

RESOLUTION NO. R-93- 548

RESOLUTION APPROVING ZONING PETITION DOA91-55(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF HEINZ KAHLERT, CO-TRUSTEE

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, 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 Article 5 of the Palm Beach County Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA91-55(A) was presented to the Board of County Commissioners at a public hearing conducted on April 29, 1993; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, section 5.8 (Compliance with Time Limitations), of the Palm Beach County Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment is consistent with all requirements of Article 5, Section 5.4 (Conditional Uses) of the Palm Beach County Land Development Code, Ordinance 92-20.
3. This Development Order Amendment complies with all relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Land Development Code.
4. This Development Order Amendment is consistent with the requirements of the Palm Beach County Land Development Code.
5. This Development Order Amendment is compatible as defined in the Palm Beach county Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
6. This Development Order Amendment complies with all standards imposed on it by all other applicable provisions of the Palm Beach County Land Development Code for use, layout, function, and general development characteristics.
7. This Development Order Amendment is consistent with all other applicable local land development regulations.
8. This Development Order Amendment minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

9. This Development Order Amendment complies with Art. 11, Adequate Public Facility Standards,
10. This Development Order Amendment minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
11. This Development Order Amendment will result in logical, timely and orderly development patterns.
12. This Development Order Amendment is consistent with applicable neighborhood plans.

WHEREAS, Article 5 of the Palm Beach County Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition DOA91-55(A), the petition of HEINZ KAHLERT, CO-TRUSTEE for a DEVELOPMENT ORDER AMENDMENT in the GENERAL COMMERCIAL (CG) Zoning District, to amend the site plan for an Auto service station with Convenience store and Automatic car wash, previously approved on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located on a vicinity sketch as shown on EXHIBIT B, attached hereto and made a part hereof, was approved on April 29, 1993, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the 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	--	Absent
Burt Aaronson	--	Aye
Ken Foster	--	Aye
Maude Ford Lee	--	Absent
Karen T. Marcus	--	Aye
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted this 29th day of April, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: *Richard Altier*
COUNTY ATTORNEY

BY: *Jina M. Blair DC*
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

A certain 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, Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows:

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 foot roadway shown on said PALM BEACH FARMS COMPANY PLAT NO. 3, run thence South 89-25-54 West along the said North line of BLOCK 55, a distance of 927.74 feet to the POINT OF BEGINNING; and from said POINT OF BEGINNING run thence South 14-25-54 West (departing from the said North line of BLOCK 55), a distance of 35.36 feet; thence South 00-34-06 East, a distance of 265.00 feet; thence South 89-25-54 West, a distance of 295.00 feet; thence North 00-34-06 West, a distance of 260.00 feet; thence North 89-25-54 East, a distance of 242.08 feet, more or less, to the Intersection thereof with the westerly line of said TRACT 11; thence North 00-01-10 West, along the said westerly line of TRACT 11, a distance of 30.00 feet, more or less, to the said North line of BLOCK 55; thence North 89-25-54 East along the said North line of BLOCK 55, a distance of 77.63 feet to the POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

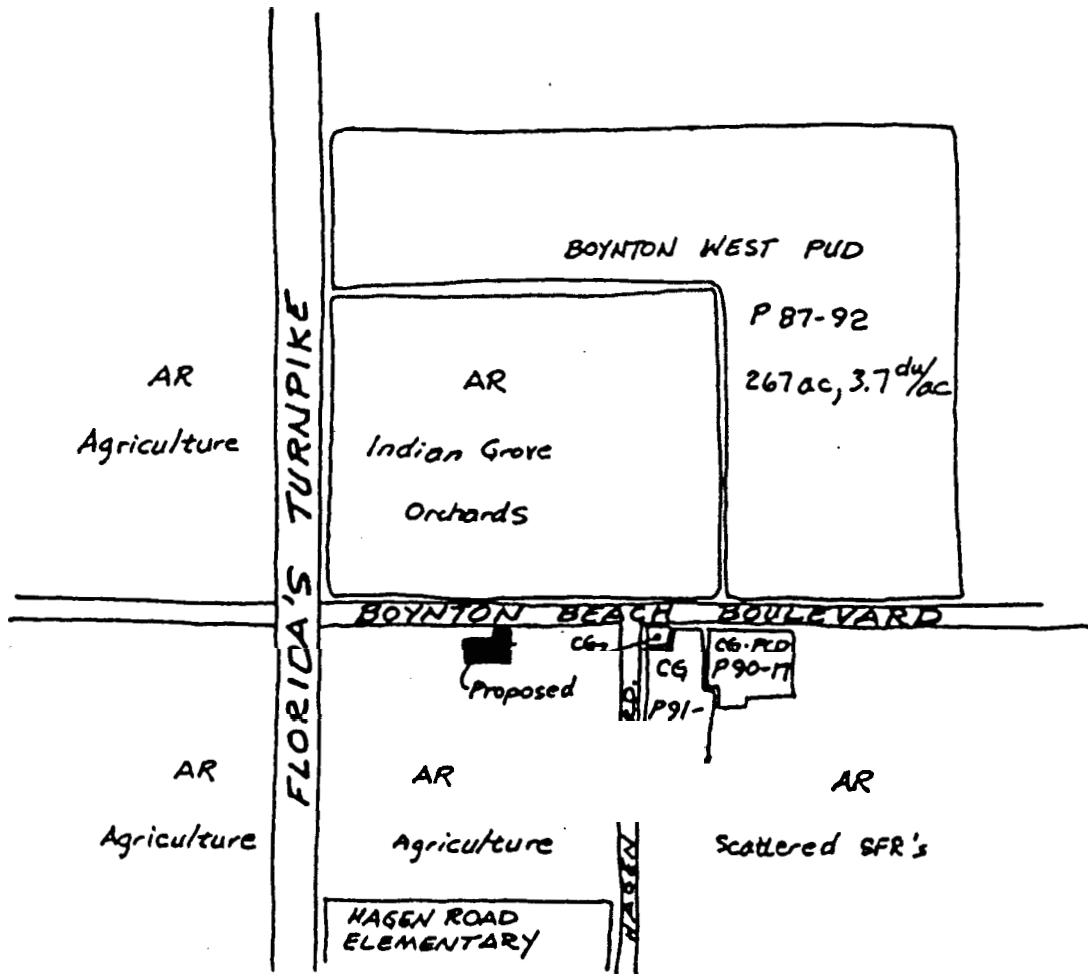


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-92-354 have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines for ULDC Section 5.8 compliance, as amended, unless expressly modified.
MONITORING
2. **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) (Previously Condition No. A1 of Resolution No. R-92-354)**
3. Condition No. A.2. of Resolution No. R-92-354, which currently states:

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.

Is hereby amended to state:

Development of the subject site is limited to an auto service station, convenience store with auto car wash facility. Any modifications must be approved by the Board of County Commissioners except those permitted modifications to the site plan subject to approval by the Development Review Committee pursuant to Article 5.4.E.13 of the ULDC. (ZONING)

4. Condition No. A.3. of Resolution No. R-92-354, which currently states:

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.

Is hereby deleted. (Reason: No longer necessary)

5. Prior to site plan certification by the Development Review Committee, the property owner shall select one of the proposed alternative site plans and shall obtain certification of only the selected site plan. (ZONING)

B. AUTO SERVICE (NO REPAIRS)

1. **No outdoor speaker or public address systems which are audible off-site shall be permitted. (CODE ENFORCEMENT) (Previously Condition No. B.1. of Resolution No. R-92-354)**

2. **No outside storage of vehicles, disassembled vehicles, or parts thereof, shall be permitted on site.** (CODE ENFORCEMENT) (Previously Condition No. B.2. of Resolution No. R-92-354)
3. **There shall be no repair of vehicles allowed on site.** (CODE ENFORCEMENT) (Previously Condition No. B.3. of Resolution No. R-92-354)
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.** (ZONING) (Previously Condition No. B.4. of Resolution No. R-92-354)

C. BUILDING AND SITE DESIGN

1. Condition No. C.1. of Resolution No. R-92-354, which currently states:

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).

Is hereby amended to state:

Total gross floor area shall be limited to:

- a. Alternative No. 1 2,457 square feet; or,
- b. Alternative No. 2 2,400 square feet; and
- c. Additional square footage may be added pursuant to Section 5.4.E.13 (minor deviations) of the Unified Land Development Code.

Only one alternative shall be permitted. (ZONING)

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.** (ZONING-Code Enforcement) (Previously Condition No. C.2. of Resolution No. R-92-354)
3. **Prior to site plan certification, the petitioner shall amend the site plan to indicate the correct ultimate right-of-way.** (Previously Condition No. C.3. of Resolution No. R-92-354) (ZONING)
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.** (Previously Condition No. C.4. of Resolution No. R-92-354) (ZONING)

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.** (Previously Condition No. D.1. of Resolution No. R-92-354) (ERM/ENGINEERING)

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. (Previously Condition No. E.1. of Resolution No. R-92-354) (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. (Previously Condition No. E.2. of Resolution No. R-92-354) (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 \$25,245.00 (918 trips X \$27.50 per trip). (Previously Condition No. E.3. of Resolution No. R-92-354) (IMPACT FEE COORDINATOR - Engineering)
4. Condition No. E.4. of Resolution No. R-92-354, which presently states:

"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."

Is hereby amended to state:

The property owner shall convey to the Lake Worth Drainage District the property 75 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. (ENGINEERING)

NOTE: The Lake Worth Drainage District has confirmed compliance with this condition.
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. (Previously Condition No. E.5. of Resolution No. R-92-354) (ENGINEERING/COUNTY ATTORNEY)

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. (Previously Condition No. F.1. of Resolution No. R-92-354) (ZONING)

G. ENVIRONMENTAL RESOURCES MANAGEMENT

1. 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. (Previously condition No. 52 of Resolution No. R-92-354) (ERM)
2. Condition No. G3 of Resolution No. R-92-354, which presently states:

"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."

Is hereby amended to state:

Plans for any underground storage tanks must be signed off by the Dept. of Environmental Resources Management prior to installation. The property owner 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. (ERM)

H. HEALTH

1. Previous Condition No. H.1. of Resolution No. R-92-354, which currently states:

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..

Is hereby deleted. (REASON: incorporated into additional conditions)

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. (Previously Condition No. H.2. of Resolution No. R-92-354) (HEALTH)
3. When water and/or sewer become available to the site, the petitioner shall connect to the system. (Previously Condition No. H.3. of Resolution No. R-92-354) (HEALTH)
4. The application and engineering plans to construct a non community drinking water supply system must be submitted to the Health Unit prior to site plan approval by the Development Review Committee. (HEALTH)
5. The application and engineering plans to construct an on-site wastewater disposal system must be Submitted to the Health Unit prior to site plan approval by the Development Review Committee. (HEALTH)

6. The gas station convenience store shall have **no** automotive repair and/or maintenance facilities. (HEALTH)
7. **The proposed car wash shall have a 100% water recycling system.** (Previously Condition No. G.1. of Resolution No. R-92-354) (HEALTH/Building)

I. IRRIGATION QUALITY WATER

1. Condition No. 1.1. of Resolution No. R-92-354, which currently states:

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.

Is hereby amended to state:

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)

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.** (Previously Condition No. J.1. of Resolution No. R-92-354) (ZONING)
2. Condition No. J.2. of Resolution No. R-92-354, which currently states:

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.

Is hereby amended to state:

All trees required to be planted on site by this approval 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.
- d. Clear trunk: five (5) feet. (ZONING)

3. Condition No. J.3. of Resolution No. R-92-354, which currently states:

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

Is hereby deleted. (REASON: repetitive.)

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. (Previously Condition No. K.1. of Resolution R-92-354) (ZONING)

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. (Previously Condition No. L.1. of Resolution R-92-354) (ZONING)

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. (Previously Condition No. M.1. of Resolution R-92-354) (ZONING)

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. (Previously Condition No. N.1. of Resolution R-92-354) (ZONING)

0. LANDSCAPE WITHIN MEDIAN

1. Condition No. 0.1. of Resolution R-92-354, which currently states:

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.

Is hereby amended to state:

Prior to issuance of a building permit, the petitioner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way, when permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist of a minimum of one (1) fourteen (14) foot tall native tree for each thirty (30) linear feet of the adjacent median to be planted and appropriate ground cover. Trees may be planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected from the following list:

Trees:

Laurel Oak
Live Oak
Slash Pine
Sabal Palmetto

Ground cover:

Wedilia
Bahia Grass

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

- a. All plants shall be container grown or field collected and transplanted from the project site.
 - b. All plantings shall be done in accordance with detailed planting plans and specifications to be submitted and approved by the County Engineer concurrent with Site Plan certification. (ENGINEERING)
2. All required median landscaping, including watering, shall be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association, and shall be installed on or before issuance of the first Certificate of Occupancy or filing of the first plat, whichever occurs first. (BUILDING/ENGINEER - Zoning)
 3. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to receiving the first building permit or filing of the first plat, whichever occurs first, to reflect this obligation. Maintenance shall be in accordance with the issued permits. (BUILDING/ENGINEERING - County Attorney)

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. (Previously Condition No. P.1. of Resolution R-92-354) (ZONING/BUILDING)

Q. PLANNING

1. Prior to site plan certification, the property owner shall amend the Concurrency Reservation to reflect the selected alternative site plan. (PLANNING)

R. 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. (Previously Condition No. Q.1. of Resolution R-92-354) (SWA)

S. 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. (Previously Condition No. R.1. of Resolution R-92-354) (ZONING)

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). (Previously Condition No. R.2. of Resolution R-92-354) (ZONING)
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. (Previously Condition No. R.3. of Resolution R-92-354) (ZONING)
4. Condition No. R.4. of Resolution R-92-354, which currently states:

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.

Is hereby deleted. (REASON: Code has been amended:
5. The service station gasoline price information shall comply with the minimum requirements of the applicable County Ordinance. (Previously Condition No. R.5. of Resolution R-92-354) (ZONING)

T. COMPLIANCE

1. Condition No. §.1. of Resolution R-92-354, which currently states:

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.

Is hereby deleted. (REASON: Code Requirement)

2. Condition No. S.I. of Resolution R-92-354, which currently states:

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.

Is hereby deleted. (REASON: Code Requirement)