

RESOLUTION NO. R-90-1452

RESOLUTION APPROVING ZONING PETITION NO. 90-23  
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. 90-23 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. 90-23, the petition of SCOTT P. AND CAROL J. LEWIS, for a SPECIAL EXCEPTION FOR A MIXED RESIDENTIAL COMMERCIAL PLANNED DEVELOPMENT on a parcel of land lying on lots 22 through 30, inclusive, Block 33, Westgate Estates (Northern Section) in Section 30, Township 43, Range 43, as recorded in Plat Book 8, Page 38 and being located on the southwest corner of Westgate Avenue and Seminole Boulevard 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 show:
  - 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. Frontage on Westgate Avenue and Seminole Boulevard shall comply with the streetscape design guidelines of the Westgate/Belvedere Homes Community Re-development Area Plan;
  - c. Landscaping, exterior speaker systems, signage, lighting, building design and fences shall comply with the "special development standards for non-residential development" in Section 627.F.2.
2. Use of the site shall be limited to **2,100** square feet of retail and **2,400** square feet of office on the first floor (**4,500** square feet total) and **4** dwelling units on the second floor.
  3. **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.
  4. **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.
  5. **No** outside storage of disassembled vehicles, or parts thereof, shall be permitted on-site.
  6. Lighting on the southern side of the building shall be low intensity, shielded and no greater than twelve feet (**12'**) tall within twenty-five feet (**25'**) of the southern property line.
  7. A shared parking permit shall be obtained from the Site Plan Review Committee concurrent with Site Plan certification.
  8. Prior to issuance of the first building permit, impact fees shall be collected in accordance with the Impact Fee Ordinance.
  9. 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.
  10. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
  11. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

12. 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 Code (F.A.C.)
13. 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.
14. The Property owner shall construct or fund the construction of a five foot (5') wide concrete sidewalk along Westgate Avenue and a five foot (5') wide concrete sidewalk along Seminole 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.
15. The property owner 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 **\$22,880.00** (416 trips X \$55.00 per trip commercial portion).
16. 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. The Fair Share Fee for this project presently is **\$4,620.00** (28 trips X \$165.00 per trip residential portion).
17. In addition, the Developer shall contribute the amount of **\$1,189.00** as established in Article V Section 3 (Insignificant Project Standard) of the Traffic Performance Standards Code. These total funds of **\$1,189.00** shall be paid prior to the issuance of the first Building Permit.
18. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee!, this additional amount of **\$28,689.00** shall be credited toward the increased Fair Share Fee.

19. 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.
20. 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:

*Richard Altman*  
COUNTY ATTORNEY

BY:

*Vicki Bellomy*  
DEPUTY CLERK