

RESOLUTION NO. R-92- 61

RESOLUTION APPROVING ZONING PETITION NO. 91-46
SPECIAL EXCEPTION PETITION OF GARY C. KRESSER

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. 91-46 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on September 26, 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. 91-46, the petition of GARY C. KRESSER, BY DAVID L. CARPENTER, AGENT, for a SPECIAL EXCEPTION ON A PCD located on a parcel of land situated NORTH 1/2 OF TRACT 2 OF THE SUBDIVISION OF THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST. ALSO DESCRIBED AS: NORTH 1/2 OF TRACT 2 OF THE SUBDIVISION OF THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST IN PLAT BOOK 9, PAGE 74, LESS AND EXCEPT THE NORTH 53 FEET THEREOF CONVEYED TO THE LAKE WORTH DRAINAGE DISTRICT ACCORDING TO DEED BOOK 113, PAGE 35, and being located ON THE S SIDE OF HYPOLUXO RD., APPROX. .1 MILE W MILITARY TR., was approved on September 26, 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. 22). 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.

B. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 51,300 square feet.
2. All sides of the structures shall be provided with consistent architectural character and treatment.
3. 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.

C. CONCURRENCY

1. Prior to Site plan certification, the petitioner shall amend the Concurrency Reservation for the site (Case #go-08-23-002C) to reflect 51,300 square feet of retail space.

D. DUMPSTER

1. All receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors shall:
 - a. not be located within 25 feet of the west and south 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 obscuring, opaque gate.
2. 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.

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 Property owner shall construct a left turn lane, east approach on Hypoluxo Road at the project's east entrance concurrent with on-site paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy, if said turn lane is permitted by the appropriate government agency.
3. 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 \$152,295.00 (2,769 trips X \$55.00 per trip).
4. The property owner shall convey to the Lake Worth Drainage District the 80 feet south of and adjacent to the south right-of-way the required right-of-way for Lateral Canal No. 18, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to February 1, 1992.
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. The Unity of Title may be broken by mutual consent of the Executive Director of Planning, Zoning and Building and the County Engineer.

F. 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. Plans for any underground storage tanks must be signed off by the Department of Environmental Resources Management 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 with corrosion protection or their equivalent shall be a part of those measures.

G. 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 an oil recycling program which ensures proper re-use or disposal of the 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.

H. 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. Minimum tree standards shall be as follows:
 - a. Minimum tree height shall be fourteen (14) feet.
 - b. Minimum trunk diameter shall be 3.5 inches at 4.5 inches above grade.
 - c. Minimum canopy diameter shall be seven (7) feet.

The diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length.

I. LANDSCAPING AND BUFFERING

1. The landscape strips required along the south and west perimeters of the site shall be minimum ten (10) feet wide.
2. The landscape strip along the Hypoluxo Road shall be minimum fifteen (15) feet wide.
3. The landscape strip along the east perimeter shall be minimum five (5) feet wide.
4. A minimum six foot high solid continuous wall shall be provided along the west and south perimeters. The required landscaping shall be located on the exterior side of the walls.
5. Landscaping within the required landscape strips along the east, west and south perimeters shall include:
 - a. One native canopy tree minimum fourteen (14) foot tall planted every twenty (20) feet on center;
 - b. Thirty-six (36) inch tall native hedge or shrub material planted twenty-four (24) inches on center.

6. Landscaping along the north property line shall be upgraded to include:
 - a. One native canopy tree minimum fourteen (14) foot tall planted every twenty (20) feet on center;
 - b. Thirty-six (36) inch tall native hedge or shrub material planted twenty-four (24) inches on center.
 - c. One sixteen (16) foot tall native palm tree for each twenty (30) linear feet. A group of three or more palm trees shall supersede the requirement for a native canopy tree in that location.
7. Along the interior side of required walls, the property owner shall install twenty-four (24) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches.

J. LANDSCAPING - INTERIOR

1. Minimum one landscape island shall be provided for every ten (10) parking spaces. Minimum one native canopy tree and appropriate ground cover shall be provided for each landscape island.
2. Divider medians shall be provided and planted with one native canopy tree placed on every thirty (30) feet on center and appropriate ground cover.
3. A maximum of twenty-five (25) percent of required canopy trees may be replaced by native palm trees with three palms to one canopy tree proportion.

K. LANDSCAPE WITHIN MEDIAN

1. If permitted by the Florida State Department of Transportation (FDOT) or the County Engineer, the petitioner shall landscape the median of all abutting rights-of-way. This landscaping shall consist of one twelve (12) foot tall native canopy tree for each thirty (30) linear feet of the adjacent median, appropriate ground cover and irrigation. Trees may be planted singly or in clusters, with a maximum spacing of sixty (60) feet on center. All landscape material shall be selected, maintained and installed according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation of the property owner and shall be installed prior to the issuance of the first certificate of occupancy (C.O.) for the site. The petitioner shall obtain written permission from the FDOT or the County Engineer prior to site plan certification.

L. LIGHTING

1. **All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets.**
2. All lighting except security lighting shall **be** extinguished no later than **11:00** p.m.

3. Lighting fixtures shall not exceed twenty (20) feet in height.

M. PARKING

1. A maximum of 258 parking spaces shall be permitted on-site.
2. 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.
3. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within the loading and delivery areas designated on the site plan.
4. Prior to site plan certification, the site plan shall be amended to reflect the location of shopping cart storage and retrieval areas within the parking.

N. RECYCLE SOLID WASTE

1. All property owners and lessees 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.

O. RESTRICTIVE COVENANT

1. Prior to site plan certification, the petitioner shall record a copy of a Restrictive Covenant in the public record indicating that all structures and uses within the PCD are part of a single unified planned development, regardless of ownership. This covenant shall not be removed, altered, changed or amended without written approval from the County and shall be in a form acceptable to the County Attorney.

P. SIGNS

1. Pole mounted or freestanding signs on the property shall be limited as follows:
 - a. Maximum sign height - ten (10) feet.
 - b. Maximum total sign face area - hundred (100) square feet.
 - c. Maximum number of signs - two (2).
 - d. Mobile signs and signs on vehicles advertising tenants of the center shall not be prominently displayed so as to be seen from Hypoluxo Road.
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.

Q. SITE SPECIFIC

1. Prior to site plan certification, the site plan shall be amended to reflect:
 - a. Minimum two (2) loading spaces.
 - b. Ten (10) foot landscape strip along the south perimeter.
 - c. Dumpsters with the required screen wall and landscaping around.
 - d. Handicapped spaces with five (5) foot access aisle in between.
 - e. Cross access to the site on the south shall be eliminated.
 - f. Typical stall dimensions as 18.5 feet long and 9.5 feet wide or they shall overhang 2.5 feet on the median strips such that the effective depth of the paved parking space is reduced by two and one-half (2.5) feet.
 - g. Revised landscape tabular to include data to indicate compliance with the required landscape areas in vehicular use areas.
2. Prior to site plan certification, the petitioner shall eliminate the access/easement and turnaround indicated on the site plan on the southeast corner of the property.

R. USE LIMITATION

1. No outdoor loudspeaker system shall be permitted on the site.
2. No storage or placement of any material, refuse, equipment or debris shall be permitted in the rear of the facility.
3. No parking of any vehicles shall be permitted along the rear of the facility except in parking spaces or unloading areas designated on the site plan.
4. Use of the site shall be limited to permitted Community Commercial (CC) Zoning District uses.

S. VEGETATION PRESERVATION

1. All transplantable native trees 2 inches to 6 inches DBH in Lake Worth Drainage District right of way will be relocated to the common areas and perimeter buffers.

T. 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 one or more of the following:

- a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
 - b. The revocation of any special exception for the property, as well as any previously granted certifications of concurrency or exemptions therefrom;
 - c. Rezoning of the property;
 - d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;
 - e. Citation Of the property owner for violation of the Zoning Code.
2. 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 commissioners decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Foster moved for approval of the Resolution.

The motion was seconded by Commissioner Elmquist 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	--	aye
Mary McCarty	--	aye
Ken Foster	--	absent
Maude Ford Lee	--	aye

The Chair thereupon declared the resolution was duly passed and adopted this 7th day of January, 1992.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

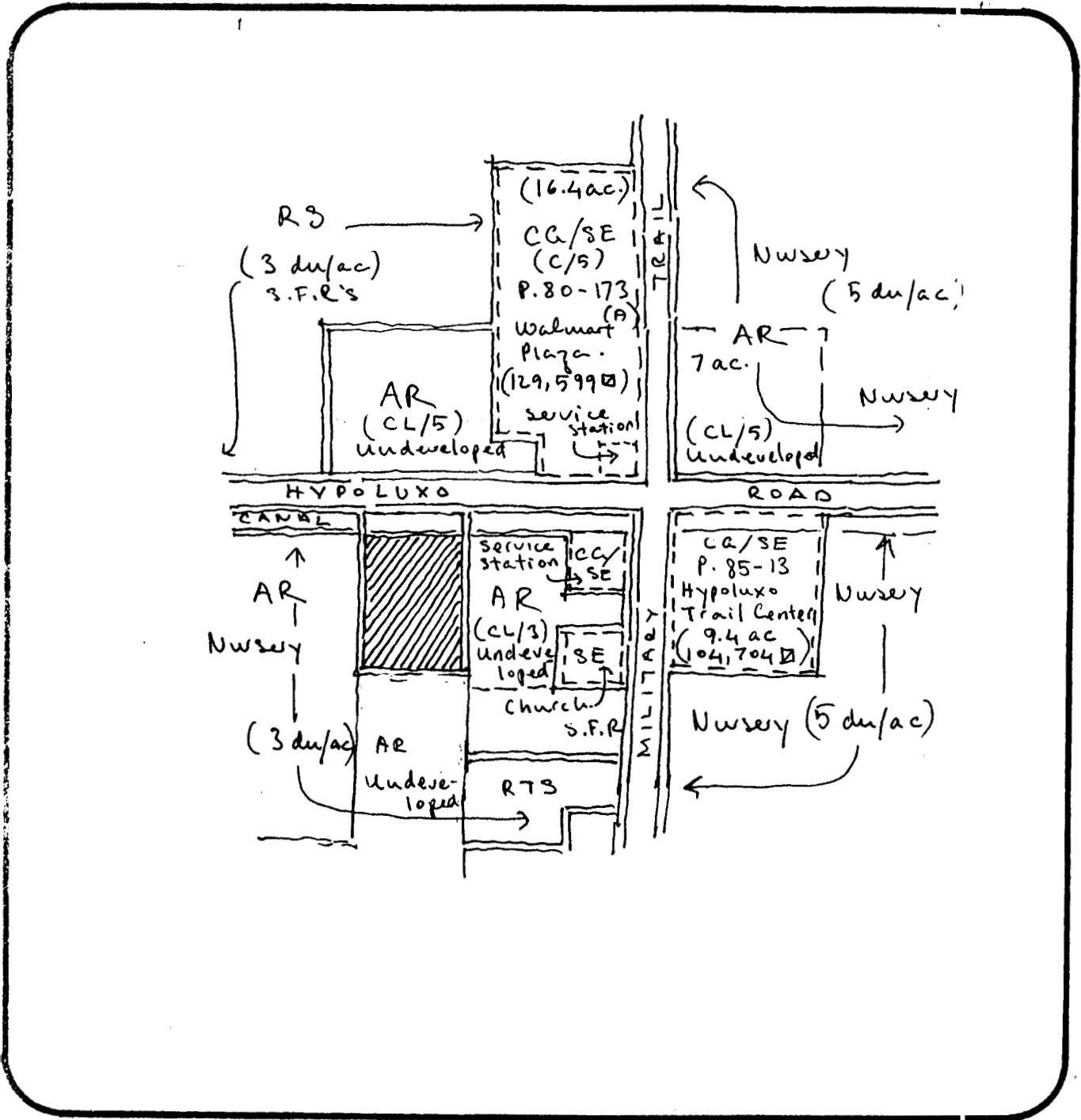
BY:


DEPUTY CLERK

Sec. 12 Twp. 45 Rng. 42
Quadrant Sheet: 34
Aerial Page: 287

*Approved
9/26/91*

Vicinity Sketch



Request:

A REZONING from AR to CC. A SPECIAL EXCEPTION to permit a Planned Commercial Development.

PETITION NO: 91-46

BCC DISTRICT: 3

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