

RESOLUTION NO. R-91-247

RESOLUTION APPROVING ZONING PETITION NO. 87-33(A)
SPECIAL EXCEPTION PETITION OF
GATOR POND PROPERTIES 11, INC.
BY ROBERT E. BASEHART, AGENT

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. 87-33(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as **the** Zoning Authority, at its public hearing conducted on July 26, 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. 87-33(A), the petition of GATOR POND PROPERTIES 11, INC., BY ROBERT E. BASEHART, AGENT FOR A SPECIAL EXCEPTION TO AMEND AND EXPAND THE SITE PLAN FOR A COMMERCIAL NEW AND USED AUTOMOBILE, TRUCK, BOAT, MOTORCYCLE, MOBILE HOME, RECREATION VEHICLES, SALES AND RENTAL FACILITIES & LOTS TO INCREASE LAND AREA, INCREASE BUILDING SQUARE FOOTAGE, AND REDESIGN THE SITE TO INCLUDE AUTO SERVICE STATION & CAR WASH, on a parcel of land known as Parcel A: Lots 13, 14 and 15, MEERDINK'S LITTLE RANCHES, as recorded in Plat Book 4, Page 50, less the East 15.00 feet of Lots 13, 14 and 15; The North 20.00 feet of Lot 13 and the external area formed by a 25.00 foot radius arc tangent to a line lying 20.00 feet South of, measured at right angles to, the North line of Lot 13 and tangent to a line lying 15.00 feet West of, measured at right angles to the East line of Lot 13, as recorded in Official Record Book 1655, Page 148; and, Parcel B: A parcel of land lying in and being in Section 30, Township 43 South, Range 43 East, said parcel being a portion of the 65.00 required right-of-way for E 3 1/2-8 Canal according to Lake Worth Drainage District Right-of-way Map, Sheet 229 of 240, dated May 1969 and recorded in Official Record Book 1732, Page 612, said portion being West of and adjacent to Lot 13, less the North 20.00 feet thereof, recorded in Plat Book 4, Page 50, and being more particularly described as follows: Commencing at the

Northeast corner of said Section 30, thence southerly on an assumed bearing of South, along the East line of said Section 30 a distance of 1290.68 feet to a point, said point being the easterly extension of the South line of the 80.00 foot road right-of-way of Westgate Avenue; thence West along the South right-of-way line of Westgate Avenue a distance of 254.20 feet to the Point of Beginning, said Point of Beginning also being on the West right-of-way line of said 65.00 foot Lake Worth Drainage District E 3 1/2-8 Canal, and the East line of the Plat of Westgate Estates, recorded in Plat Book 15, Page 16, thence South 02 degrees 48'36" West along the West right-of-way line of said Lake Worth Drainage District E 3 1/2-8 Canal a distance of 220.29 feet; thence East 65.08 feet to the East line of the required 65.00 feet Lake Worth Drainage District E 3 1/2-8 Canal, thence North 02 degrees 48'36" East along the said East right-of-way line of E 3 1/2-8 Canal a distance of 220.29 feet to the South right-of-way line of said Westgate Avenue; thence West along said right-of-way a distance of 65.08 feet to the Point of Beginning; and, Lot 16, 17, 18, 19, and 20, less the East 15.00 feet for road right-of-way, less the North 8.00 feet of Lot 20, less the South 8.00 feet and West 10.00 feet of Lot 19, MEERDINK'S LITTLE RANCHES, Plat Book 4, Page 50, and being located on the SOUTHWEST CORNER OF WESTGATE AVENUE AND CONGRESS AVENUE, in the CG Zoning District, was approved on July 26, 1990, as advertised, subject to the following conditions:

STANDARD CONDITIONS:

1. The petitioner shall comply with all previous conditions of approval, unless expressly modified herein.
2. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.
3. 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 unless the proposed use or design changes are permitted pursuant to Section 402.7(E)2 (b) (Site Plan Review Committee Powers and Standards of Review).

AUTO SERVICE (WITH REPAIRS)

4. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind an enclosure having an architectural treatment compatible with the principal building. The open end of the enclosure shall have an obscuring, opaque gate.
5. Outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent properties and streets.
6. The design of the car wash shall use a water recycling system.
7. No outdoor speaker or public address systems which are audible from the exterior of the building, shall be permitted on site.

8. Vehicle parking shall be limited to the parking areas designated on the approved site plan. **No** parking of vehicles is to be allowed in landscaped areas, right-of-way or interior drives.
9. Vehicles on site for repairs shall not be tested off site on residential streets.
10. 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.
11. No outside storage **of** disassembled vehicles, or parts thereof, shall be permitted on site. There shall be no outdoor repair or maintenance of vehicles on site.
12. All automotive repair uses shall be conducted entirely within enclosed buildings.
13. No automotive use shall commence repair activities (including delivery and stocking operations) prior to 7:00 a.m. nor continue activities later than 7:00 p.m.

ADVERTISING

14. **No** vehicle shall be parked with its hood or trunk open, nor elevated off the ground in any way. Vehicles shall not be parked in any right-of-way or driveway.
15. No advertising flags, foreign flags, pennants, banners, streamers, balloons, signs upon any vehicles, prices or vehicle stock numbers, or any information other than that required by law, shall be posted on such vehicles.
16. **No** objects, gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors, or upon any building, vehicle or wall, other than inside a window except as may be permitted by the Sign Code.

BUILDING

17. The west side of the proposed auto care building shall be given architectural treatment consistent with the front facade.
18. Buildings for automotive repair shall be located a minimum of thirty-five (35) feet from the west property line.
19. One ten foot (10') to twelve foot (12') tall native palm tree shall **be** maintained on either side of each bay door. Bay doors shall be painted and maintained in a color similar to that of the building facade.

CROSS ACCESS/SHARED PARKING ASREEMENT

20. Prior to Site Plan Certification by the Site Plan Review Committee, the petitioner shall record a cross access and shared parking agreement for the entire subject property in a form acceptable to the County Attorney.
 - a. Credit shall be given for existing native trees along the north property line which meet the tree

credit requirements of Section 500.35.G.4 (Tree Credit) of the Zoning Code.

ENGINEERING

21. 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.
22. 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.
23. Prior to January 1, 1991, 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 Congress Avenue, 64 feet from centerline and Westgate Avenue, 60.5 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.
24. The Property owner shall extend the existing left turn lane, south approach on Congress Avenue to a minimum of 375 feet (150 feet south of the project's south entrance onto Congress Avenue) concurrent with the construction of this southern entrance. Construction shall be completed prior to the issuance of the Certificate of Occupancy for the auto care facility.
25. 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.
26. The property owner shall convey to the Lake Worth Drainage District, by Quit Claim Deed or an easement, the west 10 feet of Lots 17 and 18, the west 10 feet of the south 8 feet of Lot 19 and the west 10 feet of Lot 20 of Meerdink's Little Ranches for the required right-of-way for Equalizing Canal No. 3 1/2, prior to January 1, 1991.

ENVIRONMENTAL RESOURCES MANAGEMENT

27. 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.
28. 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.

HEALTH

29. 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 effluent;.
30. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
31. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
32. The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil.
33. 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 Florida Administrative Code.

IRRIGATION QUALITY WATER

34. When irrigation quality water is available within five-hundred (500) feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

LANDSCAPE

35. The landscape buffer shall be a minimum of ten (10) feet in width along the south and west property lines, where the site is contiguous to land designated as residential by the Palm Beach County Comprehensive Plan, and shall include the following:
 - a. A six-foot (6') high opaque concrete block wall, textured or surfaced with stucco or other appropriate materials which coordinate with or echo the design and colors of the principal structure on the property;
 - b. A hedge of native vegetation twenty-four inches (24") in height, spaced twenty-four (24") inches on center; and

- c. Native canopy trees, a minimum twelve feet (12') in height with a minimum six foot (6') spread, spaced twenty feet (20') on center. Landscaping shall be planted and maintained on the exterior side of the required wall.
- d. A twenty-four (24) inch high berm planted with a thirty-six (36) inch high hedge and twelve (12) foot tall native canopy trees planted twenty (20) feet on center along the east property line from the south building base line of the existing 1,750 square foot structure to the south property line.

PIPING AND PAVING OF LWDD CANAL

36. In the event the property owner fails to properly maintain the piping, paving, parking or construction within the E3 1/2-8 Lake Worth Drainage District (LWDD) Canal easement, as determined by LWDD or the Planning, Zoning and Building Department, the property owner shall return the easement to an open canal. In addition, the car wash facility and stacking lane shall be removed from the site and all other paving or structures within the ultimate right-of-way of the canal and the required setback shall be replaced with landscaping which meets the requirements of the Zoning Code. **Any** other site redesign or alteration to maintain adequate circulation, parking, queuing, ingress or egress, as required by the Planning, Zoning and Building Department, shall be completed simultaneously with the return of the easement to an open canal.

PRESERVATION

37. Prior to Site Plan Review Committee, the petitioner shall submit a Vegetation Preservation Report which details methods of preservation. These methods shall be approved by the Zoning Division and be in place prior to final issuance of the Vegetation Removal Permit.
38. Any additional retention requirements identified in later stages of development shall be accommodated in ex-filtration trenches, passive at grade retention areas or by reductions in the size of the specialized vehicular use area.
39. Prior to site plan approval, the petitioner shall submit:
- a. A tree survey at 50 scale or larger or an acceptable alternative to the Zoning Division and to the Department of Environmental Resources Management.
 - b. A Landscape Betterment Plan that maximizes the preservation of existing vegetation. This plan shall relocate and cluster the parking spaces to preserve additional vegetation, as necessary.
40. 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.

41. Trees to be preserved or relocated shall receive appropriate protection from damage and disturbance during site development and construction in accordance with Section 500.36 of the Zoning Code.

SIGNS

42. All on site signs shall comply with the Palm Beach County Sign Code, Ordinance No. 72-23, and shall indicate principal uses only.
43. In addition to the signs prohibited by the Sign Code, the following types of signs shall also be prohibited:
 - a. Flashing signs.
 - b. Any flag where its longest side is greater in length than twenty percent (20%) of the length of the flagpole or standard.
 - c. Advertising flags, foreign flags, pennants, banners, snipe signs, streamers and balloons.
 - d. Electronic message boards.
 - e. Bus bench advertising.
 - f. Rooftop and billboard signs.
44. Pole signs shall be limited to one (1) square foot, per two linear feet (2') of frontage up to a one hundred (100) square foot maximum, with a limit of one (1) sign on Westgate Avenue and three (3) on Congress Avenue.
45. Pole signs shall be limited to fifteen feet (15') in height, with monument signs used whenever possible.
46. Signs shall be setback at least five feet (5') from any sidewalk. No portion of any sign may be placed so as to overhang the public right-of-way.
47. No off-premise signs shall be permitted on site.

SITE DESIGN

48. All mechanical and air-conditioning equipment shall be roof mounted and screened within parapets or be contained within an enclosed loading and service area.

UNITY OF CONTROL

49. Prior to Site Plan certification by the Site Plan Review Committee, the property owner shall record a Unity of Control on the subject property subject to approval by the County Attorney and County Engineer.

USE

50. Use of the existing 1,750 square foot structure shall be limited to office uses only (no retail).
51. No vehicles for sale or lease shall be displayed on site.
52. A vehicle storage area for the leasing of new or used automobiles shall be limited to eleven (11) spaces

located on the north side of the leasing agency office on the west side of the adjacent parking island.

WESTGATE CRA OVERLAY DISTRICT REGULATIONS

53. Frontage on Westgate Avenue and Congress Avenue, including the southwest corner of the intersection of Westgate Avenue and Congress Avenue (as may be amended to comply with safe corner dedication requirements), shall comply with the streetscape design guidelines of the Westgate/ Belvedere Homes Community Redevelopment Area Plan prior to the first issuance of a Certificate of Occupancy on the site.
54. Lighting, building design and fences shall comply with Section 627.F.2. "Special Development Standards for Non-residential Development" in the Westgate CRA.
55. The petitioner shall construct or fund construction of sidewalks and applicable CRA streetscape paving designs within the road right-of-way and landscape strip along Westgate Avenue and Congress Avenue frontages concurrent with on-site paving and drainage improvements. The sidewalk shall be a width of five (5) feet. Construction plans shall be subject to approval by the County Engineer. The County Engineer shall make the sole determination as to whether this petitioner shall pay the funds or be responsible for the construction of this sidewalk. Funds shall be paid prior to submittal for a building permit and given to Palm Beach County Engineering Department for the Westgate/Belvedere Homes CRA Road Improvement Program, or construction shall be completed prior to the issuance of the first Certificate of Occupancy.

COMPLIANCE

56. 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 Phillips moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	AYE
Carol Roberts	--	AYE
Carol J. Elmquist	--	AYE
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

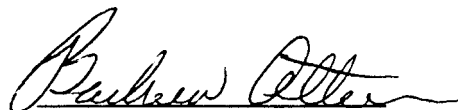
The Chair thereupon declared the resolution was duly passed and adopted this 26th day of February, 1991.

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