

RESOLUTION NO. R-90- 541

RESOLUTION APPROVING ZONING PETITION NO. 89-82  
SPECIAL EXCEPTION PETITION OF C. DARRELL DRAKE AND  
CAROL K. DRAKE AND OPAL JAUCH

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. 89-82 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on August 31, 1989; 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. 89-82 the petition of DARRELL DRAKE AND CAROL K. DRAKE AND OPAL JAUCH, by Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION TO PERMIT AN AUTO SERVICE STATION (NO MAJOR REPAIRS) on a parcel of land lying on the South 242.80 feet of the East 220.00 feet of Tract 27, MODEL LAND CO. SUBDIVISION of Section 20, Township 44 South, Range 43 East, as recorded in Plat Book 5, Page 79.

LESS the South 39.00 feet of the East 140.00 feet, and the South 25.00 feet of the West 80.00 feet of the East 220.00 feet of Tract 27 for right-of-way of Tenth Avenue North; and LESS the East 30.00 feet for right-of-way of Boutwell Road; and LESS a parcel for road right-of-way as described in Official Record Book 3259, Page 920 of said Public Records, said parcel being described as follows:

A triangular parcel bounded on the South by the North line of the South 39.00 feet of Tract 27, MODEL LAND COMPANY Subdivision of Section 20, Township 44 South, Range 43 East, per Plat Book 5, Page 79, bounded on the Northwest by the chord of a tangent circle, said circle having a radius of 25.00 feet and being tangent to the above-mentioned two (2)

bounds, being located on the northwest corner of the intersection of Tenth Avenue North and Boutwell Road, in a CG-General Commercial Zoning District, was approved on August 31, 1989, as advertised, subject to the following conditions:

1. No advertising flags, foreign flags, pennants, banners, streamers, balloons, signs upon any vehicles or similar objects, gimmicks, or advertising designed to attract the public's attention off-site, shall be displayed outdoors, upon any buildings, vehicle or wall, other than inside a window, as may be permitted by the Sign Code.
2. No additional off-premises signs shall be permitted on-site, Existing off premises signs shall be modify to conform with Zoning Code Section 500.37 E. 6.C (CLF - type 3 sign requirements) and shall only be used to advertise the CLF to the North.
3. Site lighting shall be directed away from surrounding residential uses through the use of reflective shields.
4. Alternative landscape strip number three shall be installed along the west and north properties lines. This landscape strip shall include a landscape buffer (hedge, wall, **berm** or combination) forty-eight (48) inches in height, at the time of installation. Along the north property line, native canopy trees shall be planted twenty (20) feet on center and be a minimum of twelve (12) feet in height.
5. Trees shall be allowed to reach a mature height of a minimum of fifteen (15) feet and shall be maintained, using accepted Arbor Society practices.
6. The handicapped parking stall shall be relocated adjacent to the north side of the convenience store.
7. The site shall be limited to an auto service station only. Automobile repair shall not be permitted.
8. 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.
9. Sewer service is available to the property. Therefore, no septic tank shall be permitted to the site.
10. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
11. The owner, occupant or tenant of the facility shall participate in an oil recycling program which ensures proper re-use or disposal of waste oil.

12. This project shall not be permitted a well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10D-6 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 onsite 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 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.
15. Prior to December 1, 1989 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 for Boutwell Road, 30 feet from centerline free 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. Right-of-way conveyances shall also include **\*\*Safe Sight Corners\*\*** where appropriate at intersections as determined by the County Engineer.
16. The Property owner shall construct a left turn lane, north approach on Boutwell Road at 10th Avenue North concurrent with onsite paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy.
17. 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 \$25,879.00 (966 trips X \$26.79 per trip).
18. In addition the Developer shall contribute the amount of \$6,472.00 as established in Article V Section 3 (Insignificant Project Standard) of the Traffic Performance Standards Code. These total funds of \$32,351.00 shall be paid prior to the issuance of the first Building Permit.

19. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$6,472.00 shall be credited toward the increased Fair Share Fee
20. Trees along Boutwell Road and 10th Avenue North shall be upgraded at planting, to twelve (12) foot canopy trees planted for each thirty (30) lineal feet. One (1) palm shall be planted for each twenty (20) lineal feet of frontage. The palms shall be clustered. The canopy vegetation shall be supplemented with a thirty-six (36) inch high hedge at planting.
21. Signage shall be limited to the frontage along 10th Avenue North.
22. Resolution R-79-722 (Petition No. 79-86) is, hereby, repealed in it's entirety.
23. Failure to comply with any conditions of approval 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.

Commissioner Phillips 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    |
| Ron Howard               | -- | Absent |
| Karen T. Marcus          | -- | Aye    |
| Carole Phillips          | -- | Aye    |
| Carol Roberts            | -- | Aye    |

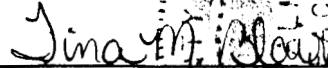
The Chair thereupon declared the resolution was duly passed and adopted this 27th day of March, 1990.

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

