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RESOLUTION NO. R-91- 374

RESOLUTION APPROVING ZONING PETITION NO. 90-30
SPECIAL EXCEPTION PETITION OF DONALD B. STILLER

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. 90-30 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on November 29, 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 the 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, Chapter 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. 90-30, the petition of DONALD B. STILLER, BY RIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION FOR A PLANNED COMMERCIAL DEVELOPMENT, INCLUDING A LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET on a parcel of land situated in Section 22, Township 45 South, Range 42 East, being a portion of Block 48 of the Palm Beach Farms Company's Plat No. 3, Plat Book 2 on Pages 45 through 54, beginning at the intersection of the east line of the west 115.00 feet of tracts 50 & 61 of said block 48 with a line 95.00 feet north of and parallel with the south line of said Block 48, said line also being the northerly right-of-way line of Boynton West Road (State Road 804), Official Record Book 4251, Page 575, thence North 00°57'00" West along said east line of the west 115.00 feet a distance of 1,126.72 feet to a line 25.00 feet south of and parallel with the westerly prolongation of the north line of the southwest 1/4 of the southeast 1/4 of said Section 22; thence North 89°34'27" East along said parallel line a distance of 944.05 feet to the westerly right-of-way line, South 00°10'27" East a distance of 398.96 feet; thence South 02°41'31" West a distance of 400.00 feet; thence South 00°10'27" East a distance of 300.00 feet to the aforesaid northerly right-of-way line of Boynton Road; thence,

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along said northerly right-of-way line, South 89°03'00" West a distance of 300.00 feet; thence South 86°11'02" West a distance of 400.00 feet; thence South 89°03'00" West a distance of 209.64 feet to the point of beginning. The above described parcel contains 23.6619 acres, more or less, and being located on the N.W. CORNER OF JOG RD. AND BOYNTON BEACH BLVD. , was approved on November 29, 1990, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.
2. 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. Any modifications must be 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).

B. ADVERTISING

1. All on site signs shall comply with the Palm Beach County Sign Code, Ordinance No. 72-23, and shall indicate principal uses only. Specifically, no snipe signs, banners, balloons or other prohibited types of advertisement shall be permitted on site.
2. 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, such as signs for grand openings.

C. DUMPSTER

1. Receptacles (i.e. dumpsters) for the storage and disposal of trash, garbage or vegetation shall not be located within seventy (70) feet of the north property line.
2. All areas or receptacles (i.e. dumpsters) for the storage and disposal of trash, garbage or vegetation shall be screened by an enclosure constructed of brick, decorative concrete, other decorative masonry consistent with the architectural character of the development, or comparable wood or steel. The open end of the enclosure shall have an obscuring opaque gate. Enclosures shall be landscaped with thirty-six (36) inch high shrubs and hedges planted at two (2) foot intervals. This provision shall not apply to litter containers provided for the convenience of pedestrians.

D. ENGINEERING

- El. 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 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.

E2. 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.

E3. Prior to June 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 **Roadway Production Division** by road right-of-way warranty deed for:

- a. Jog Road, 60 feet from centerline.
- b. Boynton Beach Boulevard, 60 feet from centerline.
- c. Sufficient right-of-way to provide for an expanded intersection at Jog Road and Boynton Beach Boulevard.
- d. The construction of a right turn lane on Jog Road and the project's main entrance and at Boynton Beach Boulevard and the project's main entrance road, in addition to the right-of-way for the six-lane roadway.

This right-of-way shall be a minimum of 150 feet in storage length, twelve feet in width and a taper length of 180 feet.

All Road Right of Way shall be free of encumbrances and encroachments. Developer 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.

E4. The Property owner shall construct:

- a. at the project's main entrance onto Boynton Beach Boulevard:
 1. right turn lane, east approach, and
 2. left turn lane, west approach.

Turn lanes identified in "a" shall be constructed concurrent with the 4/6-laning of Boynton Beach Boulevard by the Florida Department of Transportation.

- b. at the project's main entrance onto Jog Road:
 1. left turn lane, south approach, and
 2. right turn lane, north approach.

c. at the project's entrance road and Lakeside Boulevard:

1. left turn lane, north approach. This construction shall be completed prior to the issuance of a Certificate of Occupancy.

d. at the project's north and south entrance onto Jog Road:

1. right turn lane, north approach.

Turn lanes identified in "b", "c", "d" shall be constructed concurrent with onsite paving and drainage permits issued from the office of the County Engineer.

All turn lanes construction shall be completed prior to the issuance of the first Certificate of Occupancy.

E5. Access onto Jog Road from the project's south entrance shall not be permitted until Jog Road has been constructed as a 4 lane median divided section north of the project's entrance road. When this section of Jog Road has been 4-laned no median opening shall be permitted on Jog Road at this entrance.

E6. The property owner shall pay a Fair Share Fee in the amount 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 \$546,700.00 (9,940 trips X \$55.00 per trip). This amount of \$546,700 shall be paid prior to June 1, 1991. These funds shall then be earmarked for the construction of Military Trail from Boynton Beach Boulevard to S.W. 23rd Avenue should Cambridge PUD not complete payment of their funds as required by their conditions of approval.

E7. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:

a. No Building Permits shall be issued after July 1, 1993.

b. No Building Permits shall be issued until construction has begun for:

1. the widening of Boynton Beach Boulevard from El Clair Ranch Road to Military Trail as a minimum 6 lane section.

2. the completion of Jog Road from Boynton Beach Boulevard to Le Chalet Boulevard plus the appropriate paved tapers.

c. Building Permits for more than 114,545 square feet of gross leasable floor area shall not be permitted until construction has begun for Military Trail as a 6-lane facility from Boynton Beach Boulevard to S.W. 23rd Avenue plus the appropriate paved tapers. This phase shall be limited to community retail tenants (no discount anchors).

E8. The Developer shall install signalization if warranted as determined by the County Engineer at:

- a. project entrance(s) and Boynton Beach Boulevard, and
- b. project entrance and Jog Road.

Should signalization not be warranted after 24 months of the final Certificate of Occupancy, this property owner shall be relieved from this condition. Acceptable surety shall be posted and approved by the County Engineer for this signalization prior to June 1, 1991.

E9. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision and Required Improvements Regulations 90-8 as amended.

E. HEALTHY

1. 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.
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water,

F. IRRIGATION QUALITY WATER

1. 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.

G. LANDSCAPE CONDITIONS LARGE SCALE COMMUNITY SHOPPING CENTERS

1. Interior Landscaping:
 - a. All trees within the interior parking area shall be native canopy trees twelve (12) feet in height or greater. One landscape island shall be provided for every ten (10) cars.
 - b. Landscape tabular data shall be revised to reflect conformance to all landscape conditions.
2. Perimeter Landscaping:
 - a. Landscaping within the twenty-five (25) foot landscape buffers abutting rights-of-way shall be upgraded to include:
 - 1) Native canopy trees an average of fifteen (15) feet on center.
 - 2) Fifty (50) percent of these trees shall be fourteen (14) foot tall; twenty-five (25)

percent of these trees shall be twelve (12) foot tall; twenty-five (25) percent of these trees shall be ten (10) foot tall.

- 3) One (1) native palm for each thirty (30) linear feet of required buffer.
 - 4) A landscape buffer a minimum of thirty-six (36) inches in height at installation to be maintained at forty-two (42) inches.
3. Landscaping along north and west property lines shall be upgraded to include:
 - a. Fourteen (14) foot tall native canopy trees placed twenty (20) foot on center.
 - b. Thirty-six (36) inch high hedge.
 - c. One (1) interior island, planted with twelve (12) foot tall native canopy trees, shall be provided for every eight (8) parking stalls abutting this property line.
 4. Landscape within median:
 - a. If permissible by the State Department, of Transportation or County Engineering Department, the petitioner shall landscape the median of all abutting right-of-ways. This landscaping shall consist of: one ten (10) foot tall native canopy tree planted an average of thirty (30) feet 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.

H. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed away from adjacent properties and streets. Lighting fixtures in the north and west portions of the site shall not exceed twelve (12) feet in height. Lighting in the south and east portions of the center shall not exceed thirty-five (35) feet in height.
2. All outdoor lighting behind the shopping center and/or within one-hundred feet of the north property line, shall be extinguished no later than 11:00 p.m. All other outdoor lighting shall be extinguished no later than 2:00 a.m. Security lighting only is excluded from this requirement.

I. RECYCLE SOLID WASTE

1. 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.

J. SIGN

1. Signs fronting on Boynton Beach Boulevard shall be limited as follows:
 - a. Maximum sign height - fifteen (15) feet.
 - b. Maximum sign area - 450 square feet
 - c. Maximum number of signs - three (3)
2. Signs fronting on Jog Road shall be limited as follows:
 - a. Maximum sign height - fifteen (15) feet.
 - b. Maximum sign area - 500 square feet
 - c. Maximum number of signs - three (3)
3. A maximum of one (1) directional sign at entrance from Lakeside Boulevard.
4. Prior to Site Plan certification, a Master Sign Program shall be submitted, which specifies: sign location, sign size, and unified graphics and color.
5. No off-premise signs shall be permitted on site.
6. In the event the Sign Code is amended prior to issuance of a building permit for the project to be more restrictive than the conditions of approval, the petitioner shall comply with the revised Sign Code,

K. SITE DESIGN

1. Building height shall be limited to a maximum of 35 feet,
2. Total floor area shall be limited to a maximum of 244,832 square feet.
3. All mechanical and air-conditioning equipment shall be roof mounted and screened within parapets or be contained within an enclosed loading and service area.
4. The north and west side(s) of the proposed building shall be given architectural treatment consistent with the front facade.

L. UNITY OF CONTROL

1. At the time of Site Plan Review Committee application, the petitioner shall submit two (2) copies of a recorded Unity of Control document in a form acceptable to the Palm Beach County Attorney's office.

M. USE LIMITATION

1. No outdoor loudspeaker system audible off site shall be permitted.
2. 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.

N. COMPLIANCE

1. 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 Foster moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	ABSENT
Carol A. Roberts	--	ABSENT
Carol J. Elmquist	--	ABSENT
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 March, 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

Petition No. 90-30

