

RESOLUTION NO. R-93- 334

RESOLUTION APPROVING ZONING PETITION NO. 73-237(A)
SPECIAL EXCEPTION PETITION **OF** BMT REALTY, INC.

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. 73-237(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on July 30, 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. 73-237(A), the petition **of** BMT REALTY, INC., by Robert E. Basehart, Agent, for a SPECIAL EXCEPTION for a DRIVE-THROUGH RESTAURANT on a parcel of land lying beginning at a point on the North line **of** Section 19, Township 42S, Range 43E, said point being 331.69 Ft. West of the quarter section corner on the North line of the above mentioned Section 10; thence Southerly and making an angle of 90 degrees 2 minutes, zero seconds West to south from said North line of Section 19, 75.00 ft. to the point **of** beginning of the lands hereinafter described, thence continuing southerly on the same line 198.4' feet to a point; thence Westerly and parallel to the above mentioned North line of Section 19, 125 feet to a new corner now established; thence Northerly and parallel to the East line of this parcel, 198.40 feet to a point; thence easterly and parallel to the North Line of the above mentioned section 19, 125.00 feet to the point **of** beginning., and being located in the SE corner of Northlake Blvd, and Lyndall Lane, in the IL Zoning District, was approved on July 30, 1992, as advertised, subject to the following conditions:

A. ALL PETITIONS

1. 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 31, 1992. (MONITORING)
2. For purposes of this petition, Parent Tract shall mean that certain parcel of land described in that certain deed recorded in OR Book 2010, Page 471, Public Records of Palm Beach County; Lease Parcel shall mean that certain portion of the Parent Tract described in Exhibit # 32, Zoning Petition 73-237(A). (ZONING)

B. ANNEXATION

1. The property owner shall submit an application to voluntarily annex on or before August 30, 1993, the entire parent tract into the City of Palm Beach Gardens, in accordance with Chapter 171, Florida Statutes.

C. BUILDING AND SITE DESIGN

1. The lease parcel shall be limited to a maximum of 713 square feet total gross floor area of restaurant (drive-through). (BUILDING)
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. (BUILDING)
3. The building design shall be identical to the "Checkers" restaurant located within the Wellington PUD. Similar architectural character and treatment shall be provided on all sides of the building. (ZONING-Building)
4. Prior to site plan certification, the petitioner shall amend the site plan to indicate the following:
 - a. The entire parent tract, including all existing structures to remain. (ZONING)
 - b. The number of seats for the outdoor patio.
 - c. A minimum of one parking space per three seats, plus two spaces for the drive-through windows.
 - d. The location of a cross access easement to the parcel to the east of the parent tract, in a manner and location acceptable to Zoning and Engineering. (ZONING-Engineering)

D. 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. (BUILDING/ZONING)

2. 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)

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 - Code Enforcement)
2. Prior to October 15, 1993 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 safe sight corner at the intersection of Lyndall Land and Northlake Boulevard. 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. (MONITORING/BUILDING-Engineering)
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 \$40,260 (732 trips X \$55.00 per trip) (IMPACT FEE COORDINATOR)
4. Pavement markings and signing shall be shown on the site plan and approved by the County Engineer and installed prior to issuance of the Certificate of Occupancy. (ENGINEERING)

F. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The Petitioner shall submit an Affidavit of Notification to the Department of Environmental Resources Management prior to Site Plan certification. (ZONING/ERM)

G. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (BUILDING -Health)
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (BUILDING - Health)

H. 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)

I. 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 for the lease parcel and all landscape/vegetation preservation conditions of approval for the entire parcel. (ZONING)
2. All trees required on site by the approval of this petition shall meet the following minimum standards at installation:
 - 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)

J. LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINES

1. Landscaping along Northlake Boulevard and the west boundary of the lease parcel along Lyndall Lane shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip.
 - b. One (1) native canopy tree planted every twenty (20) feet on center.
 - c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation.
 - d. The patio may encroach a maximum of five (5) feet into the required buffer. (ZONING)

K. LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES

1. Landscaping along the south and east boundaries of the lease parcel 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)

L. LIGHTING

1. All new or proposed outdoor lighting used to illuminate the parent tract, premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CODE ENFORCEMENT)
2. New or proposed lighting fixtures used to illuminate the parent tract, premises and identification signs shall not exceed twenty (20) feet in height. New or proposed lighting fixtures within fifty (50) feet of residential areas shall not exceed a height of twelve (12) feet in height. (BUILDING)

M. 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)

N. SIGNS

1. Point of purchase signs on the lease parcel shall be limited as follows:
 - a. Maximum sign height, measured from finished grade - ten (10) feet;
 - b. Maximum sign face area per side - 60 square feet;
 - c. Maximum number of signs - one (1). (BUILDING)

O. UNITY OF TITLE

1. Prior to site plan certification, the petitioner shall record in the public record a Unity of Title for the entire parent tract in a form acceptable to the County Attorney. (ZONING-County Attorney)

P. USE LIMITATIONS

1. No outdoor loudspeaker system audible off site shall be permitted. (CODE ENFORCEMENT)
2. The petitioner shall remove the existing billboard from the lease parcel prior to the issuance of any certificates of occupancy unless otherwise ordered by court. In no event shall the sign remain beyond September 12, 1996. (BUILDING/MONITORING)

3. The petitioner shall remove the existing dispatch tower on the east boundary of the lease parcel or receive the appropriate permits to continue its use, prior to the issuance of any certificates of occupancy. (BUILDCNG)

Q. COMPLIANCE

1. As provided in Zoning Code Sections 400.2 and 412.6, 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; and/or
 - 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; 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.

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	--	aye
Burt Aaronson	--	aye
Maude Ford Lee	--	aye
Karen T. Marcus	--	aye
Warren H. Newell	--	aye
Carol A. Roberts	--	aye

The Chair thereupon declared the resolution was duly passed and adopted this 16th day of March, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK