

# ORIGINAL

RESOLUTION NO. R-92- 352

RESOLUTION APPROVING ZONING PETITION NO. 91-52  
REZONING PETITION OF WENDY'S THRIFT SHOP, INC.

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. 91-52 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on January 3, 1992; 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. 91-52, the petition of WENDY'S THRIFT SHOP, INC., BY R. J. SEYMOUR, for a REZONING FROM CN TO CG on a parcel of land lying in Lots 16 through 20, Block 34, WESTGATE ESTATES (NORTHERN SECTION), recorded in Plat Book 8, at Page 38, Section 30, Township 43 South, Range 43 East, and being located ON THE S SIDE OF WESTGATE AVE., APPROX. 1/2 MILE W OF THE INTERSECTION OF CONGRESS AVE. AND WESTGATE AVE., IN THE WCRA-0, was approved on January 3, 1992, subject to the following voluntary commitments:

A. STANDARD CONDITIONS

1. The petitioner shall submit an application to the Site Plan Review Committee for the certification of a site plan for the subject property prior to May 7, 1992. The site plan shall indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County or receipt of appropriate variances from the Board of Adjustment.
2. Development of the site shall be limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 3).

3. Prior to review by the Board of County Commissioners, a restrictive covenant shall be executed by the petitioner in a form acceptable to the County Attorney limiting the use of the property to a Thrift Shop for the purposes of maintaining and operating a general retail store or another use that generates 100 trips per day or less. This covenant shall not be revised, altered, changed or amended without written approval from the Palm Beach County Engineering Department and the Zoning Division. Said restrictive covenant is hereby incorporated by reference and attached as Exhibit A.

B. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 2,996 square feet.
2. All air conditioning and mechanical equipment shall be screened from view on all sides in a manner consistent with the color and character of the principle structure.

C. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, shall be concealed behind a solid enclosure. The open end of the enclosure shall have an obscuring, opaque gate.

D. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
3. No portion of this project is to be approved on potable well or septic tank, existing or new. Existing septic tanks are to be abandoned, in accordance with Chapter 10D-6, F.A.C.

E. ENGINEERING

1. 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 on site 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.
2. The property owner shall convey appropriate sidewalk relocation easements for the widening of Westgate Avenue when requested by the County Engineer.

F. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

G. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation preservation conditions of approval.

H. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the south property line shall be upgraded to include:
  - a. A minimum nine (9) foot wide landscape buffer strip.
  - b. A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development.
  - c. One ten (10) foot tall native canopy tree planted every twenty (20) feet on center.
2. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches.

I. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets.
2. Security lighting shall be low intensity and directed away from surrounding residences through the use of house side shields. Lighting fixtures shall not exceed twelve (12) feet in height.
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement.
4. There shall be no rooftop lighting allowed on-site. Lighting fixtures shall be limited to the minimum needed for essential lighting of the site and structures.

J. PARKING

1. Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles shall be permitted in landscaped areas, right-of-way or interior drives.

K. RECYCLE SOLID WASTE

1. The property owner shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products.

L. SIGNS

1. Point of purchase signs on the subject property shall be limited as follows:
  - a. Maximum sign height - ten (10) feet.
  - b. Maximum total sign face area - 100 sq. ft. total.
  - c. Maximum number of signs - one (1).
2. All on site signs shall comply with the **Palm Beach County Sign Code** and shall indicate principal uses only. **No** snipe signs, balloons, banners or other prohibited types of advertisement or signs shall be permitted **on-site**.

M. USE LIMITATION

1. Use of the site shall be limited to a general retail store (thrift shop) or any other permitted use allowed in the CG Zoning District that generates **100** trips per day or less, pursuant to the terms of the attached Restrictive Covenant.
2. No outdoor loudspeaker system audible off site shall be permitted.
3. No retail business activities shall be allowed on the site, including deliveries, prior to 6:00 a.m. nor continue later than 10:00 p.m.
4. No storage or placement of any material, refuse, equipment or debris shall be permitted in the rear of the facility.
5. No outdoor retail business activities shall be allowed on the site, excluding deliveries.

N. VEGETATION PRESERVATION

1. The petitioner shall cooperate with the County to the maximum extent possible, when dedicating the easement for the ultimate right-of-way for Westgate Avenue, to ensure the preservation of the existing Live Oak tree that is adjacent to the north property line and within the ultimate right-of-way. The property owner shall convey an appropriate sidewalk easement to ensure the preservation of the tree when requested by the County Engineer.

O. WESTGATE CRA CONDITIONS

1. This site lies within the Westgate Community Re-development Area and is subject to the provisions of Zoning Code Section **627** (Westgate CRA Overlay District), in addition to other applicable zoning district, special exception and land development regulations.

2. Prior to site plan certification, the petitioner shall submit conceptual elevations with all materials and colors specified, including but not limited to, roof, trim, awnings, walls, signs, fences and screening of mechanical equipment, utility structures and trash receptacles.

Commissioner McCarty moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	Aye
Carole Phillips	--	Aye
Carol A. Roberts	--	Absent
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 10th day of March, 1992.

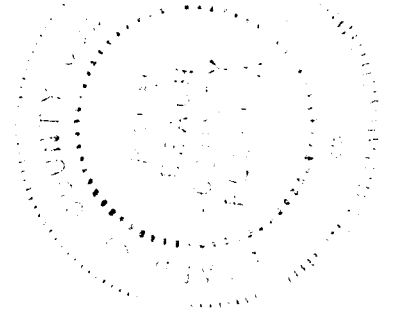
APPROVED AS TO **FORM**  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

**MILTON T. BAUER, CLERK**  
**Board of County Commissioners**

BY: *Barbara Attean*  
COUNTY ATTORNEY

By *Joan Hawley*  
DEPUTY CLERK  
BY: \_\_\_\_\_  
DEPUTY CLERK



ATTACHMENT A

RESTRICTIVE COVENANT

KNOW ALL MEN BY THESE PRESENCES that WENDY'S THRIFT SHOP, INC., a Florida corporation, having its principal place of business in West Palm Beach, Florida, is the owner of certain land in Palm Beach County more fully described as:

Lots 16-20, inclusive, Block 34, Westgate Estates (Northern Section), according to Plat Book thereof Plate Book 8, page 38, Public Records of Palm Beach County, Florida

WENDY'S THRIFT SHOP, INC., does hereby adopt and place the following restrictive covenant upon said real property:

a. Said real property shall be used only for the purpose of maintaining and operating a thrift shop or another use that generates 100 trips per day or less, during the entire term of this restrictive covenant. Said property shall not be used for any other general purposes that generates more than 100 trips per day, during the term of this restrictive covenant.

b. This restrictive covenant may be terminated by a written document signed by WENDY'S THRIFT SHOP, INC., its successors or assigns and the Palm Beach County Engineer and recorded on the Public Records of Palm Beach County, Florida declaring said restrictive covenant to be terminated. Said written termination of restrictive covenant shall not be executed or recorded unless and until said real property has been reevaluated by the Palm Beach County Engineering and Zoning Departments for any additional traffic impact for any new intended use under commercial general zoning purposes and any impact fees resulting from said change in use have been fully paid.

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use have been fully paid.

Executed at West Palm Beach, Florida this 31 day of October,  
1991.

WENDY'S THRIFT SHOP, INC.

BY: Wendy Goodhue Pres.  
Wendy Goodhue, President

STATE OF FLORIDA

COUNTY OF PALM BEACH

On this 31 day of October 1991, personally appeared before me  
Wendy Goodhue, to me known to be the person described in and who  
executed the foregoing instrument and acknowledged before me that  
he or she executed the same.

WITNESS MY HAND and official seal in the County and State last  
aforesaid this 31<sup>st</sup> day of October 1991.

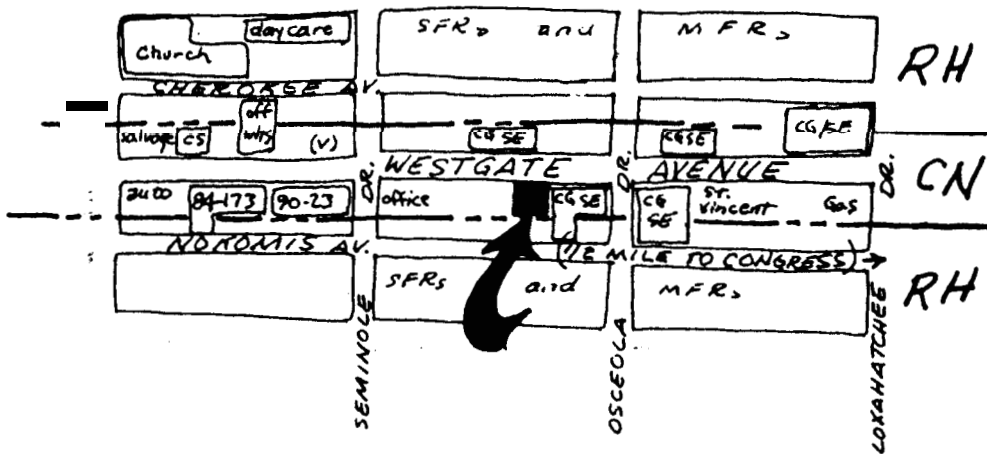
Lee J. Harris  
Notary Public

My commission expires:  
NOTARY PUBLIC, STATE OF FLORIDA;  
MY COMMISSION EXPIRES: MAR. 23, 1994,  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

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Sec. 30 Twp. 43 Rng. 43  
 Quadrant Sheet: 16  
 Aerial Page: 160

Vicinity  
 Sketch



Request:

A REZONING from the Neighborhood Commercial (CN) Zoning District to the General Commercial (CG) Zoning District.

PETITION NO: 91-52

BCC DISTRICT: 7