

RESOLUTION NO. R-90- 810

RESOLUTION APPROVING ZONING PETITION NO. 78-2(A)
SPECIAL EXCEPTION PETITION OF
WILLIAM EMPKE, III AND MARIA EMPKE

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. 78-2(A) was presented to the Board of County commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on November 30, 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. 78-2(A), the petition of WILLIAM EMPKE, III AND MARIA EMPKE, BY KIERAN KILDAY, AGENT, for a SPECIAL EXCEPTION TO AMEND AND EXPAND THE SITE PLAN FOR A PREVIOUSLY APPROVED MUFFLER SHOP TO: 1) INCREASE LAND AREA, 2) INCREASE THE BUILDING SQUARE FOOTAGE, AND 3) PERMIT AN AUTO SERVICE STATION (AUTOMOBILE REPAIR FACILITY) on a parcel of land lying in Section 24, Township 44 South, Range 42 East, Lots 1, 2, 52 and 53, GRAMMES HOMESITES, according to the plat thereof, as recorded in Plat Book 21, page 91. LESS, the Westerly 3.0 feet of said Lots 1 and 2 for right-of-way for Military Trail, being located on the East side of Military Trail (SR 809), approximately .01 mile North of 10th Avenue North in a CG-General Commercial Zoning District, was approved on November 30, 1989 as advertised, subject to the following conditions:

1. Petition 78-2 (Resolution No. 78-216) is hereby repealed.
2. prior to certification the site plan shall be amended to indicate;

- a. Landscape Alternative **No. 1** along the east perimeter of the site abutting the residential areas. The landscape strip shall be supplemented with fourteen **(14)** foot high native canopy trees planted fifteen **(15)** feet on center; and, a six **(6)** foot high solid wall shall be provided on the interior of the landscape strip.
 - b. Elimination of the non-conforming parking spaces on both sides of the access to Military Trail and increasing the width of the perimeter strip to fifteen **(15)** feet. Building square footage shall be reduced accordingly if necessary.
 - c. The perimeter landscape strip shall be supported by a solid forty-two **(42)** inch hedge to be maintained at a height of seventy-two **(72)** inches to within one-hundred **(100)** feet of Marilyn Drive, canopy trees twelve **(12)** feet in height, minimum canopy six **(6)** feet spread, planted twenty **(20)** feet on center. Safe site corners shall be maintained.
3. Vehicle parking shall be limited to the parking spaces designated on the approved site plan. **No** parking of vehicles shall be permitted in landscape areas, rights-of-way or interior drives.
 4. There shall be no outside storage of disassembled or inoperative vehicles or parts thereof on site.
 5. There shall be no outdoor repair of vehicles.
 6. Test driving of vehicles shall not be permitted on local or residential streets.
 7. **No** outdoor loudspeaker system shall be permitted on site.
 8. Outdoor lighting used to illuminate the east side shall be low intensity, shielded and directed away from adjacent properties and streets. Maximum height of lighting fixtures shall not exceed twelve **(12)** feet in height.
 9. Off premise signs shall not be permitted on site.
 10. **No** storage or placement of any stock materials, refuse, equipment or accumulated debris shall be permitted in the rear of the site.
 11. Stock loading or dumpster pickup shall be permitted only between the hours of 8:00 a.m. and 8:00 p.m.
 12. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind CBS walls having an architectural treatment harmonious with the principal building.
 13. Phase II of the project will commence upon connection to the public sewer and will allow building expansion.
 14. The loading bay must be relocated on the site plan where minimum maneuvering requirements can be met (minimum thirty **(30)** feet).
 15. For Phase II of this project, 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.

16. For Phase II of this project, sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
17. For Phase II of this project, water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
18. 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.
19. For Phase II of this project, 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 10D-6 F.A.C.
20. 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.
21. 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.
22. 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 a "safe sight corner" 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.

23. The Property owner shall re-construct Marilyn Drive as a 2 lane local street standard minimum 2-10 foot travel lanes from Military Trail to the projects entrance onto Marilyn Drive. Construction shall begin prior to the issuance of a building permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. The entrance onto Marilyn Drive shall be located a minimum of one hundred fifty (150) feet from the project's east property line.
24. 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 presently is \$10,945.00 (199 trips X \$55.00 per trip).
25. The area beyond the mapped commercial land use line shall be used only for water retention, landscaping and/or on-grade parking.
26. Simultaneous with Site Plan Review Committee application, the petitioner shall submit a Unity of Title in a form acceptable to the County Attorney.
27. The site shall be limited to auto repair; no auto body/paint repair work or auto sales shall be permitted
28. 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 22nd day of May, 1990.

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