

RESOLUTION NO. R-89-441

RESOLUTION APPROVING ZONING PETITION NO. 77-48(A)  
SPECIAL EXCEPTION AND MODIFICATION OF COMMISSION REQUIREMENTS OF  
PETITION OF LAKE WORTH DRAINAGE DISTRICT,  
GEORGE T. ELMORE, TRUSTEE, AND W.G. LASSITER, JR.

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 Ordinance No. 73-2 have been satisfied; and

WHEREAS, Petition No. 77-48(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 28, 1988; and

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

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 77-48(A) the petition of LAKE WORTH DRAINAGE DISTRICT, GEORGE T. ELMORE, TRUSTEE, AND W.G. LASSITER, JR., by Mark Perry, Agent, for a SPECIAL EXCEPTION TO AMEND AND EXPAND THE SITE PLAN FOR WESTERN PLAZA, A PLANNED COMMERCIAL DEVELOPMENT, TO : 1] DELETE THE INTERIM ON SITE SEWAGE TREATMENT PLANT: 2] DELETE THE ON SITE WATER TREATMENT PLANT; 3] INCREASE THE LAND AREA BY 4.7 ACRES: 4] INCREASE BUILDING SQUARE FOOTAGE: AND 5] REDESIGN THE SITE: TOGETHER WITH A CONCURRENT MODIFICATION OF COMMISSION REQUIREMENTS on a parcel of land lying in Section 6, Township 44 South, Range 42 East, Tracts 21 and 22, Block 8 and Tracts 5 and 6, Block 10, the Palm Beach Farms Co., Plat No. 3, according to the Plat thereof, as recorded in Plat Book 2, on pages 45 through 54, said parcel of land is more particularly described as follows:

Beginning at the intersection of the South Line of said Tract 6, Block 10 (said South line of Tract 6 also being a North line of Westwoods, P.U.D. recorded in Plat Book 34 on pages 131 through

134) with a line 40 feet East of as measured at right angles and parallel with the West line of said Tract 6: thence North 89 degrees 22'39" East (all bearings cited herein are related to the assumed meridian used for the plat of Westwoods) along the South line of said Tract 6 and said North line of Westwoods, P.U.D., a distance of 720.00 feet: thence North 02 degrees 58'25" East along that portion of the West line of said Westwoods, P.U.D. lying West of Lots 40 through 49, a distance of 1660.22 feet to the intersection with the South line of those lands described in the quit claim deed recorded in Official Records Book 2831 on page 1927 (said South line being a line 130 feet South of as measured at right angles and parallel with the centerline of the West Palm Beach Canal.' The centerline of the West Palm Beach Canal is the same as that which is shown on the Right-of-way and TOPO map for the West Palm Beach Canal, Drawing Number W.P.B.-3, Sheet 9 of 19, prepared June 1956 and revised March 29, 1961 by the Central and Southern Florida Flood Control District); North 88 degrees 29'34" West along said south line, a distance of 749.99 feet to the intersection with the East line of those lands described in the quit claim deed recorded in Official Record Book 2819 on page 1155 (said East line being a line 40 feet East of as measured at right angles and parallel with the West Tract lines of the aforementioned Tracts 21 and 22, Block 8 and Tract 6, Block 10); thence South 01 degrees 53'41" West along said East line, a distance of 1186.02 feet; thence south 01 degrees 57'46" West continuing along said East line, a distance of 500.46 feet to the Point of Beginning.

Together with all of that certain abandoned 50 foot Palm Beach Farms Co., road Right-of-way lying between Blocks 8 and 10 and contained within the above described parcel of land. Said Right-of-Way was abandoned under Resolution No. R-78-209 and is recorded in Official Records Book 2831 on pages 1619 and 1620.

Subject to easements, restrictions, reservations and Rights-of-Way of record and to a temporary easement recorded in Official Records Book 2831 on pages 1924 through 1926.

Together with Parcel 2:

The West 40.00 feet of Tract 21, lying South of West Palm Beach Canal and West 40.00 feet of Tract 22, all in Block 8, and the West 40.00 feet of Tract 6, Block 10, all of the above shown on the Plat of Palm Beach Farms Co., Plat No. 3, recorded in Plat Book 2, pages 45 to 54.

Subject to existing easements, restrictions, reservations and Rights-of-way of record.

Together with Parcel 3:

Commencing at the intersection of South line of Tract 6, Block 10, The Palm Beach Farms Co.; Plat No. 3 as recorded in Plat Book 2, on pages 45 through 54; (said South line of Tract 6 also being a North line of Westwoods, P.U.D., recorded in Plat Book 34 on pages 131 through 134) with a line 40.00 feet east of as measured at right angles and parallel with the west line of said Tract 6; thence South 89 degrees 22'39" West (all bearings cited

herein are related to the assumed meridian used for the plat of Westwoods, P.U.D.) along the projection of the South line of said Tract 6 and said North line of Westwoods, P.U.D.; a distance of **40.04** feet to the Point of Beginning.

Thence continue South **89** degrees **22'39"** West, a distance of **71.87** feet to the East face of the East guard rail of State Road No. 7, thence along said guard rail the following three courses and distances: North **01** degrees **52'19"** East, a distance of **342.25** feet, thence North **00** degrees **58'13"** East, a distance of **298.90** feet, thence North **00** degrees **12'26"** West, a distance of **210.99** feet to intersect the West line said Section 6; thence North **01** degrees **53'41"** East, along the West line of said Section 6, a distance of **838.59** feet to intersect the southerly Right-of-way line of the C-51 Canal, as recorded in Official Record Book **2831**, page **1927**: thence South **88** degrees **29'34"** East, along said southerly Right-of-way line, a distance of **85.10** feet to intersect the West line of Tracts **21** and **22**, Block **8**; and Tract **6**, Block **10**, The Palm Beach Farms Co., Plat No. **3**; thence South **01** degrees **53'41"** West along said West tract lines, a distance of **1185.73** feet; thence south **01** degree **57'46"** west along said west line of Tract **6** a distance of **502.24** feet to the Point of Beginning.

Subject to existing easements, restrictions, reservations and Rights-of-way of record.

Together with Parcel 4:

A parcel of land lying in Tracts **21** and **22**, Block **8** and Tracts **5** and **6**, Block **10**, The Palm Beach Farms Co., Plat No. **3**, according to the plat thereof, as recorded in Plat Book **2**, on pages **45** through **54**, said parcel of land is more particularly described as follows:

Beginning at the intersection of the South line of said Tract **6**, Block **10** (said South line of Tract **6** also being a North line of Westwoods, P.U.D. recorded in Plat Book **34** on pages **131** through **134** of the Public Records of palm Beach County, Florida) with a line **40.00** feet East of as measured at right angles and parallel with the West line of said Tract **6**; thence North **89** degrees **22'39"** East (all bearings cited herein are related to the assumed meridian used for the plat of Westwoods) along the South line of said Tract **6** and said North line of Westwoods, P.U.D., a distance of **720.00** feet; thence North **02** degrees **58'25"** East along that portion of the West line of said Westwoods, P.U.D. lying West of Lots **40** through **49**, a distance of **1660.22** feet to the intersection with the South line of those lands described in the quit claim deed recorded in Official Records Book **2831** on page **1927** (said South line being a line **130.00** feet South of as measured at right angles and parallel with the centerline of the West Palm Beach Canal. The centerline of the West Palm Beach Canal is the same as that which is shown on the Right-of-way and TOPO map for the West Palm Beach Canal, Drawing number **W. P. B. -3**, sheet **9** of **19**, prepared June **1956** and revised March **29**, **1961** by the Central and Southern Florida Flood Control District); thence North **88** degrees **29'34"** West along said South line, a distance of **100.03** feet; thence South **02** degrees **58'25"** East on a line **100.00**

feet West of as measured at right angles and parallel with the West line of said Westwoods, P.U.D., lying West of Lots 40 through 49 , a distance of 1505.32 feet; thence South 46 degrees 10'32" West, a distance of 85.18 feet; thence South 89 degrees 22'39" West, a distance of 675.217 feet to the East face of the East guardrail of State Road No. 7; thence South 01 degrees 52'19" West along said East face of guardrail, a distance of 100.10 feet; thence North 89 degrees 22'39" East, a distance of 111.91 feet to the Point of Beginning.

Subject to easements, restrictions, reservations and Rights-of-Way of record, being located on the east side of State Road 7 (U.S. Highway 441), approximately 250 feet south of Southern Boulevard (SR 80), in a CG-General Commercial Zoning District, was approved as advertised, subject to the following conditions:

1. Resolution No. R-77-483, adopted April 28, 1977, is hereby repealed.
2. Prior to certification, the site plan shall be amended to indicate the following:
  - a. Labelling of all stacking lanes.
  - b. Required perimeter landscape buffer.
  - c. Relocate signs out of landscape strips.
  - d. A minimum of a (3) three car stacking distance from the menu board for the fast food parcel.
3. Simultaneously with submission to the Site Plan Review Committee the petitioner shall submit a corrected survey or site plan, as applicable, to correspond with the respective site plan or survey.
4. The developer shall retain 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 onsite three (3) inches of the stormwater runoff generated by a three (3) year-one (1) hour storm as required by the Permit Section, Land Development Division. 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.
5. If required by the County Engineer or the South Florida Water Management District the developer shall design the drainage system such that storm water runoff from the parking areas and paved surfaced area shall be separate from those areas which may contain hazardous or undesirable waste from the proposed site.
6. Developer shall construct at the intersection of State

Road 7 and the project's south entrance and the project's north entrance concurrent with onsite paving and drainage improvements and shall be completed prior to the issuance of any Certificate of Occupancy:

- a) left turn lane north approach.
- b) right turn lane south approach unless a permit from the Florida Department of Transportation for any portion of Condition No. 6 cannot be obtained at which case this portion of the condition shall not be enforced subject to review by the County Engineer.
- c) a three (3) lane entrance road.
- d) signalization/if warrant as determined by the County Engineer and approved by the Florida Department of Transportation.

Any right-of-way required for the construction of these improvements shall be funded entirely by the property owner.

7. 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 \$340,126.00 (12,696 trips x \$26.79 per trip) to be paid in its entirety prior to the issuance of the first building permit for the main center. Should building permits for the parcels (other than the main center) along State Road 7 and State Road 80 be sought, the users shall pay the standard Impact Fee rate based upon their square footage. The total amount of these impact fees shall be credited toward the \$340,126.00.
8. Prior to Site Plan Review Committee Certification the petitioner shall submit a Unity of Control for review and approval by the Zoning Division and the County Attorney. Prior to the issuance of the first building permit, the petitioner shall record the Unity of Control.
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. Simultaneously with application submittal to the Site Plan Review Committee, the petitioner shall submit an alternative landscape betterment plan for the landscape buffers along the eastern property line. This alternative landscape betterment plan shall include the landscape plans for the western buffer of the Westwoods Planned Unit Development (Zoning Petition No. 77-47). The alternative landscape betterment plan buffer shall equal or exceed thirty-five (35) feet and shall receive landscape treatment meeting the requirements of Section 500.35.E of the Landscape Code. This plan shall be subject to approval by the Zoning Division.
13. Prior to the issuance of a building permit, the developer shall submit a copy of the **approved** alternative landscape betterment plan which **meets** or exceeds the requirements stated in Condition No. 12 above. **No** Certificate of Occupancy shall be issued until the landscape plan has been installed and received approval from the Zoning Division.
14. Failure to comply with the conditions herein may result in 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. Appeals from such action may be taken to the Palm Beach County **Board** of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Violations of the conditions herein shall constitute violation of the Palm Beach County Zoning Code.
15. **No** off-premise signs shall be permitted on site.
16. Nothing herein shall preclude the issuance of any approval to the Lake Worth Drainage District for government structures.
17. The property owner shall construct at the project's entrance road and State Road 80 concurrent with on site paving and drainage improvements.
  - a. left turn lane, east approach
  - b. right turn lane, west approach
  - c. signalization if warranted as determined **by** the County Engineer and approved by the Florida Department of Transportation

Any right-of-way required for this construction shall be funded in its entirety by the property owner,

Should any of these turn lanes not be permitted **by the** Florida Department of Transportation then that portion of the condition shall not be enforced, subject to concurrent review by the County Engineer.

Commissioner Marcus moved for approval of the petition. The motion was seconded by Commissioner Wilken and, upon being put to a vote, the vote was as follows:

Carol A. Roberts	--	Aye
Carol J. Elmquist	--	Absent
Karen T. Marcus	--	Aye
Dorothy Wilken	--	Aye
Kenneth M. Adams	--	Absent

The foregoing resolution was declared duly passed and adopted this 14th day of March, 1989 confirming action of April 28, 1988.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY: Susan Roberts  
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: Lina M. Blair  
DEPUTY CLERK