

RESOLUTION NO. R-90-1438

RESOLUTION APPROVING ZONING PETITION NO. 84-173(A)  
SPECIAL EXCEPTION PETITION OF SCOTT P. AND CAROL J. LEWIS

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. 84-173(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on April 30, 1990; 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. 84-173(A), the petition of SCOTT P. AND CAROL J. LEWIS, for a SPECIAL EXCEPTION FOR A PLANNED COMMERCIAL DEVELOPMENT INCLUDING VEHICLE SALES AND RENTAL SERVICE AND AN AUTO SERVICE STATION (WITH MAJOR REPAIRS). THIS PETITION EXTINGUISHES THE APPROVAL FOR A NURSERY AND GREENHOUSE; on a parcel of land lying on lots 11 through 19, including 41, 42 and 43, Block 33, West Gate Estates (Northern Section), Section 30, Township 43 South, Range 43 East, Plat Book 8, Page 38 and being located on the south side of Westgate Avenue, bounded on the south by Nokomis Avenue, approximately .1 mile east of Tallahassee Drive in a CG-General Commercial Zoning District, was approved on April 30, 1990, as advertised, subject to the following conditions:

1. Prior to Site Plan Review submittal, the site plan shall be amended to indicate:
  - a. Upgraded landscaping on property lines abutting residential districts including a row of native canopy trees, twelve feet (12') tall spaced twenty feet (20') on center, a six foot (6') tall solid masonry and stucco wall and a five foot (5') tall

ficus hedge. Landscape materials shall be placed on the exterior of the required wall. The petitioner may obtain variance relief from the Palm Beach County Board of Adjustment to replace the wall with any other structure.

- b. Buffering and landscaping on Nokomis Avenue shall consist of a five foot (5') wide concrete sidewalk, a six foot (6') tall opaque concrete block wall textured or surfaced with stucco or other appropriate materials which coordinate with or echo the design and colors of the principal structure on the property, with a hedge of native vegetation twenty-four inches (24") in height and spaced twenty-four inches (24") on center, and native canopy trees a minimum of ten feet (10') in height and a six foot (6') spread, spaced twenty feet (20') on center and placed on alternative sides of the wall.
  - c. Frontage on Westgate Avenue shall comply with the streetscape design guidelines of the Westgate/Belvedere Homes Community Redevelopment Area Plan;
  - d. Landscaping, exterior speaker systems, sign area, lighting, building design and fences shall comply with the "special development standards for non-residential development" in Section 627.F.2.
  - e. One ten foot (10') to twelve foot (12') tall native palm tree shall be maintained on either side of each bay door. Bay doors shall be painted a color similar to that of the building facade.
2. No advertising flags, foreign flags, pennants, banners, streamers or balloons shall be permitted on-site. No gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors or upon any building, vehicle or wall, other than inside a window as may be permitted by the Sign Code. Also, flashing signs, electronic message boards, etc. shall not be permitted on-site.
  3. Use of the site shall be limited to 7,000 square feet of commercial sales and repair of automobiles, and accessory retail and office uses.
  4. No vehicles, other than those for customer and employee parking, shall be stored or displayed on the site except those which are intended for sale and are in running condition.
  5. No vehicle shall be parked with its hood or trunk open, or elevated off the ground in any way. Vehicles shall not be parked in any right-of-way or driveway.
  6. Vehicles shall not be tested off-site on residential streets.
  7. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.

8. Lighting on the southern side of the building shall be low intensity, shielded and no greater than twelve feet (12') tall.
9. Plans for underground storage tanks must be signed off by the Department of Environmental Resources Management (ERM) 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 shall be a part of those measures.
10. Secondary containment for stored Regulated Substances - fuels, oils, solvents, or other hazardous chemicals - is required. The Department of Environmental Resources Management (ERM) will provide guidance on appropriate protective measures.
11. 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.
12. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
13. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
14. 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.
15. No portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10D-6 Florida Administrative Codes (F.A.C.).
16. The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products as programs are available.
17. 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 on site 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.

18. 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.
19. The Property Owner shall construct or fund the construction of a five foot (5') concrete sidewalk along Westgate Avenue and a five foot (5') concrete sidewalk along Nokomis Boulevard concurrent with on site paving and drainage improvements. Funding or construction shall be completed prior to the issuance of the first Certificate of Occupancy. The County Engineer shall make the sole determination as to require this applicant to fund the construction or construct these sidewalks.
20. Time of auto repair activity shall be limited from 7:00 a.m. to 7:00 p.m. on this site.
21. As provided in the Palm Beach County 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.

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.

Commissioner Marcus moved for approval of the Resolution.

The motion was seconded by 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	--	AYE

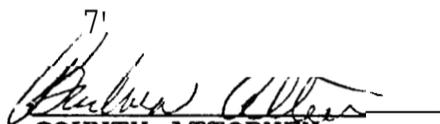
The Chair thereupon declared the resolution was duly passed and adopted this 28th day of August, 1990.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

JOHN B. DUNKLE, CLERK.:

BY:

<sup>71</sup>  
  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK