

29/43/43

RESOLUTION NO. R-91-262

RESOLUTION APPROVING ZONING PETITION NO. 90-40  
SPECIAL EXCEPTION PETITION OF  
NATIONAL BENEVOLENT ASSOCIATION OF THE CHRISTIAN CHURCH  
BY KIERAN J. KILDAY, 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. 90-40 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on September 27, 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. 90-40 the petition of NATIONAL BENEVOLENT ASSOCIATION OF THE CHRISTIAN CHURCH, BY KIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION FOR A PLANNED COMMERCIAL DEVELOPMENT, INCLUDING AN OFFICE-WAREHOUSE COMBINATION AND MOVING AND STORAGE FACILITY, on a parcel of land lying on the north 173.07 feet of the south 346.15 feet of the west 1/4 of the northwest 1/4 of Section 29, Township 43 South, Range 43 East, Palm Beach County, Florida. Less the west 40 feet thereof for the right-of-way of Congress Avenue and being located on the east side of Congress Avenue, approximately .04 mile south of Okeechobee Boulevard in a CG-General Commercial Zoning District, was approved on September 27, 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

ORIGINAL

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).

**B. STANDARD CONDITIONS FOR PLANNED COMMERCIAL DEVELOPMENT**

1. 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.
2. Outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent properties and streets.
3. No outdoor speaker or public address systems which are audible from the exterior of the site, shall be permitted.
4. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.
5. 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.
6. Hours of operation shall be limited to 6:00 a.m. to 11:00 p.m.

**C. BUILDING**

1. The building height shall be limited to a maximum of 25 feet.
2. The north and south side(s) of the proposed building shall be given architectural treatment consistent with the front facade.
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.

**D. DUMPSTER**

1. 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.

**E. ENGINEERING**

- E1. 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.

- E2. Prior to February 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 Congress Avenue, 60 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.
- E3. 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 this project at the time of the Building Permit presently is \$38,005 (691 trips X \$55.00 per trip).

F. HEALTH

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.
4. 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.

G. 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.

H. LANDSCAPE

1. Trees shall be maintained at a minimum height of fifteen (15) feet according to Arbor Society Standards.

2. All plant material shall be fully irrigated and maintained in a healthy viable condition.
3. Landscaping along the north and south property lines, where the facility abuts residentially zoned property, shall be upgraded to include twelve (12') foot tall native canopy trees, placed twenty (20') feet on center and one palm for each thirty (30) linear feet.

If the residentially zoned properties along the north and south property lines are rezoned to a commercial zoning district prior to issuance of a building permit, Zoning Code requirements shall supercede this condition.

I. PRESERVATION

1. The petitioner shall preserve/relocate existing native vegetation on site and shall incorporate it into the project design. Clearing of vegetation shall be limited to the building pad areas, retention areas and vehicular use areas. The areas of preservation shall receive appropriate protection from damage and disturbance in accordance with Section 500.36 of the Zoning Code, during the site development and construction phase.
2. Sabal palms on site shall be preserved or relocated on site. 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.
3. The petitioner shall submit a tree inventory to verify the preservation of existing native trees within all perimeter landscape strips, interior landscape islands and medians.

J. RECYCLE

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.

K. SIGNS

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. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supercede the sign related conditions of approval.

L. WESTGATE CRA STANDARD CONDITIONS

1. Westgate General Conditions
  - a. This site lies within the Westgate Community Re-development Area and is subject to the provisions of Section 627 of the Zoning Code, in addition to

other zoning district, special exception and land development regulations.

- b. Fences and walls for non-residential developments shall be setback fifty (50) feet from the front property line when the Zoning Code is amended to require it or in 1995, whichever shall first occur.
- c. At Site Plan Review submittal, conceptual elevations shall be submitted 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.

2. Westgate Signs

- a. Point of purchase signs shall be limited to a maximum of one (1) free standing sign per frontage and shall not exceed one (1) square foot of sign area per two (2) linear feet of frontage and shall not exceed fifteen (15) feet in height.

M. 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 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 McCarthy	--	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