

RESOLUTION NO. R-96- 826

RESOLUTION APPROVING RECOMMENDATION OF  
STATUS REPORT NO. SR 92-7  
TO AMEND CONDITIONS OF APPROVAL OF RESOLUTION NO. R-93-516  
WHICH APPROVED THE SPECIAL EXCEPTION OF  
SHIRLEY K. BERNSTEIN AND ANN K. SCHULMAN  
PETITION NO. 92-7

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, systematic monitoring and review of approved zoning actions help implement the goals and objectives of the Comprehensive Plan.

WHEREAS, the notice and hearing requirements as provided for in Section 5.8 of the Palm Beach County Land Development Code have been satisfied; and

WHEREAS, pursuant to Section 5.8, Status Report SR 92-7 was presented to the Board of County Commissioners of Palm Beach County at a public hearing conducted on June 24, 1996; and

WHEREAS, the Board of County Commissioners has reviewed Status Report SR 92-7 and considered testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, Section 5.8 of the Palm Beach County Land Development Code authorizes the Board of County Commissioners to add or modify conditions of approval; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. The amendment to conditions of approval is consistent with the Palm Beach County Comprehensive Plan and Unified Land Development Code; and
2. The amendment to conditions of approval implements a part of the settlement agreement proposed by both the property owner and Palm Beach County.

WHEREAS, Section 5.3 of the Palm Beach County Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that the recommendation of Status Report No. SR 92-7, to amend Conditions of Approval of Resolution No. R-93-516, the Special Exception of Shirley K. Bernstein and Ann K. Schulman, Petition No. 92-7, which approved a Special Exception for a Planned General Commercial Development, including a fast food restaurant with drive-thru window, auto service station (automatic) and financial institution with 3 drive-up tellers on the Southwest 1/4 of the Southwest 1/4 of the Southeast 1/4 of Section 1, Township 45 South, Range 42 East, less the Right-of-way of Military Trail and less the Right-of-Way of Hypoluxo Road, being located on the northeast corner of the intersection of Hypoluxo Road and Military Trail, in the CC-Community Commercial Zoning District. is approved subject to the following conditions:

1. All previously approved conditions of approval continue to apply unless expressly modified herein.

2. condition **A.1 of** Resolution R-93-516, Petition 92-7, which currently states:

The petitioner shall submit an application to the Development Review Committee (DRC) on or before December 1, 1992; for the certification of the site plan approved by the Board of County Commissioners on September 24, 1992, by Petition No. 92-7. The site plan shall be approved by the DRC on or before February 1, 1993. No administrative time extension to this condition shall be allowed.

**Is** hereby deleted.

3. Condition B.1 of Resolution R-93-516, Petition 92-7, which currently states:

**Total gross floor area shall be limited to a maximum of 71,000 square feet. (BUILDING - Zoning).**

**Is** hereby amended to state:

**Total gross floor area shall be limited to a maximum of 81,000 square feet. (ONGOING: ZONING/BLDG),**

4. Condition E.3 of Resolution R-93-516, Petition 92-7, which currently states:

**Prior to February 1, 1993, or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed a forty (40) foot Safe Sight Corner.**

**The right-of-way conveyance shall be free and clear 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. (MONITORING/ BUILDING - Engineering).**

**Is** hereby amended to state:

**Prior to February 1, 1997, or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed a forty (40) foot Safe Sight Corner.**

**The right-of-way conveyance shall be free and clear 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. (DATE/BLDG PERMIT: MONITORING - Eng).**

5. Condition E.4 of Resolution R-93-516, Petition 92-7, which currently states:

**Prior to February 1, 1993, or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed twelve (12) feet of right-of-way to permit the construction of a right turn lane, east approach on Hypoluxo Road at Military Trail. The length of this road right-of-way conveyance shall be a minimum of 400 feet, plus the appropriate tapers.**

**The right-of-way conveyance shall be free and clear 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. (MONITORING/ BUILDING - Engineering)

Is hereby amended to state:

Prior to February 1, 1997, or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed twelve (12) feet of right-of-way to permit the construction of a right turn lane, east approach on Hypoluxo Road at Military Trail. The length of this road right-of-way conveyance shall be a minimum of 400 feet, plus the appropriate tapers.

The right-of-way conveyance shall be free and clear 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. (DATE/BLDG PERMIT: MONITORING - Eng)

6. Condition F.3 of Resolution R-93-516, Petition 92-7, which currently states:

An on-site 1.06 acre preserve area shall be established in the northeastern quadrant of the property, labeled on the site plan and identified on a certified metes and bounds survey by a registered land surveyor. Preserve areas shall be preserved with intact canopy, understory and ground cover and maintained without surface alteration or infringement by drainage or utility easements. Preserve areas shall be identified on any plat required for development. A management plan that addresses the maintenance of the preserve area including the continued removal of invasive exotic species shall be submitted to the Department of Environmental Resources Management concurrent with the application to the Development Review Committee and approved by the Department prior to site plan certification. (ERM)

Is hereby amended to state:

An on-site .55 acre preserve area as shown on the approved site plan shall be established in the northeastern quadrant of the property, labeled on the site plan and identified on a certified metes and bounds survey by a registered land surveyor. Preserve areas shall be preserved with intact canopy, understory and ground cover and maintained without surface alteration or infringement by drainage or utility easements. Preserve areas shall be identified on any plat required for development.

- a. A management plan that addresses the maintenance of the preserve area including the continued removal of invasive exotic species shall be submitted to the Department of Environmental Resources Management concurrent with the application to the Development Review Committee and approved by the Department prior to site plan certification. (DRC: ZONING - ERM)
- b. Prior to the issuance of a building permit a preservation easement in a form acceptable to DERM, zoning and the County Attorney must be recorded in the Public Records of Palm Beach County. The site

is subject to the Native Ecosystem Overlay District (NE-O). (BLDG PERMIT: MONITORING - ERM)

7. Condition 1.3 is hereby added to state:

The petitioner may submit a Landscape Betterment Plan in order to comply with landscaping conditions J., K., L. and M. and parking requirements. (ZONING)

8. Condition 0.1 of Resolution R-93-516, Petition 92-7, which currently states:

**A maximum of a 380 parking spaces shall be permitted on-site. (BUILDING)**

Is hereby deleted.

9. Condition R.1 of Resolution R-93-516, Petition 92-7, which currently states:

**Use of the site shall be limited to one (1) 3500 square feet maximum fast food restaurant with a drive-through and a maximum of 71,000 square feet of retail area which includes a financial institution with three drive-through lanes. (BUILDING/CODE ENFORCEMENT - Zoning)**

Is hereby amended to state:

Use of the site shall be limited to two (2) outparcels and a maximum of 81,000 square feet of retail area which includes a financial institution with three drive-through lanes. (DRC/BUILDING; ZONING/BLDG)

10. Condition S.6 of Resolution R-93-516, Petition 92-7, which currently states:

**Native vegetation not located within preservation/relocation areas and deemed relocatable by the Department of Environmental Resource Management and the Zoning Division, shall be relocated to perimeter buffers or other open space areas on site. (ERM/Zoning)**

Is hereby amended to state:

Native vegetation not located within preservation/relocation areas and deemed relocatable by the Department of Environmental Resource Management and the Zoning Division, shall be relocated as shown on the Landscape Betterment Plan. (CO: MONITORING - ERM)

11. Condition T.3 of Resolution R-93-516, Petition 92-7, which currently states:

**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. (ZONING)

Is hereby amended to state:

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, as it relates to each specific site, except as approved by the Zoning Division. (VEG PERMIT: ERM)

12. Condition T.4 of Resolution R-93-516, Petition 92-7, which currently states:

Prior to removal of any vegetation on site, the petitioner shall schedule a Pre-cleaning Inspection 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 site. (ZONING)

Is hereby amended to state:

Prior to removal of any vegetation on site, the petitioner shall schedule a Pre-cleaning Inspection 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 area, as reflected on the Landscape Betterment Plan. (VEG PERMIT: ERM)

13. Condition T.6 of Resolution R-93-516, Petition 92-7, which currently states:

All prohibited species shall be removed from the subject property prior to the issuance of a Certificate of Occupancy (C.O.). (ZONING - Building)

Is hereby amended to state:

All prohibited species shall be removed from the subject property prior to the issuance of a Certificate of Occupancy (C.O.), and may be done incrementally with the development of the site. (CO: MONITORING - ERM)

Commissioner McCarty moved for approval of the Resolution.

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

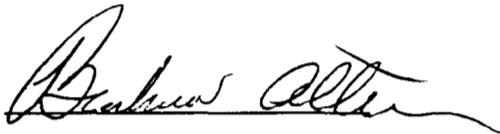
KEN FOSTER, CHAIR	—	AYE
BURT AARONSON	—	ABSENT
MAUDE FORD LEE	—	ABSENT
KAREN T. MARCUS	—	AYE
MARY MCCARTY	—	AYE
WARREN H. NEWELL	—	AYE
CAROL ROBERTS	—	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 24 day of June, 1996.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY :



DOROTHY H. WILKEN, CLERK

BY:

  
DEPUTY CLERK

