vehicle detailing activity on the site shall be limited from 7:00 a.m. **to** 7:00 p.m., Monday through Saturday. There shall be no auto detailing activity on Sundays. (CODE ENFORCEMENT)
3. When this facility is not open, the parking area shall be locked and gated. (CODE ENFORCEMENT)
4. No outdoor speaker or public address systems which are audible off-site shall be permitted. (CODE ENFORCEMENT)
5. No outside storage **of** disassembled vehicles, or parts thereof, shall be permitted on site. (CODE ENFORCEMENT)
6. Vehicles shall not be tested off-site on residential streets. (CODE ENFORCEMENT)
7. No vehicle shall be parked with its hood or trunk open, nor elevated **off** the ground in any way. Vehicles shall only be parked or displayed in the approved areas designated on the certified site plan. (CODE ENFORCEMENT-ZONING)

8. No advertising flags, foreign flags, pennants, banners, streamers, balloons, signs upon any vehicles, prices or vehicle stock numbers or other information except that required to be posted on such vehicles by law, shall be permitted on site. (CODE ENFORCEMENT)
9. No objects, gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors or upon any building, vehicle or wall, other than inside a window as may be permitted by the Sign Code. (CODE ENFORCEMENT)

R. WESTGATE CRA CONDITIONS

1. Along with the building permit application for the 400 square foot building, the petitioner shall submit conceptual elevations with all materials and colors specified, including but not limited to, roof, trim, awnings, walls, signs, fences and screening of mechanical equipment, utility structures and trash receptacles. (BUILDING)
2. Frontage on Westgate Avenue shall comply with the streetscape design guidelines of the Westgate/Belvedere Homes Community Redevelopment Area Plan. (WCRA-CODE ENFORCEMENT)
3. Landscaping, exterior speaker systems, sign area, lighting, building design and fences shall comply with the "special development standards for nonresidential development" in Section 627.F.2 of the Zoning Code. (WCRA-BUILDING-ZONING)

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 one or more of the following:
 - a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
 - b. The revocation of any 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;
 - c. Rezoning of the property;
 - d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;
 - e. Citation of the property owner for violation of the Zoning Code. (MONITORING)

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 Commissioners decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

Commissioner Marcus 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:

Mary McCarty, Chair	--	AYE
Ken Foster, Vice Chair	--	ABSENT
Burt Aaronson	--	AYE
Maude Ford Lee	--	AYE
Karen T. Marcus	--	AYE
Warren Newell	--	AYE
Carol A. Roberts	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 1st day of December, 1992.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:

Richard Alter
COUNTY ATTORNEY

BY:

Robert Johnson
DEPUTY CLERK

