

RESOLUTION NO. R-89- 365

RESOLUTION APPROVING ZONING PETITION NO. 85-13(A)
SPECIAL EXCEPTION PETITION OF CHRIS EVERT-LLOYD
AND WILSON B. GREATON, JR.

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 Ordinance No. 73-2 have been satisfied; and

WHEREAS, Petition No. 85-13(A), was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on March 25, 1988; and

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

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 85-13(A), the petition of CHRIS EVERT-LLOYD AND WILSON B. GREATON, JR., by Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A PLANNED COMMERCIAL DEVELOPMENT INCLUDING A LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET OF TOTAL FLOOR AREA, PREVIOUSLY APPROVED UNDER ZONING PETITION NO. 85-13 ON APRIL 25, 1985, TO EXTINGUISH THE SPECIAL EXCEPTION FOR A LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET OF TOTAL FLOOR AREA TO INCLUDE 1] AN AUTOMOBILE SERVICE STATION (AND ACCESSORY MECHANICAL REPAIR) AND TO 2] REDESIGN THE SITE, on a parcel of land lying in that part of Lot 6 and the 15.00 foot road right-of-way lying North of said Lot 6, as shown on the Amended Plat of Section 12, Township 45 South, Range 42 East, according to the Plat thereof recorded in Plat Book 9, Page 74, described as follows:

Commence at the North Quarter Corner of said Section 12; thence

South 5 degrees 02' 59" West, along the North-South Quarter Section Line of said Section 12, 484.87 feet; thence South 84 degrees 57' 01" East, 60.00 feet to the East Right-of-Way Line of Military Trail according to Right-of-Way Deed recorded in Official Record Book 4730, Page 708 of the Public Records, and the Point of Beginning; thence South 5 degrees 02' 59" West, along said East Right-of-Way Line, 181.40 feet to the South Line of said Lot 6; thence South 89 degrees 55' 26" East, along said South Line, 616.01 feet; thence North 4 degrees 24' 09" East, along the East Line of said Lot 6 and the Northerly Extension thereof, 670.61 feet to the North Line of said Section 12; 618.82 feet to the said East Right-of-Way Line of Military Trail being a curve concave westerly with a radius of 11519.19 feet, a central angle of 2 degrees 26' 02", and a chord bearing of South 3 degrees 49' 58" West; thence Southerly, along the arc of said curve, 489.33 feet to the said Point of Beginning, located on the southeast corner of the intersection of Military Trail (S.R. 809) and Hypoluxo Road, in a CG-General Commercial Zoning District, was approved as advertised, subject to the following conditions:

1. All previous conditions of approval shall apply unless expressly modified herein.
2. Prior to site plan certification, the Site Plan shall be amended to indicate the following:
 - a. A 22 foot pavement dimension in the rear of the 15,600 square foot retail building.
 - b. Minimum six foot interior landscape islands.
 - c. A minimum side interior setback of fifteen feet for the structure on Parcel B.
 - d. Site data for each proposed parcel.
 - e. Location of the slash pine, sabal palms and poinciana. The petitioner may submit an alternative Landscape Betterment Plan, acceptable to the Zoning Division to incorporate existing vegetation into the project design.
 - f. Number of storage bays in the self storage facility.
3. The petitioner shall provide for continuous circulation throughout the parking lot of the 4,000 square foot bank site by either redesigning the site or eliminating a minimum of one drive up teller unit.
4. The petitioner shall preserve and incorporate slash pine and royal poincianas in the design of the site meeting the standards of Section 500.36 (Vegetation Protection). The sabal palms shall also be relocated as necessary and incorporated into the project design.

5. The petitioner may submit an alternative betterment plan, acceptable to the Zoning Division, to meet the preservation requirements. Only variation from interior landscape requirements shall be considered in the approval of said plan.
6. The western 200 feet of the southern landscape strip shall be upgraded with one (1) ten (10) foot to twelve (12) foot canopy tree planted twenty (20) feet on center. A berm and hedge combination shall be installed to provide for a four (4) foot buffer at planting and to be maintained at a six (6) foot height upon maturity.
7. Simultaneously with the site plan review submittal, the petitioner shall submit a tree survey indicating the location of slash pine, sabal palms and royal poincianas on site with associated native understory.
8. Prior to site plan certification, the petitioner shall obtain the necessary improvements to construct improvements within the 25 foot LWDD easement along the north property line. Documentation shall be submitted in duplicate simultaneously with application to the site plan review committee.
9. The petitioner may utilize Alternative Perimeter Landscape Buffer Number 3 along the two non-frontage perimeters of the site, as noted in Exhibit No. 47.
10. Prior to site plan certification, the petitioner shall execute all necessary cross-access drainage and parking agreements. The executed documents shall be submitted simultaneously with application to Site Plan Review Committee. These documents shall be subject to the approval of the County Attorney and County Engineer.
11. Condition No. 1 of Zoning Petition No. 85-13 (Resolution No. R-85-951) which presently states:
 - "1. Prior to site plan certification, the site plan shall be amended to reflect the following:
 - a. Relocation of the two loading bays adjacent to the financial institution and restaurant to preclude interference and obstruction of auto traffic flow.
 - b. Wooded areas and significant vegetative specimens.
 - c. A 75% opaque landscape buffer or a six (6) foot solid masonry wall shall be delineated on the west 200+- feet of the south property line.
 - d. Delineation of applicable lease and/or out parcel tracts accompanied by specific site

data added to the data block.

is hereby deleted.

12. Condition No. 14 of Zoning Petition No. 85-13 (Resolution No. R-85-951) which presently states:

"14. The developer shall, prior to the issuance of a Building Permit, however, in no case later than 6 months after the approval date by the Board of County Commissioners, modify Palm Beach County's Construction Plans for Military Trail from Sta. 170 + 00 north to a point 200 feet north of the north right-of-way line of Hypoluxo Road as per plans provided by the County Engineer. These modification shall address the appropriate tapers, and shall include drainage, bike path and sidewalk, and curb and gutter.

is hereby deleted.

13. Condition No. 15 of Zoning Petition No. 85-13 (Resolution No. R-85-951) which presently states:

"15. The developer shall, prior to the issuance of a Building Permit, however in no case later than 12 months of the approval date by the Board of County Commissioners, obtain a total of 120 feet of right-of-way from Sta, 167 + 00 (Palm Beach County Construction Plans) north to a Sta. 185 + 35. All necessary documentation to purchase this right-of-way shall be provided by the developer. Palm Beach County will purchase this right-of-way at the developer's expense per separate agreement.

is hereby deleted.

14. Condition No. 16 of Zoning Petition No. 85-13 (Resolution No. R-85-951) which presently states:

"16. The developer shall, prior to the issuance of a Building Permit for more than 36,500 square feet, construct Military Trail as a 4-lane median divided highway as outlined in Condition No. 14 above. This construction shall commence no later than 18 months of the approval date by the Board of County Commissioners for all necessary work required under Conditions 14, 15, and 16. The developer shall provide the County with acceptable surety to guarantee construction of all required improvements under these Conditions within 8 months of the approval date by the Board of County Commissioners. Should the developer's certified cost of this construction (excluding site-related construction, but including right-of-way) be less than \$277,276, the developer shall pay to Palm Beach County the difference between that amount and the actual construction cost as an impact fee;

however, should the cost of this construction exceed \$277,276 impact fee monies collected by the County and held in impact fee escrow zone account 21 and 22, or collected by the County through special exception approvals for other projects which also impact this link of Military Trail prior to the completion of this construction project will be applied to the Military Trail construction account in the amount not to exceed \$300,000, based on certified costs. Certified contract costs shall include the actual costs of road construction (paving and drainage) and right-of-way acquisition, as certified by a professional engineer registered in the State of Florida, less the costs of site-related improvements, plus the developer's expenses related to obtaining necessary right-of-way.

is hereby deleted.

15. Condition No. 17 of Zoning Petition No. 85-13 (Resolution No. R-85-951) which presently states:

"17. The developer 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 \$103,500.00; this fee is expected to increase to \$277,276 once the County Commission enacts amendments to the Ordinance. Credit for the impact fee shall be given for the road construction as outlined in Condition Nos. 13, 14, and 15.

is hereby deleted.

16. Condition No. 20 of Zoning Petition No. 85-13 (Resolution No. R-85-951) which presently states:

"20. If the restaurant parcel is subsequently subdivided there shall be a 20 foot maintenance easement surrounding the one (1()) acre drainage retention lake"

is hereby deleted.

17. Condition No. 6 of Zoning Petition No. 85-13 (Resolution No. R-85-951) which presently states:

"6. The bulkheading of the lake shall not exceed 40% of the shoreline in accordance with South Florida Water Management District criteria. The remaining lake edge shall be constructed with 8:1 side slopes, and a vegetated littoral zone shall be established on this portion of the shore."

Is hereby amended to read:

"6. Bulkheading of proposed lake shall be done in accordance with Palm Beach County's Subdivision Code and Platting Ordinance, Article 10, Section 6 (Ordinance No. 86-21), as well as other applicable governmental agencies which regulate water quality and quantity. This may include South Florida Water Management District, the Department of Environmental Regulation, and the Army Corps of Engineers."

18. Condition No. 12 of Zoning Petition No. 85-13 (Resolution No. R-85-951) which presently states:

"12. The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division."

Is hereby amended to read:

"12. The developer shall retain 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 three (3) inches of the stormwater runoff generated by a three (3) year-one (1) hour storm as required by the Permit Section, Land Development Division. 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.

If required by the County Engineer or the South Florida Water Management District the developer shall design the drainage system such that storm water runoff from the parking areas and paved surfaced shall be separate from those areas which may contain hazardous or undesirable waste from the proposed site."

19. 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.
20. Since sewer service is available to the property, septic tank shall not be approved for use on the property.
21. Because water service is available to the property, a well shall not be approved for potable water use.

22. Failure to comply with the conditions herein may result in 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. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Violations of the conditions herein shall constitute violations of the Palm Beach County Zoning Code.
23. The developer shall fund the construction of Military Trail as a 4-lane median divided section from Station 170+00 north to a point 200 feet north of the north right of way line of Hypoluxo Road plus the appropriate paved tapers. Construction costs shall include sidewalks, bike paths, or sidewalk combinations, curb and gutter, and drainage. Surety acceptable to the County Engineer and County Attorney shall be posted in the amount of 110% prior to July 1, 1988, or prior to certification of the site plan, or prior to issuance of any building permits, whichever of the three shall first occur. Once surety has been posted, Palm Beach County may call this surety at any time required for the construction of Military Trail. Funding shall be limited to an amount not to exceed \$277,276.00.
24. Property owner shall record a Unity of Control on the subject property prior to May 1, 1988 or prior to Site Plan approval subject to approval by the County Engineer and County Attorney.
25. No off-premise signs shall be permitted on the site.
26. Within ninety (90) days of special exception approval, the property owner shall convey by road right-of-way warranty deed any additional right-of-way required by the County Engineer for the construction of an expanded intersection, as referenced Palm Beach County's Comprehensive Land Use Plan, at Hypoluxo Road and Military Trail. Prior to site plan certification, the petitioner's site plan shall be modified accordingly.
27. The property owner shall be restricted to a Phase I which shall generate no more total traffic than an amount which would be generated under the previous Condition No. 16 of Zoning Petition No. 85-13 (Resolution No. R-85-951), which limited the project to no more than 36,500 square feet of general retail until construction has begun by Palm Beach County for Military Trail widening adjacent to this project.
28. Condition No. 19 of Zoning Petition No. 85-13 (Resolution No. R-85-951) which currently states:

"19. The developer shall construct concurrent with the construction of the project's:

- a. East entrance onto Hypoluxo Road, a left turn lane east approach and a right turn lane west approach;
- b. West entrance road onto Hypoluxo Road, a right turn lane west approach. This entrance/exit shall not be permitted a median opening onto Hypoluxo Road.
- c. North entrance road onto Military Trail, a right turn lane south approach. This entrance shall not be permitted a median opening onto Military Trail.
- d. South entrance onto Military Trail, a right turn lane south approach and left turn lane north approach."

Is hereby amended to read as follows:

"The developer shall construct concurrent with the construction of the project's:

- a. East entrance onto Hypoluxo Road, a left turn lane east approach, if feasible (as determined by the County Engineer) and a right turn lane west approach;
- b. West entrance road onto Hypoluxo Road, a right turn lane west approach. This entrance/exit shall not be permitted a median opening onto Hypoluxo Road.
- c. North entrance road onto Military Trail, a right turn lane south approach. This entrance shall not be permitted a median opening onto Military Trail.
- d. South entrance onto Military Trail, a right turn lane south approach and left turn lane north approach."

29. The petitioner shall install a six (6) foot high wall along the western and northern boundary lines of the self service storage facility. Landscaping meeting the perimeter landscape requirements of Section 500.35.E.3.b.(2) of the Landscape Code shall be installed along the northern edge of the retention pond. The site plan shall be redesigned in this area to accommodate the wall and landscaping.
30. The petitioner shall relocate the dumpster from the perimeter property lines to the interior portion of the site.
31. The petitioner shall eliminate the chain link fence in the perimeter buffer.

Commissioner Adams moved for approval of the petition. The motion was seconded by Commissioner Marcus and upon being put to a vote, the vote was as follows:

Carol A. Roberts	--	Absent
Carol J. Elmquist	--	Aye
Karen T. Marcus	--	Aye
Dorothy Wilken	--	Nay
Kenneth M. Adams	--	Aye

The foregoing resolution was declared duly passed and adopted this 28th day of Febraury, 1989 confirming action of March 25, 1988.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:

Susan Lubitz
COUNTY ATTORNEY

BY:

June J. Hardy
DEPUTY CLERK