

RESOLUTION NO. R-90- 1447

RESOLUTION APPROVING ZONING PETITION NO. 90-17
SPECIAL EXCEPTION PETITION OF
ROBERT F. STANDRING AND LAWRENCE J. GABRIEL

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. 90-17 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on May 2, 1990; 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. 90-17, the petition of ROBERT F. STANDRING & LAWRENCE J. GABRIEL, BY DENNIS P. KOEHLER, AGENT, for a SPECIAL EXCEPTION to permit a **LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET INCLUDING AN AUTO SERVICE STATION AND CAR WASH** on a parcel of land lying in Section 28, Township 45 South, Range 42 East, and being Tracts 6, 7, and 8 of Block 55 of the Plat of Palm Beach Farms Company Plat No. 3 as recorded in Plat Book 2, Pages 45 through 54, less and except the following four (4) parcels:

- (1) The South 365.00 feet of the West 100.00 feet of the East 1/2 of Tract 7, Block 45.
 - (2) The South 275.00 feet of the East 1/4 of Tract 7, Block 55.
 - (3) The South 275.00 feet of the East 47.5 feet of Tract 7, Block 55.
 - (4) The South 318.64 feet of the East 3/4 of Tract 6, Block 55.
- All of Palm Beach Farms Company Plat No. 3, less reservations, restrictions, easements, and rights-of-way of record. Said parcel of land, having been surveyed, being more particularly described as follows: From the Centerline intersection of Boynton Road (an 80.00 foot road right-of-way) and Hagen Ranch Road, (an 80.00 foot road right-of-way) run South 00 degrees 00'00" West along the centerline of Hagen Ranch Road, a distance of 115.00 feet, thence North 89 degrees 27'00" East, a distance of 40.00 feet to the POINT OF BEGINNING. Continue thence North 89 degrees 27'00" East along the South line of the Lake Worth Drainage District L-24 Canal right-of-way, a distance of 304.52 feet; Thence North 00 degrees 00'00" East, a distance of 15.00

feet; Thence North 89 degrees 27'00" East, a distance of 164.75 feet; Thence South 00 Degrees 00'00" West, a distance of 15.00 feet; Thence North 89 degrees 27'00" East, a distance of 494.21 feet; Thence leaving said right-of-way line run South 00 degrees 00'00" West, along the East line of said Tract 6, a distance of 406.14 feet; Thence South 90 degrees 00'00" West along the North line of the South 318.64 feet of Tract 6, a distance of 247.10 feet; Thence South 00 degrees 00'00" West along the East line of the West 1/4 of Tract 6, a distance of 43.64 feet; Thence South 90 degrees 00'00" West along the North line of the South 275.00 feet of Tracts 6 and 7, a distance of 147.08 feet; Thence North 00 degrees 00'00" along the East line of the West 100.00 feet of the East 1/2 of said Tract 7, a distance of 90.00 feet; Thence South 90 degrees 00'00" West, along the North line of the South 365.00 feet of Tract 7, a distance of 100.00 feet; Thence South 00 degrees 00'00" West along the East line of the West 1/2 of Tract 7, a distance of 365.00 feet; Thence South 90 degrees 00'00" West along the South line of Tracts 7 and 8, a distance of 469.25 feet; Thence North 00 degrees 00'00" East along the Easterly line of Hagen Ranch Road (an 80.00 foot road right-of-way), a distance of 715.53 to the POINT OF BEGINNING and being located APPROXIMATELY 100 FEET SOUTH OF BOYNTON BEACH BLVD., APPROXIMATELY 500 FEET EAST OF HAGEN RANCH ROAD. in the CC-Community Commercial Zoning District, was approved on May 2, 1990, as advertised, subject to the following conditions:

1. The petitioner shall enter into a cross access agreement with the adjacent property to the west at such time mutual access is available.
2. Compatibility Buffer Alternative #3 shall be installed and maintained along the south and east property lines of the subject property. This landscape strip shall be upgraded to include a six foot (6') tall shadowbox fence along the entire eastern property line.
3. All uses, except the automobile service station, shall be operated entirely within enclosed buildings.
4. No commercial use shall commence business activities (including delivery and stocking operations) prior to 6:00 a.m. nor continue activities later than 11:00 p.m.
5. All signs shall comply with the Palm Beach County sign Code and shall be limited by the following restrictions:
 - a. Only one (1) monument type sign shall be permitted, no greater than twelve feet (12') in height.
 - b. This one free standing sign shall not exceed one hundred twenty (120) square feet in face area.
 - c. All signs shall be of uniform design and color. A master signage program shall be submitted prior to Site Plan Review Committee approval demonstrating conformance to these conditions.
 - d. No roof mounted signs shall be permitted on site.
 - e. Wall signs are excluded from the above height and area restrictions.
 - f. No advertising flags, foreign flags, pennants, banners, streamers, balloons or other illegal signs or similar objects, gimmicks or advertising

design to attract the public's attention shall be displayed outdoors upon any building, vehicle or wall, other than inside a window as may be permitted by the sign code.

6. Artificial lighting used to illuminate any portion of the premises shall be directed away from adjacent properties and shall be extinguished no later than 11:00 p.m.
7. All garbage dumpsters shall be screened from view on three (3) sides by an enclosure made of the same material as the principal structure. The open end of the enclosure shall have an obscuring gate.
8. A dumpster shall be indicated on the site plan for the fast food restaurant.
9. Prior to Site Plan Review Committee certification, the site plan shall be revised to reflect a twenty (20) foot wide ingress/egress easement to all lots which have primary access from Boynton Beach Boulevard, if necessary to maintain legal access to those lots.
10. Plans for 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 shall be a part of those measures.
11. Secondary containment for stored Regulated Substances—fuels, oils, solvents, or other hazardous chemicals—is required. Department staff will provide guidance on appropriate protective measures.
12. 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.
13. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
14. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
15. No outdoor speaker or public address systems which are audible from the exterior of a building shall be permitted on site.
16. The owner, occupant or tenant of the facility shall participate in an oil recycling program which insure,; proper re-use or disposal of waste oil.
17. No portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10-D-6 F.A.C.
18. The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products as programs are available.

19. 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.
20. 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.
21. Prior to December 1, 1990 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 any additional right-of-way required for the expanded intersection at Boynton Beach Boulevard and Hagen Ranch Road, free of all encumbrances and encroachments on an alignment approved by the County Engineer. 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.
22. The Property owner shall construct or fund the construction of a right turn lane, west approach and a left turn lane, east approach on Boynton Beach Boulevard and the project's entrance road concurrent with onsite paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. The County Engineer shall make the sole determination as to whether this property owner funds or constructs these turn lanes.
23. 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 Phase 1 of this project presently is \$17,270.00 (314 trips X \$55.00 per trip).
24. 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 Phase II of this project presently is \$209,825.00 (3,815 trips X \$165.00 per trip).
25. The property owner shall convey to the Lake Worth Drainage District the north 84.48 feet of Tracts 6 and 7, Block 55, Palm Beach Farms Plat No. 3 for the

required right-of-way for Lateral Canal No. 24, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to September 1, 1990.

26. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:
 - a) No Certificate of Occupancy for the subject site shall be applied for, requested or issued until Jog Road from Boynton Beach Boulevard to Northwest 22nd Avenue is open to traffic, regardless of expenditures made by developer. Additionally, no variances relating to any aspect of this project or the Certificate of Occupancy shall be requested or permitted, as agreed to by the petitioner.
 - b) Only Building Permits for the gas station shall be issued until construction has begun for Boynton Beach Boulevard as a 4 lane facility from Hagen Ranch Road to Military Trail; plus the appropriate paved tapers.
 - c) No Building Permits shall be issued for the subject site after January 1, 1993.
27. If permissible by the State Department of Transportation or the County Engineering Department, the petitioner shall landscape the median of all abutting rights-of-way. This landscaping shall consist of one (1) ten foot (10') tall native canopy tree planted an average of thirty feet (30') on center and appropriate ground cover and irrigation. All materials shall be selected, maintained and installed according to Xeriscape Principles. This landscaping shall be the perpetual maintenance obligation of the property owner.
28. The Developer shall install signalization if warranted as determined by the County Engineer at the project's entrance and Boynton Beach Boulevard. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.
29. Certificates of Occupancy shall be issued for uses allowed by the CN-Neighborhood Commercial Zoning District only until construction has begun on Boynton Beach Boulevard allowing it to function as a major arterial from Jog Road to the Florida Turnpike.
30. There shall be no repair or maintenance of vehicles on site.
31. Prior to Site Plan Review Committee approval, all graphics presented during the Board of County commissioners (Zoning Authority) meeting of May 2, 1990, shall be submitted to the Zoning Division. The site plan shall be revised to indicate all landscaping as shown on these drawings.
32. As provided in the Palm Beach County 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 Marcus 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
Karen T. Marcus	--	AYE
Carol Roberts	--	AYE
Ron Howard	--	AYE
Carole Phillips	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 28th day of August, 1990.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:

Paulsen Otter
COUNTY ATTORNEY

BY:

Vicki Benary
DEPUTY CLERK