

RESOLUTION NO. R-90-365

RESOLUTION APPROVING ZONING PETITION NO. 89-98
SPECIAL EXCEPTION PETITION OF ALLAN GLUCKSTERN

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. 89-98 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on October 2, 1989; 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. 89-98 the petition of ALLAN GLUCKSTERN, by Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION TO PERMIT A PLANNED COMMERCIAL DEVELOPMENT, on a parcel of land known as Parcel V: The East 1/4 of the Southeast 1/4 of the Southwest 1/4 of Section 25, Township 44 South, Range 42 East, less: the East 40.00 feet thereof; the North 756.26 feet thereof, and the South 400.00 feet thereof; and, parcel VI: The South 400.00 feet of the East 1/4 of the Southeast 1/4 of the Southwest 1/4 of Section 25, Township 44 South, Range 42 East, less the East 40.00 feet thereof, containing 7.56 acres, more or less, and subject to easements and rights of way of record; and, being located on the west side of Military Trail (SR 809), approximately .16 mile south of Melaleuca Lane, in a CG-GENERAL COMMERCIAL ZONING DISTRICT, was approved on October 2, 1989 as advertised, subject to the following conditions:

1. Prior to site plan approval, the petitioner shall submit:
 - a. A tree survey at the same scale as the site plan.

- b. A landscape betterment plan that maximizes the preservation of existing vegetation. This plan shall relocate and cluster interior islands to create preservation areas, particularly along Military Trail and the western and southern property lines.
2. prior to site plan approval, the site plan shall be revised to reflect:
 - a. A maximum of 167 parking stalls.
 - b. The parking stalls eliminated as a result of Condition No. 2.a shall be used for vegetation preservation.
 - c. A minimum of one (1) tree shall be planted or preserved for each twenty (20) linear feet along the western and southern property lines.
 - d. A minimum of one (1) twelve (12) foot tall native canopy tree shall be planted or preserved for each twenty (20) linear feet of frontage along Military Trail, a minimum of a thirty-six (36) inch tall hedge, and one (1) native palm tree for each forty (40) linear feet of frontage shall be planted.
3. Prior to vegetation removal permitting, the petitioner shall submit:
 - a. A landscape betterment plan which clearly identifies individual trees and areas of vegetation that shall be incorporated into the project design.
4. Prior to commencing with vegetation removal operations, the petitioner shall:
 - a. Clearly identify and mark all trees to be preserved consistent with the approved landscape betterment plan.
 - b. Install appropriate protective barriers around individual and groups of trees to be preserved.
 - c. No clearing shall commence until all protection devices are installed by the petitioner and inspected and approved by the Zoning Division.
5. There shall be no outdoor storage of material or debris behind the center.
6. Lighting fixtures along the rear and south side interior property lines of the center shall not exceed twelve (12) feet in height.
7. 'Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
 - a. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
9. 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.

10. Prior to February 1, 1990 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 Military Trail, 67 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.
11. 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.
12. The property owner shall convey to the Lake Worth Drainage District the south 60 feet of the subject property for the required right-of-way for Lateral Canal No. 14, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to February 1, 1990.
13. 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 until construction has begun for Military Trail as a 6 lane section from Lake Worth Road to Melaleuca Lane plus the appropriate paved tapers; and,
 - b. No Building Permits for more than 14,300 gross leasable floor area shall not be issued until construction has begun for Melaleuca Lane from Military Trail to Congress Avenue as a 4 lane facility plus the appropriate paved tapers.
14. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Control on the subject property subject to approval by the County Attorney.

15. Failure to comply with any conditions of approval may result in 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. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code.

Commissioner Marcus 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:

Carol J. Elmquist, Chair	--	Aye
Karen T. Marcus	--	Aye
Carol Roberts	--	Aye
Ron Howard	--	Aye
Carole Phillips	--	Aye

The Chair thereupon declared the resolution was duly passed and adopted this 27th day of February, 1998

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:

Barbara Allen
COUNTY ATTORNEY

BY:

June Williams
DEPUTY CLERK

