

RESOLUTION NO. R-91-994

RESOLUTION APPROVING ZONING PETITION NO. 91-19
SPECIAL EXCEPTION PETITION OF
HARRELL A. & CAROL L. CHAMPION, RAFFAELE, MICHELANGELO, &
KIM TROPEANO

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. 91-19 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on April 25, 1991; 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. 91-19, the petition of HARRELL A. AND CAROL L. CHAMPION, RAFFAELE, MICHELANGELO, AND KIM TROPEANO, BY LARRY HODGES, AGENT, for a SPECIAL EXCEPTION FOR OPEN STORAGE OF BUILDING SUPPLIES on a parcel of land lying on Lots 21 through 30 and 54 through 57, Block 34, WESTGATE ESTATES, (NORTHERN SECTION), Plat Book 8, Page 38, Section 30, Township 43 South, Range 43 East, and being located ON THE S.W. CORNER OF THE INTERSECTION OF WESTGATE AVE., AND OSCEOLA DR., BOUND ON THE S. BY NOKOMIS AVE., was approved on April 25, 1991, 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 (Exhibit 23). 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.

C. DUMPSTER

1. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind walls having an architectural treatment compatible with the principal building. The open end of the enclosure shall have an opaque gate.

D. 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.

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. Prior to August 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 a 25 foot safe sight corner at Westgate Avenue and Osceola Drive, 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.

3. The Property owner shall construct:

a. closed piping system from Westgate Avenue to Nokomis Avenue in accordance with the County Engineering approval along the west side of Osceola Drive.

b. a 4 foot wide concrete sidewalk on the west side of Osceola Drive from Westgate Avenue to Nokomis Avenue.

All improvements shall be concurrent with on-site paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy.

4. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Title on the subject property subject to approval by the County Attorney.

F. LIGHTING

1. Security lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent properties and streets. Lighting fixtures shall not be greater than twelve (12) feet tall.

G. RECYCLING

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.

H. SPECIFIC CONDITIONS

1. No marble cutting or any other material working is permitted on the site.

2. The site shall be limited to marble storage only.

3. The height of the marble stored shall be limited to a maximum of six (6) feet.

4. The site plan shall be revised prior to the site plan certification to include the following:

a. All buffer strips abutting the residential uses indicated as minimum ten (10) feet.

- b. The six foot wall required in the buffer strips shall be located minimum five (5) feet interior of the property line except the existing walls. All required landscaping shall be located on the alternate sides of the wall as required by the landscaping conditions.
 - c. All parallel parking spaces, except the ones permitted and built as such, shall have minimum twenty-three (23) feet length and ten (10) feet width.
 - d. The access drive way serving the parking spaces shall have a minimum width of fifteen (15) feet except where it is permitted and built as such.
5. 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, storage areas, right-of-way or interior drives.

I. LANDSCAPE

1. Prior to Site Plan Review submittal, the site plan shall be amended to indicate upgraded landscaping and buffering as indicated below:
 - a. Along the north property line, where the storage area abuts the right-of-way, a chain link fence minimum six (6) feet high shall be provided at a ten (10) foot set-back from the north property line. The fence shall be covered with environmental screening. The ten (10) foot set-back area shall be treated as landscape area and include the following:
 - 1) A row of native canopy trees twelve (12) feet tall, spaced twenty (20) feet on center.
 - 2) A three (3) foot native hedge.
 - 3) Sixteen (16) foot tall native palm trees, one for each twenty (20) linear feet of the length of the buffer. A group of three (3) or more palm trees shall supersede the requirement for a native canopy tree in that location.
 - b. Along the north property line, where the sales building and the parking area abuts Westgate Avenue, a landscape strip minimum ten (10) foot wide shall be provided. This strip shall be landscaped to include the following:
 - 1) A row of native canopy trees twelve (12) feet tall, spaced twenty (20) feet on center.
 - 2) A three (3) foot native hedge.
 - 3) Sixteen (16) foot tall native palms, one for every twenty (20) feet of the length of the buffer.

- c. Along the east and south property lines, and where **the** property abuts residential zoned land, including:
 - 1) A six (6) foot solid wall.
 - 2) A row of native canopy trees, twelve (12) feet tall spaced twenty (20) feet on center with a three (3) foot native hedge on the exterior of the required six (6) foot wall, and sixteen (16) foot tall native palms spaced 20 feet on center on the interior of the wall.
- d. Along the west property line where the property abuts commercial zoned land, a row of canopy trees twelve (12) feet tall, spaced twenty (20) feet on center and a three (3) foot native hedge.

J. WESTGATE CRA STANDARD CONDITIONS

- 1. This site lies within the Westgate Community Re-development Area and is subject to the provisions of Section 627. F.2. of the Zoning Code, in addition to other zoning district, special exception and land development regulations unless specifically otherwise indicated herein.
- 2. 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.

K. SIGNS

- 1. Point of purchase signs shall be limited as follows:
 - a. A maximum **of** one (1) free standing sign per frontage with access to the site.
 - b. The maximum total sign area shall be limited to:
 - 1) Maximum eighty (80) square feet on Westgate Avenue.
 - 2) Maximum fifty (50) square feet on Osceola Drive.
 - c. **The** maximum sign height shall be limited to **ten (10)** feet.
- 2. Prior to Site Plan Review Committee approval, the petitioner shall submit a Master Sign Program which specifies: sign location, sign size, unified color and graphic representation.
- 3. 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 supersede the sign-related conditions of approval.

L. 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 Elmquist moved for approval of the Resolution.

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

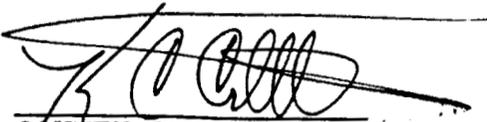
Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	ABSENT
Carol A. Roberts	--	AYE
Carol J. Elmquist	--	AYE
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	ABSENT

The Chair thereupon declared the resolution was duly passed and adopted this 23rd day of July, 1991.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

JOHN B. DUNKLE, CLERK

BY: 
DEPUTY CLERK

Petition No. 91-19



994

Page 6