

RESOLUTION NO. R-94- 955

RESOLUTION APPROVING ZONING PETITION **CA94-03**  
CLASS A CONDITIONAL USE  
PETITION OF JOAN W. **KABLER**

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 Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Land Development Code (Ordinance 92-20) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; 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 **CA94-03** was presented to the Board of County Commissioners at a public hearing conducted on July 28, 1994; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; 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 Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Land Development Code.
4. This Class A Conditional Use, with conditions as adopted, 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.
5. This Class A Conditional Use, with conditions as adopted, complies with 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.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency reservation and therefore complies with Art. 11, Adequate Public Facility Standards.
9. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

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 **CA94-03**, the petition of Joan W. Kabler, by: Kent Wilmering, AGENT for a CLASS A CONDITIONAL USE allowing a restaurant, fast food, with drive-through in the General Commercial (CG) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on July 28, 1994, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

**Commissioner** Roberts moved for the approval of the Resolution.

The motion was seconded by Commissioner Foster and, upon being put to a vote, the vote was as follows:

Mary McCarty, Chair	--	Aye
Burt <b>Aaronson</b>	--	Aye
Ken Foster	--	Aye
Maude Ford Lee	--	Aye
Karen T. Marcus	--	Aye
Warren Newell	--	Absent
Carol A. Roberts	--	Aye


The Chair thereupon declared that the resolution was duly passed and adopted this 28th day of July, 1994.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

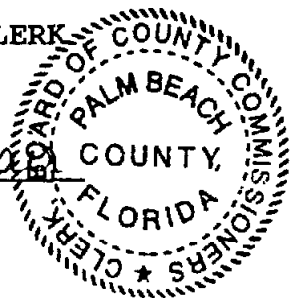
DOROTHY H. WILKEN, CLERK

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK



**EXHIBIT A**  
**LEGAL DESCRIPTION**

PARCEL 3:

THAT PART OF THE WEST HALF (W.1/2) OF THE NORTHWEST QUARTER (N.W.1/4) OF THE NORTHWEST QUARTER (N.W.1/4) OF THE NORTHEAST QUARTER (N.E.1/4) OF SECTION 27, TOWNSHIP 45 SOUTH, RANGE 47 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

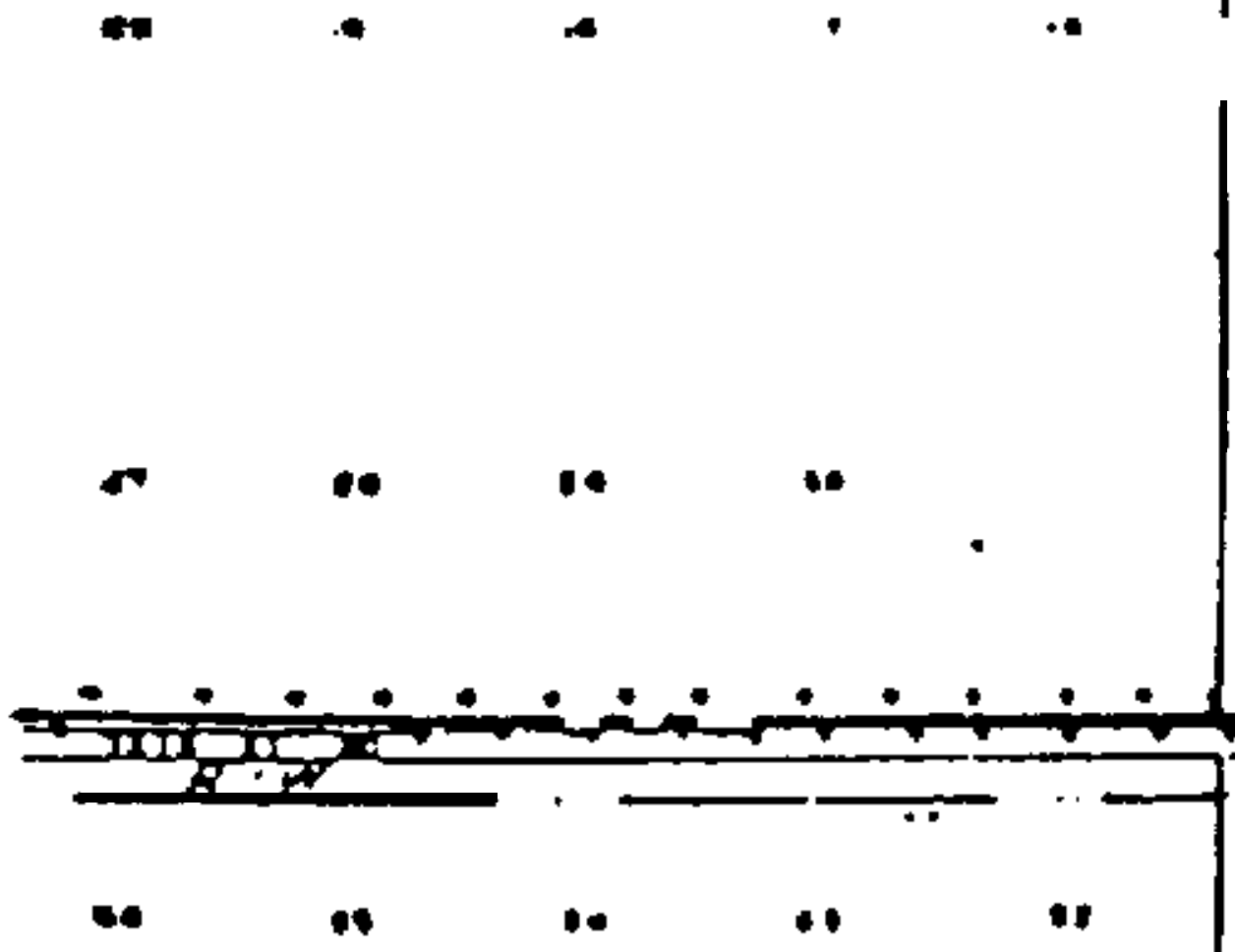
COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (N.E.1/4) OF SAID SECTION 27; THENCE N.89°23'49"E., ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER (N.E.1/4) OF SECTION 27, 56.00; THENCE S.0°08'04"E., ALONG A LINE 56.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE SAID NORTHEAST QUARTER (N.E.1/4) OF SECTION 27, 360.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.0°08'04"E., 3.03 FEET; THENCE S.3°31'39"W, 250.51 FEET; THENCE S.0°08'04"E., 51.95 FEET TO THE SOUTH LINE OF THE SAID WEST HALF (W.1/2) OF THE NORTHWEST QUARTER (N.W.1/4) OF THE NORTHWEST QUARTER (N.W.1/4) OF THE NORTHEAST QUARTER (N.E.1/4) OF SECTION 27; THENCE N.89°30'45"E., ALONG SAID SOUTH LINE, 292.29 FEET TO THE EAST LINE OF THE SAID WEST HALF (W.1/2) OF THE NORTHWEST QUARTER (N.W.1/4) OF THE NORTHWEST QUARTER (N.W.1/4) OF THE NORTHEAST QUARTER (N.E.1/4) OF SECTION 27; THENCE N.0°09'20"W., ALONG SAID EAST LINE, 303.18 FEET; THENCE S.89°51'56"W., 276.17 FEET TO THE SAID POINT OF BEGINNING.

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BLOCK 4B

49

LAKES

10/18/77

EXHIBIT C

CONDITIONS OF APPROVAL

A. SITE DESIGN

1. The maximum height for all structures, measured from finished grade to highest point, shall not exceed **thirty** five (35) feet. (BUILDING - Zoning)

B. SIGNS

1. Point of purchase free standing signs fronting on Jog Road shall be limited to two (2) monument style signs, eight (8) feet in hieght, measured from finished **grade** to the highest point. Each sign shall be limited **to** a maximum of seventy five (75) square feet of sign face area per side. (BUILDING)
2. Point of purchase free standing signs fronting on Boynton Beach boulevard shall be limited to two (2) monument style sign, eight (8) feet in hieght, measured from finished grade to the highest point. Each sign shall be limited to a maximum of seventy five (75) square feet of sign face area per side. (BUILDING)

C. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on this site. All existing **onsite** sewage disposal **systems** must be abandoned in accordance with Chapter **10D-6**, FAC., and Palm Beach County ECR-I. (HEALTH)
2. Water **service is available to** the property. Therefore, no well shall be permitted on the site to provide potable water. All existing **onsite** potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II. (HEALTH)

D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. A Wellfield Affidavit of Notification shall be submitted to the Department of Environmental Resources Management prior to DRC Site Plan Certification. (ERM)

E. ENGINEERING:

1. The Property owner **shall** update and revise the construction plans for Jog Road from Boynton Beach Boulevard to the project's main entrance plus the appropriate tapers. These construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to **time be** amended. These construction plans shall be completed prior to October 1, 1994 or prior to the issuance **of** a paving and drainage permit whichever shall first occur.

Plan costs shall be approved by the County Engineer. **All** canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division (MONITORING • Engineering).

2. The property owner shall fund the construction of Jog Road as a 4 lane median divided section from Boynton Beach Boulevard to the project's south entrance road plus the appropriate paved tapers. Construction costs for Jog Road by this property owner shall be limited to the new construction requirements for Jog Road as referenced in the condition above less the previous construction of Jog

Road as outlined in the existing construction plans by Palm Beach County. These costs shall be based upon a certified cost estimate by the developers **engineer**. Funding for this construction by the property owner shall be completed within 30 days notice by the county Engineer or prior to March 1, 1995 whichever shall first occur. All canal crossings within the project limits shall be constructed to their ultimate configuration (ENGINEERING)

3. Credit for Palm Beach County's Fair Share Impact Fee shall be given for monies expended on the Jog Road Construction and the construction plans as **required** in the conditions above. Credit for the Impact Fee shall be based upon construction costs approved by the County Engineer,, less the cost of site related turn lanes. (ENGINEERING)
4. Site entrance **onto** Boynton Beach Boulevard **shall be** completed with the first phase of construction. (ENGINEERING)
5. The Developer shall provide within this project's internal 'storm water management system an equivalent amount of **stormwater runoff for the** road drainage of Jog Road. The amount of runoff required to be stored **onsite shall be based the loss of** storage due to the modification of construction plans for additional **onsite** storage subject to approval by the County **Engineer**. (ENGINEERING)
6. LANDSCAPE WITHIN MEDIAN

- A. 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 for the following list:

<u>Trees:</u>	<u>Ground cover:</u>
Laurel Oak	Wedilia
Live Oak	Bahia Grass
Slash Pine	
Sabal Palmetto	

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:

- 1) All plants shall be container grown or **field** collected and transplanted from the project site.
- 2) All plantings shall be done in accordance **with** detailed planting plans and specifications; to be submitted and approved by the **County** Engineer prior to the issuance of a **Building** Permit. (BUILDING/ENGINEERING)

- B. All required median landscaping, including watering, shall be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and shall be installed on or before issuance of the first Certificate of Occupancy. (BUILDING/ENGINEER - Zoning)
- C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to receiving a certificate of occupancy to reflect this obligation. Maintenance shall be in accordance with the issued permits. (BUILDING/ENGINEERING - County Attorney)
7. In order to comply with the mandatory traffic performance standards, the Developer shall be restricted to the following phasing schedule:
- a) Building Permits for more than 2469 daily trips per day (11,145 square feet of general retail and 3,500 square foot fast food restaurant shall not be issued until construction has begun for Jog Road as a 4 lane median divided roadway from Le Châlet Boulevard to Boynton Beach Boulevard plus the appropriate paved tapers.
- b) No Building Permits shall be issued until construction by the property owner has begun for:
- 1) An additional northbound left turn and a separate right turn lane on Jog Road at Boynton Beach Boulevard.
- 2) Extension of the existing south approach left turn at the intersection of West El Clair Ranch Road and Boynton Beach Boulevard. (BUILDING - Engineering).
8. Surety required to the Land Development Division for the offsite intersection improvements required by this developer as outlined in the condition above shall be posted with the Office of the County Engineer prior to January 27, 1995. Surety shall be in the amount of 1.10% and shall be based upon a Certified Cost Estimate from the Developer's Engineer. Construction of these improvements shall begin concurrent with the paving and drainage improvements for this site. Construction of these improvements shall be completed prior to the issuance of a certificate of occupancy for the center. (MONITORING - Engineering).
9. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall amend the site plan to indicate compliance with the requirements of the Turnpike Aquifer Protection Overlay (TAP-0).

**F. LANDSCAPING**

1. 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. (BUILDING - Zoning)

2. The petitioner shall  
buffer plantings a  
Boulevard with one  
of clear trunk,  
right-of-way buffer.

3. Along the interior  
within the perimeter  
install twenty-four  
material spaced no m  
center,  
six

**(36**

4. The minimum width dim  
(10) feet. (ZONING)

G. CROSS PARKING AND ACCESS

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1. Prior to the certifi  
Development Review Com  
and record in the pub  
a form acceptable to th  
and access easement ar  
the entire parcel of



- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity

Appeals of **any** departmental-administrative **act:ons** hereunder may be taken to the Palm Beach County **Board** of Adjustment or as otherwise provided in the Unified **Land** Development Code (ULDC), as amended. Appeals of any revocation of Conditional Use, Rezoning, or other **act:ons** based on a Board of County Commission decision, **shall** be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

K. RECYCLING

- 1. All property owners and lessee's 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. **(SWA)**