

RESOLUTION NO. R-91- 1479

RESOLUTION APPROVING ZONING PETITION NO. 91-34
SPECIAL EXCEPTION PETITION OF MOBILE OIL CORP.

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. 91-34 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on July 25, 1991; 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 the 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, Chapter 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. 91-34, the petition of MOBILE OIL CORP., BY ROBERT S. COHN, AGENT, for a SPECIAL EXCEPTION TO ALLOW A CONVENIENCE STORE, AUTO SERVICE STATION (MAJOR REPAIR) AND A CAR WASH on a parcel of land lying in a portion of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 13, Township 44 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 Northwest 1/4 of Section 13, Township 44 South, Range 42 East, and run on an assumed bearing of N 88°06'01" W along the North line of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 13, Township 44 South, Range 42 East, for a distance of 53.00 feet; thence run S 02°05'54" W for 33.00 feet to the POINT OF BEGINNING; thence continue S 02°05'54" W along the west right-of-way line of Military Trail being a line parallel with and 53.00 feet west of as measured at right angles to the east line of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 13, Township 44 South, Range 42 East, for a distance of 170.17 feet; thence run N 88°01'01" W along a line parallel with and

470.00 feet north of as measured at right angles to the South line of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 13, Township 44 South, Range 42 East for a distance of 137.00 feet; thence run S 02°05'54" W along a line parallel with and 190.00 feet west of as measured at right angles to the East line of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 13, Township 44 South, Range 42 East for a distance of 20.03 feet; thence run N 88°06'01" W along a line parallel with and 223.00 feet south of as measured at right angles to the North line of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 13, Township 44 South, Range 42 East for a distance of 190.00 feet; thence run N 02°05'54" E along a line parallel with and 380.00 feet west of as measured at right angles to the East line of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 13, Township 44 South, Range 42 East for a distance of 190.00 feet; thence run S 88°06'01" E along the South right-of-way line of Purdy Lane, said right-of-way line being parallel with and 33.00 feet south of as measured at right angles to the North line of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 13, Township 44 South, Range 42 East for a distance of 327.00 feet to the POINT OF BEGINNING, and being located on the SW CORNER OF THE INTERSECTION OF MILITARY TR. AND PURDY LN., was approved on July 25, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County.
2. This Special Exception is granted concurrent with a rezoning. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 23). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Zoning Code Section 402.7 (E)2(b) (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval contained herein.
3. The petitioner shall submit an application to the Site Plan Review Committee for the certification of the site plan approved by the Board of County Commissioners for this site by January 7, 1992.

B. AUTO SERVICE (WITH REPAIRS)

1. The car wash facility shall utilize a 100% water recycling system.
2. No outdoor speaker or public address systems which are audible off-site shall be permitted.
3. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.
4. Vehicles shall not be tested off-site on residential streets.

5. There shall be no outdoor repair or storage of vehicles.
6. Prior to site plan certification, the site plan shall be amended to indicate facilities for the provision of air and water for minor vehicle maintenance. The owner of the service station facility shall provide air and water for minor vehicle maintenance to the public at no charge.

C. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 2,978 square feet.
2. The maximum height, from grade to roof line, for all structures shall not exceed thirty-five (35) feet.
3. Architectural character and treatment which is compatible and harmonious with abutting development shall be provided on all sides of the building.
4. All air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the principle structure.
5. No bay door openings of the auto repair facility along the eastern facade of the building shall be permitted.

D. CONCURRENCY

1. Prior to application to Site Plan Review Committee, the petitioner shall amend Concurrency Case #91-04-09-001 C to reduce capacity to the approved building square footage.

E. ENGINEERING

1. 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.
2. 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,
3. Prior to April 1, 1992 or prior to the issuance of the first Building Permit whichever shall first occur, *the* property owner shall convey to Palm Beach County Roadway Production Division by road right-of-way warranty deed for:

- a. Military Trail, 60.5 feet from centerline.
- b. Purdy Lane, 60.5 feet from centerline.

Unless covered or accompanied by a removal agreement, the property shall be all free of encumbrances and encroachments. Developer 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.

4. 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 at the time of the Building Permit presently is \$6,297.50 (229 additional trips X \$27.50 per trip).
5. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Title on the subject property subject to approval by the County Attorney.

F. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall:
 - a. Not be located within one-hundred (100) feet of the east and north property lines.
 - b. Be confined to areas designated on the site plan and shall be screened by a solid opaque enclosure constructed of brick, concrete, concrete block, or other decorative masonry, or comparable wood or steel, consistent with the architectural character of the development or principal building. The open end of the enclosure shall have an obscure, opaque gate.
 - c. All exterior sides of such enclosures, except the open end, shall be landscaped with thirty-six (36) inch high shrub and hedge material planted twenty-four (24) inches on center. This provision shall not apply to litter containers provided for the convenience of pedestrians.

G. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances- fuels, oils, solvents, or other hazardous chemicals- is required. Environmental Resources Management Department staff are willing to provide guidance on appropriate protective measures.
2. The extent of soil and groundwater contamination shall be defined and summarized in a complete Contamination Assessment Report (CAR) submitted to this Department (ERM) prior to site plan approval.

3. The drainage statement indicates that the stormwater management system will include dry retention and ex-filtration trenches. A site plan which includes these structures shall be provided. This information is necessary to evaluate potential effects of stormwater infiltration on contaminant plume migration.
4. All petroleum contaminated soils within the limits of the proposed building structures shall be completely removed and properly disposed. Future access for treatment or removal of any remaining contaminated soils shall be provided if requested by ERM or the Florida Department of Environmental Regulation (DER).
5. All petroleum contaminated soils encountered during demolition of the existing building structure or during any other phase of site development, shall be completely removed and properly disposed and the area shall be back-filled with clean, non-deleterious material.
6. A detailed tank closure plan must be submitted to and approved by ERM prior to removal of the existing underground storage tank system. This plan should address the removal and disposal of contaminated soil and the removal of any free product encountered during storage system removal.
7. A specific work plan describing the proposed storage tank system installation must be submitted to ERM prior to project initiation. Secondary containment shall be provided for all underground tanks, product piping and dispensers. This plan should address the removal and disposal of any contaminated soil encountered, removal of any free product encountered and the discharge of any water pumped during the installation process.
8. Access to all areas determined to be contaminated by petroleum products must be provided to DER, ERM or authorized representatives, for the purposes of further assessment and remediation of the petroleum discharge and for long term monitoring if necessary.

H. HEALTH

1. 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.
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
4. The owner, occupant or tenant of the facility shall participate in a oil recycling program which insures proper re-use or disposal of waste oil.

5. No portion of this project is to be approved on potable well or septic tank, existing or new. Existing septic tanks are to be abandoned, in accordance with Chapter 10D-6, F.A.C.

I. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

J. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation preservation conditions of approval.
2. Prior to site plan certification, the petitioner may submit a Landscape Betterment Plan, subject to approval by the Zoning Division, meeting Landscape Code requirements and the intent of the following conditions of approval.

K. LANDSCAPING - INTERIOR

1. One landscape island shall be provided for every ten (10) parking spaces. Each landscape island shall be planted with a minimum of one native canopy tree or native palm tree and appropriate ground cover. The maximum spacing between landscape islands shall not exceed one hundred linear feet.
2. Landscaped divider medians shall be provided between all abutting rows of parking spaces. The minimum width of this median shall be five (5) feet. One native canopy tree or two native palm trees and appropriate ground cover shall be planted for each thirty (30) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center.
3. All trees within the interior parking area shall be a minimum of twelve (12) feet in height.
4. Prior to site plan certification, the site plan shall be amended to indicate typical landscape island and divider median planting details, subject to approval by the Zoning Division.

L. LANDSCAPING ALONG NORTH AND EAST PROPERTY LINE
(ABUTTING RIGHTS-OF-WAY)

1. Landscaping within the required buffer along Purdy lane and Military Trail shall be upgraded to include the following:
 - a. One twelve (12) foot tall native canopy tree planted every twenty (20) feet on center.
 - b. One twelve (12) foot tall native palm tree for each thirty (30) linear feet of frontage.

- c. Thirty-six (36) inch tall hedge or shrub material planted twenty-four (24) inches on center.

M. LANDSCAPING ALONG WEST AND SOUTH PROPERTY LINES (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the western property line, and along the south property line where the site abuts residential zoning, shall be upgraded to include the following:
 - a. A minimum fifteen (15) foot wide landscape buffer strip.
 - b. A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development.
 - c. One twelve (12) foot tall native canopy tree planted every twenty (20) feet on center.
 - d. One twelve (12) foot tall native palm tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees shall supersede the requirement for a native canopy tree in that location.
 - e. Thirty-six (36) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches.
 - f. The exterior side of the wall shall be planted and maintained with vines. These vines shall be installed twenty-four (24) inches on center with a minimum height of twenty-four (24) inches. These vines shall cover eighty percent (80%) of the wall within one (1) year.

N. LIGHTING

1. All outdoor lighting used to illuminate the premise;; and identification signs shall be of low intensity, shielded and directed away from adjacent properties and streets.
2. Lighting fixtures shall not exceed twenty (20) feet in height.

O. PARKING

1. Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles shall be permitted in landscaped areas, right-of-way or interior drives.
2. Overnight storage or parking of delivery vehicle³ or trucks shall not be permitted on site, except within the loading and delivery areas designated on the site plan.

P. RECYCLE SOLID WASTE

1. The property owner shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products.

Q. SIGNS

1. Signs fronting on Military Trail shall be limited as follows:
 - a. Maximum sign height - ten (10) feet.
 - b. Maximum total sign face area - one-hundred (100) square feet.
 - c. Maximum number of signs - one (1).
 - d. Sign type - monument style only.
2. Prior to site plan certification, the petitioner shall submit a Master Sign Program to the Zoning Division which specifies sign location, sign dimensions, unified color, unified graphics, typical base planting details, and conformance to all sign related conditions of approval.
3. All on site signs shall comply with the Palm Beach County Sign Code and shall indicate principal uses only. No snipe signs, balloons, banners or other prohibited types of advertisement or signs shall be permitted on-site.
4. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supersede all sign-related conditions of approval.

R. UNITY OF TITLE

1. Prior to site plan certification, petitioner shall record a Unity of Title for the entire subject property in a form acceptable to the County Attorney's Office.

S. USE LIMITATION

1. Use of the site shall be limited to 2,978 square feet of auto service and convenience store space and a car wash facility.
2. Outdoor storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility.

T. VEGETATION REMOVAL

1. Prior to issuance of a Vegetation Removal Permit, the property owner shall complete the following:
 - a. All trees to be relocated, preserved, or removed shall be identified in the field, tagged and numbered according to a tree survey.

- b. Trees to be preserved shall receive appropriate protection during site development. No clearing shall commence until all protection devices are installed by the petitioner, and inspected and approved by the Zoning Division.
 - c. No vegetation removal or development activity such as trenching, grade changes or grubbing that may cause injury to the vegetation shall be permitted in required buffer areas or preservation areas.
 - d. Tree relocation shall occur prior to construction activity except as approved by the Zoning Division upon submission of a development phasing plan.
 - e. All tree relocation shall be completed prior to issuance of a building permit for any structure on the site, except as approved by the Zoning Division.
2. Prior to removal of any vegetation on site, the petitioner shall schedule a Preclearing Inspector with the Zoning Division. All transplantable native vegetation shall be identified. Native vegetation identified to be transplanted shall be relocated to perimeter buffer areas or other open space areas on the site.
 3. All prohibited species shall be removed from the subject property prior to the issuance of a Certificate of Occupancy (C.O.).
 4. No removal of native plant material shall be permitted on the site until the site plan has been certified by the Site Plan Review Committee.

U. COMPLIANCE

1. As provided in 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 Roberts moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	- AYE
Carole Phillips	--	- AYE
Carol A. Roberts	--	- AYE
Carol J. Elmquist	--	- ABSENT
Mary McCarty	--	- AYE
Ken Foster	--	- ABSENT
Maude Ford Lee	--	- ABSENT

The Chair thereupon declared the resolution was duly passed and adopted this 8th day of October, 1991.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

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