

RESOLUTION NO. R-92-1840

RESOLUTION APPROVING ZONING PETITION NO. 90-15  
SPECIAL EXCEPTION PETITION OF B.P. OIL COMPANY

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. 90-15 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on December 4, 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 all 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. 90-15 the petition of B.P. OIL COMPANY, BY LEE STARKEY, AGENT, for a SPECIAL EXCEPTION FOR A PLANNED COMMERCIAL DEVELOPMENT; INCLUDING AN AUTO SERVICE STATION AND AUTOMATIC CAR WASH, on a parcel of land lying in a portion of the North 352.73 feet of the West 200.16 feet of Section 9, Township 45 South, Range 43 East, as measured at right angles to the North and West lines of said Section 9, being more particularly described as follows: Commence at the Northwest corner of the Northwest 1/4 of said Section 9, Thence South 89 degrees 18'31" East along the North line of said Section 9 for 200.20 feet; Thence South 01 degrees 50'13" West for 60.51 feet to the POINT OF BEGINNING of the following described parcel of land; Thence continue South 01 degrees 50'13" West along the East line of the West 200.16 feet of said Section 9 for 292.29 feet to a point on the South line of the North 353.73 feet of said Section 9; Thence North 89 degrees 18'31" West along the South line of the North 352.73 feet of said Section 9 for 151.69 feet to a point on the East line of the West 48.50 feet of said Section 9; Thence North 01 degrees 50'13" East along the East line of the West 48.5 feet of said Section 9 for 253.08 feet; Thence North 46 degrees 15'51" East for 56.00 feet, to a point on the South line of the North 60.5 feet of said Section 9; Thence South 89 degrees 18'31" East along the South line of the North 60.5 feet of said Section 9

for 112.48 feet to the POINT OF BEGINNING. PARENT TRACT: A portion of the North 352.73 feet of the West 200.16 feet of Section 9, Township 45 South, Range 43 East, as measured at right angles to the North and West lines of said Section 9, being more particularly described as follows: COMMENCE at the Northwest corner of the Northwest 1/4 of said Section 9; Thence South 89 degrees 18'31" East along the North line of said Section 9 for 200.20 feet; Thence South 01 degrees 50'13" West for 53.01 feet to a point on the North right-of-way line of Hypoluxo Road as shown on Palm Beach County Right-of-way Map No. 3-76-348-R/W and the POINT OF BEGINNING of the following described parcel of land; Thence continue South 01 degrees 50'13" West along the East line of the West 200.16 feet of said Section 9 for 299.79 feet to a point on the South line of the North 352.73 feet of said Section 9; Thence North 89 degrees 18'31" West along the South line of the North 352.73 feet of said Section 9 for 175.20 feet to a point on the East Right-of-way line of High Ridge Road and the East line of the West 25.00 feet of said Section 9; Thence North 01 degrees 50'13" East along the East Right-of-way line of High Ridge Road and the East line of the West 25.00 feet of said Section 9 for 275.28 feet; Thence North 46 degrees 15'51" East for 35.00 feet, to a point on the South Right-of-way line of Hypoluxo Road and the South line of the North 53.00 feet of said Section 9; Thence South 89 degrees 18'31" East along the South Right-of-way line of Hypoluxo Road and the South line of the North 53.00 feet of said Section 9 for 150.69 feet to the POINT OF BEGINNING, and being located at the S.E. corner of the intersection of Hypoluxo Rd. and High Ridge Rd. in the CC Zoning District, was approved on December 4, 1992, 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 of the Palm Beach County Land Development Code. (ZONING)
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 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). (ZONING)

B. ANNEXATION

1. The property owner shall voluntarily annex the subject property into the City of Boynton Beach at such time annexation is requested by the City. (MONITORING)

C. BUILDING AND SITE DESIGN

1. Prior to Site Plan Review submittal, the site plan shall be amended to indicate:
  - a. The total building square footage of the site shall be limited to 1,562 square feet. Maximum impervious lot coverage on site shall not exceed the area of coverage indicated on Exhibit 21.
  - b. The required handicapped parking stall shall be relocated adjacent to the convenience store and shall be indicated as such on the site plan.

- c. A 6 foot high solid fence or wall enclosing the dumpster having an architectural treatment compatible with the principal building. The open end of the enclosure shall have an obscuring, opaque gate. (ZONING)
2. The maximum height, from grade to roof line, for all structures shall not exceed twenty five (25) feet. (BUILDING)
3. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material. (BUILDING)

D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. 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, if required by the Department of Environmental Resources Management. (ERM)
2. Secondary containment for stored Regulated Substances, (i.e. fuels, oils, solvents, or other hazardous chemicals) is required. Department staff will provide guidance on appropriate protective measures. (ERM)
3. The proposed car wash shall have a 100% water recycling system. (ERM)
4. The native understory in the southern preserve shall be preserved in order to provide habitat for the Gopher Tortoise(s). (ERM)

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. (ENGINEERING)
2. 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. (ENGINEERING)

3. Prior to May 31, 1993 the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for:

- a. Hypoluxo Road, 60.5 feet from centerline
- b. High Ridge Road, 48.5 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. **(MONITORING/ENGINEERING)**

4. 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. (IMPACT FEE COORDINATOR/ENGINEERING)

F. HEALTH

1. The application and engineering plans, calculations, etc. to construct well and/or septic tank must be submitted to the Health Department prior to site plan approval. (HEALTH)
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (HEALTH)
3. 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. (HEALTH/SWA)
4. The property owner shall connect to sanitary sewer service when service becomes available to the site. (HEALTH)
5. Use of the facility shall be limited to retail sales of gasoline products and pre-packaged food. On-site mechanical maintenance or repair shall be prohibited until such time as the subject site is connected to a public sewerage system. (HEALTH)

G. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (UTILITIES)

H. 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. (CODE ENFORCEMENT)

2. Lighting fixtures shall not exceed fourteen (14) feet in height. (BUILDING)
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement. (CODE ENFORCEMENT)

I. 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. (ZONING)
2. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
  - a. Tree height: fourteen (14) feet.
  - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
  - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (ZONING)

J. LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINES (ABUTTING RIGHTS-OF-WAY)

1. Landscaping within the required buffer along Hypoluxo Road and High Ridge Road shall be upgraded to include:
  - a. One (1) native canopy tree planted every twenty (20) feet on center.
  - b. One (1) native palm tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location.
  - c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches. (ZONING)

K. LANDSCAPING ALONG THE EAST PROPERTY LINE

1. Landscaping and buffering along the east property, shall be upgraded to include a minimum fifteen (15) foot wide landscape buffer strip. (ZONING)
2. The following landscaping requirements shall be installed:
  - a. One (1) native canopy tree planted every twenty (20) feet on center.

- b. One (1) twelve (12) foot tall native palm tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location.
- c. Thirty-six (36) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches.  
(ZONING)

L. 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. (SWA)

M. SIGNS

1. Signs fronting on Hypoluxo and High Ridge Roads shall be limited as follows:
  - a. Maximum sign height, measured from crown of road - ten (10) feet;
  - b. Maximum sign face area per side - 50 square feet;
  - c. Maximum number of signs - one (1) per frontage as indicated on Exhibit 21.
  - d. Sign type - Monument style only. (BUILDING)
2. Off-premise signs shall not be permitted on the site. (BUILDING-Zoning-Code Enforcement)
3. No banners, flags, balloons, snipe signs, etc., shall be permitted on site, except the American flag. All advertisement shall be in conformance with the Palm Beach County Sign Code. (CODE ENFORCEMENT)

N. UNITY OF TITLE

1. The petitioner shall submit concurrent with the Development Review Committee application, two (2) executed copies of a Unity of Title covering the entire site and shall deed restrict the southerly sixty (60) feet of this adjacent site to prohibit the construction of any buildings or structures. (ZONING/COUNTY ATTORNEY)

O. USE LIMITATIONS

1. Vehicle parking shall be limited to the parking spaces designated on the approved site plan. (ZONING)
2. No outdoor loud speaker system shall be permitted on site. (CODE ENFORCEMENT)
3. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within the loading and delivery areas designated on the site plan. (CODE ENFORCEMENT)

4. No storage or placement of any material, refuse, equipment or debris shall be permitted in the rear of the facility. (CODE ENFORCEMENT)
5. Prior to site plan certification, the site plan shall be amended to indicate facilities for the provision of air and water for minor vehicle maintenance. The owner of the service station facility shall provide air and water for minor vehicle maintenance to the public at no charge. (ZONING/CODE ENFORCEMENT)
7. The use of the site shall be limited to 1,562 total square feet of an auto service station (no repairs), a car wash and convenience store. (PLANNING/ZONING)
8. Hours of operation shall be limited from 6 A.M. till 12 Midnight daily. (CODE ENFORCEMENT)

P. VEGETATION PRESERVATION AND RELOCATION

1. The petitioner shall prepare a vegetation survey prior to Site Plan Review, indicating all the vegetation to be preserved, incorporated into the project design or relocated. This survey shall be approved by the Zoning Department and shall constitute a base for the landscape plans. (ERM/ZONING)
2. The southern 70 feet of the site shall remain undeveloped. No native vegetation shall be removed from this area. No trenching, grade changes or other development activity, except the septic tank required by the Health Department, which negatively impacts the vegetation shall take place in this area. Trees within the developed portions of the site, capable of being relocated by tree spade, shall be transplanted to perimeter landscape strips or to the preserve area during site development. (ERM/ZONING)
3. No structures or utilities, other than the septic tank drainage field, shall be permitted within the preserve area. The petitioner shall submit a metes and bounds description of the preserve area to the Department of Environmental Resources Management prior to site plan certification. (ERM/ZONING)

Q. 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. (MONITORING)
2. 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. (MONITORING)

Commissioner Foster moved for approval of the Resolution.

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

Mary McCarty, Chair	<b>Aye</b>
Ken Foster	<b>Aye</b>
Karen T. Marcus	Absent
Carol A. Roberts	Absent
Warren H. Newell	<b>Aye</b>
Burt Aaronson	No
Maude Ford Lee	Absent

The Chair thereupon declared the resolution was duly passed and adopted this 4th day of December, 1992.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY: Lee R. Smith  
COUNTY ATTORNEY

MILTON T. BAUER, Clerk  
BY: Jim M. Blair  
DEPUTY CLERK