

RESOLUTION NO. R-90- 815

RESOLUTION APPROVING ZONING PETITION NO. 87-137(A)
SPECIAL EXCEPTION PETITION OF NICHOLAS DAMIANO

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. 87-137(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. 87-137(A), the petition of NICHOLAS DAMIANO, BY SARA J. LOCKHART, AGENT, for a SPECIAL EXCEPTION TO PERMIT A PLANNED COMMERCIAL DEVELOPMENT on a parcel of land beginning at the Southeast corner of Tract 67, of SWANN'S SUBDIVISION of Section 19, Township 44 South, Range 43 East, Plat Book 6, at Page 66: Thence run on an assumed bearing of due North along the East line of said Tract 67, to the Northeast corner of said Tract 67; thence run South 61 degrees 48' 45" West, along the North line of said Tract 67, a distance of 374.90 feet to a point on the North line of said Tract 67; thence run Due South, parallel to the East line of Tract 67, to a point on the south line of said Tract 67, which is 330.27 feet West of the Southeast corner of said Tract 67; thence run East along the South line of said Tract 67, a distance of 330.27 feet to the Point of Beginning. Less the South 25.00 feet thereof for State Road 802 Right-of-way. Less parcel of land for road right-of-way in Tract 67, Subdivision of Section 19, Township 44 South, Range 43 East as recorded in Plat Book 6, Page 66, and lying South of the proposed North right-of-way line as shown on the right-of-way map of Lake Worth Road, Road Plat Book 5, Pages 125 thru 135, being a portion of the following: Commencing at the Southeast corner of said Tract 67, thence Westerly along the South line of said Tract 67 a distance of 330.27 feet to a

point on the boundary line between Tracts 59 and 60 said subdivision extended South thru said Tract 67; thence Northerly along said boundary a distance of 149.09 feet; thence Easterly a distance of 330.03 feet; thence Southerly a distance of 249.09 feet; thence Easterly a distance of 330.03 feet; thence Southerly a distance of 149.09 feet to the Point of Beginning; Less the North 15.00 feet thereof (as measured at right angles to the North line of said Tract 67) for additional right-of-way for Second Avenue North; Also less the East 30.00 feet thereof (as measured at right angles to the East line of said Tract 67) for additional right-of-way for Davis Road, being located on the Northwest corner of the intersection of Lake Worth Road (SR 802) and Davis Road, and bounded on the North by 2nd Avenue North in a CG-General Commercial Zoning District, was approved on November 30, 1989 as advertised, subject to the following conditions:

1. Prior to site plan review submittal, the site development plan shall be amended to indicate:
 - a. Compliance with all minimum property development regulations and land development requirements;
 - b. An upgraded perimeter buffer consisting of native canopy trees a minimum of twelve (12) feet in height, spaced twenty-five (25) feet on center, and a minimum thirty (30) inch high hedge, spaced twenty-four (24) inches on center;
 - c. Free standing pole signs along Lake Worth Road, Davis Road, and Second Avenue North shall be limited to a maximum of one (1) sixty (60) square foot sign along each right-of-way, with a maximum height of fifteen (15) feet; and
 - d. No advertising flags, foreign flags, pennants, banners, streamers, balloons, signs upon any vehicles, prices or vehicle stock numbers or other information as required to be posted on such vehicles by law other than upon a sticker affixed to a side window, or similar 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 as may be permitted by the Sign Code.
2. Retail and inventory storage shall occur within an enclosed building area and shall not be visible from adjacent road rights-of-way.
3. Use of the site shall be limited to a 5,000 square foot garden supply store and produce market.
4. The east and north sides of the proposed building shall be given architectural treatment consistent with the front facade along Lake Worth Road.
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, rights-of-way, or interior drives.
6. The petitioner shall submit an Alternative Landscape Betterment plan at the time of site plan review committee application, to allow some flexibility in

the elimination of parking stalls and subsequent relocation of interior landscape islands which allow for the preservation of poinciana trees on site.

7. Security lighting shall be shielded, low intensity, and directed away from nearby rights-of-way.
8. 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 (or prior to issuance of Building Permit for straight rezoning).
9. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
10. 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.
11. Prior to January 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:
 - a. 2nd Avenue North, 40 feet from centerline
 - b. Davis Road, 55 feet from centerlinefree 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.
12. 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 \$22,825.00 (415 trips x \$55.00 per trip).
13. In addition the Developer shall contribute the amount of \$1,112.00 as established in Article V Section 3

(Insignificant Project Standard) of the Traffic performance Standards Code. These funds of \$1,112.00 shall be paid prior to the issuance of the first Building Permit.

14. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$1,112.00 shall be credited toward the increased Fair Share Fee.
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 22nd day of May, 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