

RESOLUTION NO. R-89- 1314

RESOLUTION APPROVING ZONING PETITION NO. 77-133(B)
MODIFICATION OF COMMISSION REQUIREMENTS
PETITION OF WESPAC INVESTORS TRUST II

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. 77-133(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on March 30, 1981; 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 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, 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. 77-133(B), the Petition of WESPAC INVESTORS TRUST II, by Joel Ciniero, Agent, for a MODIFICATION OF COMMISSION REQUIREMENTS on a parcel of land lying:

Parcel B

A certain parcel of land in the Northwest 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, more particularly described as follows: Commencing at the Northeast corner of the said Northwest 1/4 of the Northeast 1/4, run thence Southerly along the East line of said Northwest 1/4 of the Northeast 1/4, a distance of 15.00 feet to the Point of Beginning; thence, Westerly, along a line parallel to and 15.00 feet Southerly from (as measured at right angles to) the North line of

said Section 25 and along that South line of Okeechobee Road, a distance of 90.33 feet to the beginning of a curve concave to the South, having a radius of 5669.65 feet and a central angle of 02 degrees 36' 13"; thence, Westerly along the arc of said curve, subtending an angle of 00 degrees 05' 52", a distance of 09.68 feet; thence, Southerly parallel to the East line of the Northwest 1/4 of a Northeast 1/4, a distance of 98.41 feet; thence, Easterly forming an angle of 90 degrees 00' 00" with the preceding course, a distance of 100.00 feet to a point in the East line of the Northwest 1/4 of the Northeast 1/4; thence, 100.00 feet North along said East line to the Point of Beginning. Together with:

Parcel C

A parcel of land in the Northwest 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, more particularly described as follows: Beginning at the point of intersection of the Easterly Right-of-way line of Military Trail and the North Right-of-way line of Westgate Avenue, said intersection point being 53.00 feet Easterly from, (as measured at right angles to) the North-South 1/4 Section line and also being 40.00 feet North of the South Line of the Northwest 1/4 of the Northwest 1/4 run; thence, Easterly, along said North Right-of-way line of Westgate Avenue, a distance of 200.00 feet; thence, Northerly, forming an angle with preceding course of 90 degrees 36' 17", a distance of 175.00 feet; thence, Westerly, parallel with the South line of the Northwest 1/4 of the Northeast 1/4, a distance of 200.00 feet to a point in the Easterly Right-of-way line of Military Trail; thence, Southerly, along the East Right-of-way line of Military Trail, 175.00 feet to the Point of Beginning. Together with:

Parcel F

A certain parcel of land in the Northwest 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, more particularly described as follows: Commencing at the point of intersection of the Southerly Right-of-way line of Okeechobee Road as same is shown in Road Plat Book 2, Pages 130 through 133 and Pages 138 through 141, with the Easterly Right-of-way line of Military Trail, (SR 809), as same as shown on Plat recorded in Road Plat Book 2, Page 233, (for the purpose of this description, the North line of said Section 25, Township 43 South, Range 42 East is assumed to bear East and West and all other bearings mentioned herein are relative thereto; thence, East along said Southerly line of Okeechobee Road, a relative thereto: thence, East, along said Southerly line of Okeechobee Road, a distance of 175.00 feet to the Point of Beginning of the herein described parcel; thence, continuing East along the said Southerly line of Okeechobee Road, a distance of 110.91 feet to the beginning of a curve concave to the North, having a radius of 5789.65 feet and a central angle of 02 degrees 36' 13"; thence, Easterly along the arc of said curve and through central angle of 01 degrees 16' 39", a distance of 129.09 feet; thence, South 01 degrees 16' 39" East, a distance of 139.88 feet; thence, South 45 degrees 51' 37" West, a distance of 66.50 feet; thence, South 44 degrees 08' 23" East, a distance of 15.00 feet; thence, South 45 degrees 51' 37" West, a distance of 387.67 feet; thence, North 44 degrees 08' 23" West, a distance of 15.00 feet; thence, South 45 degrees 51' 37" West, a distance of

140.00 feet to a point in the said Easterly Right-of-way line of Military Trail; thence, North 00 degrees 51' 37" East along said Easterly Right-of-way line of Military Trail, a distance of 377.25 feet; thence, East, a distance of 175.00 feet (to a point being hereafter described as the point aforescribed); thence, North 00 degrees 51' 37" East, a distance of 175.00 feet to the Point of Beginning.

And less: (for widening of Military Trail)

Commencing at the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East; thence, South 01 degrees 53' 54" West, along the West line of the Northwest 1/4 of the Northeast 1/4 of said Section 25, a distance of 220.03 feet to a point on a line lying 220.00 feet South of, when measured at right angles, and parallel with the North line of the Northwest 1/4 of the Northeast 1/4 of said Section 25; thence, South 88 degrees 57' 24" East, along the said parallel line, a distance of 53.01 feet to a point on a line lying 53.00 feet East of, when measured at right angles, and parallel with the West line of the Northwest 1/4 of the Northeast 1/4 of said Section 25 at the Point of Beginning of the parcel to be herein described; thence, South 01 degrees 53' 54" West, along the said parallel line, a distance of 360.00 feet to a point; thence, North 04 degrees 25' 06" East, a distance of 250.24 feet to a point on a line lying 64.00 feet East of, when measured at right angles and parallel with the West line of the Northwest 1/4 of the Northeast 1/4 of said Section 25; thence, North 01 degree 53' 54" East, along the said parallel line, a distance of 110.05 feet to a point on a line lying 220.00 feet South of, when measured at right angles, and parallel with the North line of the Northwest 1/4 of the Northeast 1/4 of said Section 25; also being the Point of Beginning of the herein described parcel. Together with:

Parcel X

A parcel of land in the Northwest 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, more particularly described as follows: Commencing at the 1/4 corner on the North line of said Section 25, run thence Southerly along the 1/4 section line 45.00 feet; thence, Easterly, along the South Right-of-Way line of Okeechobee Boulevard and the Westerly extension thereof as said Right-of-way is shown on Plat recorded in Road Plat Book 2, at Pages 130 through 133, Pages 138 through 141, a distance of 338.91 feet to the beginning of a curve, concave to the North having a radius of 5789.65 feet and a central angle of 02 degrees 36' 13"; thence, Easterly along the arc of said curve subtending an angle of 01 degrees 16' 39", a distance of 129.09 feet to the Point of Beginning; thence, continue Easterly along the arc of said curve subtending an angle of 01 degree 19' 34", a distance of 134.00 feet to the end of said curve; thence, continue Easterly along said Right-of-way line and along the tangent of the just described curve 400.00 feet to the beginning of a curve, concave to the North, having a radius of 5669.65 feet and a central angle of 02 degrees 36' 13" thence, Easterly along the arc of said curve and along said Right-of-way line, subtending an angle of 02 degrees 30' 21", a distance of 247.96 feet; thence Southerly parallel to the East line of the Northwest 1/4 of the Northeast 1/4 of said Section 25, 98.41 feet; thence,

Easterly forming an angle of 90 degrees 00' 00" with the preceding course 100.00 feet to a point in the East line of the Northwest 1/4 of the Northeast 1/4; thence Southerly along just said line forming an angle with the preceding course of 90 degrees 00' 00", a distance of 1193.53 feet to a point in the North Right-of-way line of Westgate Avenue: thence, Westerly, along the North Right-of-way line of Westgate Avenue forming an angle of 90 degrees 39' 01" with preceding course, a distance of 1094.83 feet: thence, Northerly, forming an angle of 89 degrees 23' 43" with the preceding course a distance of 175.00 feet: thence, Westerly, forming an angle of 89 degrees 23' 43" with the preceding course, a distance of 200.00 feet to a point on the Easterly Right-of-way line of Military Trail (SR 809): thence, Northerly, along said Right-of-way line forming an angle of 89 degrees 23' 43" with the preceding course, a distance of 530.46 feet: thence Northeasterly, forming an angle of 135 degrees 00' 00" with the preceding course, a distance of 140.00 feet; thence Southeasterly forming an angle of 90 degrees 00' 00" with the preceding course, a distance of 15.00 feet: thence, Northeasterly forming an angle of 90 degrees 00' 00" with the preceding course, 387.67 feet: thence, Northwesterly, forming an angle of 90 degrees 00' 00" with the preceding course, 15.00 feet: ,thence, Northeasterly forming an angle of 90 degrees 00' 00" with the preceding course 66.50 feet: thence, Northerly forming an angle of 132 degrees 51' 44" with the preceding course when measured from Southwest to North, a distance of 139.88 feet, more or less, to the Point of Beginning. Together with:

A parcel of land in the Northwest 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, more particularly described as follows: Commencing at the point of intersection of the Easterly Right-of-way line of Military Trail and the North Right-of-way line of Westgate Avenue, said intersection point being 53.00 feet Easterly from, (as measured at right angles to the North-South 1/4 section line and also being 40.00 feet North of the South line of the Northwest 1/4 of the Northeast 1/4, run thence Easterly along said North Right-of-way line of Westgate Avenue, a distance of 1,208.83 feet to the Point of Beginning of the following described parcel: thence, from said Point of Beginning, Northerly forming an angle with the preceding course of 90 degrees 00' 00", a distance of 300.00 feet: thence, Westerly, forming an angle with the preceding course of 90 degrees 00' 00", a distance of 165.00 feet: thence, Southwesterly, forming an angle with the preceding course of 135 degrees 00' 00", a distance of 120.21 feet: thence, Southerly, forming an angle with the preceding course of 135 degrees 00' 00", a distance of 215.00 feet to a point on the said North Right-of-way line of Westgate Avenue: thence, Easterly along the North Right-of-way line of Westgate Avenue, a distance of 250.00 feet, more or less, to the Point of Beginning. The West 3/4 of the North 1/4 of the Southwest 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, less the West 533.00 feet thereof and less the North 40.30 feet thereof for Westgate Avenue Right-of-way, being located on the southeast corner of the intersection of Military Trail (SR 809) and Okeechobee Boulevard (SR 704) and bounded on the south by Westgate Avenue, in a CG-General Commercial Zoning District, was approved on March 30, 1989, as advertised, subject to the following conditions:

1. The petitioner shall comply with all previous conditions of approval unless expressly modified herein.
2. Condition No. 14 of Zoning Petition No. 77-133, Resolution No. R-77-1191, which presently states:

"14. Developer shall execute a unity of Title covering the following:

- a. Entire parcel located on the north side of Westgate Avenue, and,
- b. The southerly four hundred twenty-five (425) feet of the parcel located on the south side of Westgate Avenue (3.09 acres), and,
- c. The twenty (20) foot recorded access easement running south from Westgate Avenue to the southerly 425 feet of the parcel lying south of Westgate Avenue (0.10 acres).

The legal description for items b. and c. are set forth as Parcels A and B respectively on a sketch prepared by Mock, Roos and Searcy, Incorporated; Drawing No. B-969, dated September, 1977 which shall be added as an Exhibit to the approved Master Site Plan."

is hereby amended to read:

"Prior to site plan certification, the petitioner shall execute a Unity of Control covering the following:

- a. Entire parcel located on the north side of Westgate Avenue, and, the southerly four hundred twenty-five (425) feet of the parcel located on the south side of Westgate Avenue (3.09 acres), and, the twenty (20) foot recorded access easement running south from Westgate Avenue of the southerly 425 feet of the parcel lying south of Westgate Avenue (0.10 acres)."
- b. Execute a Unity of Title on:
 1. The parcel of land supporting the two buildings on the northwest portion of the site, known as Parcel F; and,
 2. Parcel A, X and B supporting the mall facility and attendant parking.

This Unity of Control shall grant appropriate cross access, parking, easements and maintenance agreements among all properties contained in the planned development."

3. Prior to obtaining approval of the Unity of Control from Palm Beach County Zoning Division and County Attorney's Office, a site plan shall be submitted to and approved by the Zoning Division indicating:
 - a. The location of all buildings, parking stalls, access points, an easements.
 - b. The boundary lines of each separately owned parcel.
 - c. The building square footage, lot coverage, parking required and parking provided for each individual parcel.
4. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
5. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
6. Within eight **(8)** months of Board of County Commission approval, the petitioner shall replace the existing wooden fence along the east property line with a **six (6)** foot concrete slat wall.
7. Within sixty **(60)** days of site plan certification, the petitioner shall repair the existing wooden fence along the eastern property line to Palm Beach County Building Standards.
8. Pruning practices shall be in accordance with acceptable standard Horticultural Pruning Standards as established by Florida Nurserymen's and Growers Association. There shall be no hatracking of vegetation.
9. Failure to comply with any conditions of **approval** 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.

Commissioner Marcus moved for adoption of the Resolution.

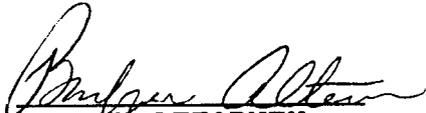
The motion was seconded by the Commissioner Howard and, upon being put to a vote, the vote was as follows:

Carol J. Elmquist, Chair	--	Aye
Karen T. Marcus	--	Aye
Carol Roberts	--	Aye
Ron Howard	--	Aye
Carole Phillips	--	Absent

The Chair thereupon declared the resolution was duly passed and adopted this 11th day of July, 1989.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

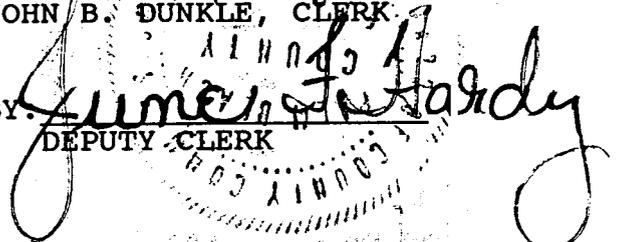
BY :


COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY :


DEPUTY CLERK