

RESOLUTION NO. R-89-1645

RESOLUTION APPROVING ZONING PETITION NO. 89-4
SPECIAL EXCEPTION PETITION OF DELTANA, N.V. AND
SOHIO OIL COMPANY

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. 89-4 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on May 26, 1989; 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. 89-4 the petition of DELTANA, N.V. AND SOHIO OIL COMPANY, by Alan J. Ciklin, Agent, for a SPECIAL EXCEPTION TO PERMIT (1) A PLANNED COMMERCIAL DEVELOPMENT, INCLUDING (2) AN AUTO SERVICE STATION (NO MAJOR REPAIRS), AND (3) A CAR WASH on a parcel of land lying on a portion of the Northeast 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 14, Township 46 South, Range 42 East, being more particularly described as follows:

Commence at the Northeast corner of the Northeast 1/4 of the Southeast 1/4 of the Southeast 1/4 of said Section 14: thence run South 00 degrees 01' 00" West along the East line of the Northeast 1/4 of the Southeast 1/4 of the Southeast 1/4 for 39.55 feet to a point: thence run South 89 degrees 55' 54" West for 70.40 feet to a point; thence run South 00 degrees 57' 45" East parallel to the center line of Military Trail for 24.61 feet to the Point of Beginning of the tract of land hereinafter described: thence continue South 00 degrees 57' 45" East for 12.23 feet to a point of curve; thence run Southerly along a circular curve concave to the West having a radius of 11,399.20 feet and a central angle of 00 degrees 34' 25" for an arc distance of 114.122 feet to a point: thence run south 89 degrees 00' 00" West for 121.51 feet to a point; thence run

North 00 degrees 01' 00" East for 182.65 feet to a point: thence run North 89 degrees 55' 54" East for 94.88 feet to a point: thence run South 45 degrees 30' 55" East for 35.08 feet to the Point of Beginning, being located on the southwest corner of the intersection of Atlantic Avenue (SR 809) in a CG-General Commercial Zoning District, was approved on May 26, 1989, as advertised, subject to the following conditions:

1. Prior to Site Plan Review Submittal, the site plan shall be amended to indicate:
 - a. A minimum rear setback of twenty (20) feet from the southern property line for the car wash:
 - b. One hundred (100) feet of stacking which does not interfere with other traffic utilizing the site;
 - c. The pumps, canopy, convenience store and parking relocated seven (7) feet to the south and six (6) feet to the west of their current location on Exhibit No. 22: and,
 - d. The handicap parking space relocated and incorporated into the parking adjacent to the south side of the convenience store.
2. Prior to Site Plan Review Submittal, a cross-access agreement shall be recorded between the petitioner and the shopping center to the south to permit cross-access between the parcels.
3. 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.
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. The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil.
7. 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.

8. 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.

9. Within 90 days of approval of this project, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for:

a. Military Trail, 64 feet from centerline

b. West Atlantic Avenue, 76 feet from centerline

free of all encumbrances and encroachments. Property owner 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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer.

10. The petitioner 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 presently is \$3,456.00 (129 trips X \$26.79 per trip).

11. In addition the Developer shall contribute the amount of \$173.00 as established in Article V Section 3 (Insignificant Project Standard) of the Traffic Performance Standards Code. These total funds of \$173.00 shall be paid prior to the issuance of the first Building Permit or prior to whichever shall first occur.

12. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$173.00 shall be credited toward the increased Fair Share Fee.

13. No advertising flags, foreign flags, pennants, banners, streamers, balloons, signs upon any vehicles, prices or vehicle stock numbers or other information as required to be posted on such vehicles by law other than upon a sticker affixed to a side window, or similar objects, gimmicks, or advertising designed to attract the public's attention off-site shall be displayed outdoors, upon any buildings, vehicle or wall, other than inside a window as may be permitted by the Sign Code.

14. All advertisement displayed on site shall be in conformance with the Palm Beach County Sign Code. No banners, flags, snipe signs, balloons, etc., shall be permitted on site.

15. Prior to issuance of a building permit, the petitioner shall submit an executed water service agreement from the City of Delray Beach.
16. At a minimum, landscaping shall be installed exactly as shown on graphics presented at the public hearing May 30, 1989. This vegetation shall be upgraded to include twelve (12) foot native canopy trees a thirty-six (36) inch hedge at installation and clustered native palms, one (1) planted for each twenty (20) lineal feet of frontage.
17. Signage shall be limited to one 15 foot high sign on each property line with frontage on a Right-of-way.
18. 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 approval of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted this 12th day of September, 1989.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: *Barbara Altman*
COUNTY ATTORNEY

BY: *Janet J. Williams*
DEPUTY CLERK

