

RESOLUTION NO. R-90-1313

RESOLUTION APPROVING ZONING PETITION NO. 90-9
SPECIAL EXCEPTION PETITION OF FREDERICK De PALMA
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. 90-9 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on February 22, 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. 90-9, the petition of FREDERICK De PALMA, BY KIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION FOR A COMMERCIAL NEW AND USED AUTO SALES AND REPAIR FACILITIES AND LOT on a parcel of land lying on the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of the Southeast 1/4 of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida; Less right-of-way for Military Trail (S.R. 809) and less the East 7.00 feet of the West 60.00 feet for road right-of-way purposes and being located on the east side of Military Trail, .02 mile south of Cherry Road in a CG-General Commercial Zoning District, was approved on February 22, 1990 as advertised, subject to the following conditions:

1. Prior to Site Plan Review Submittal, the site plan shall be amended to indicate the delineation of required customer parking spaces.
 - a. All perimeter landscape strips shall be upgraded with minimum ten (10) feet high native canopy trees spaced twenty (20) feet on center.

2. The petitioner shall reconfigure the parking area to allow for the preservation of existing vegetation on site if necessary at time **of** issuance of Vegetation Preservation Permit.
3. 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.
4. The northeastern portion of the site and perimeter landscape strips shall be treated as natural areas. Only passive storm water retention shall be permitted in these areas. **No** grade change, trenching or removal of vegetation (excepting prohibited species) shall be permitted here.
5. Any additional retention requirements identified in later stages of development shall be accommodated in exfiltration trenches, passive at grade retention areas or by reductions in the size of the specialized vehicular use area.
6. The petitioner shall submit a tree survey **to** locate and verify the preservation of existing slash pines within **all** perimeter landscape strips, interior landscape islands and medians.
7. **The** petitioner shall submit an Alternative Landscape Betterment plan at the time of Site Plan Review Committee submittal to allow some flexibility in the elimination **of** parking stalls and subsequent relocation of interior landscape islands which will allow for the preservation of more slash pines.
 - a. Vehicles shall not be tested off-site on residential streets.
9. **No** outdoor loudspeaker system shall be operated on site between the hours **of** 6:00 p.m. and 8:00 a.m.
10. The petitioner shall provide an area on-site to unload vehicles from car carriers. This area shall be a minimum of **15** feet wide and **60** feet long, shall have sufficient maneuvering area adjacent to it, shall be located out of vehicular traffic circulation areas, shall not be adjacent to residentially zoned lots. The unloading area shall be located a minimum of one hundred feet from any residentially zoned property.
11. **No** vehicle shall be parked with its hood or trunk open, nor elevated off the ground in any way. Vehicles shall not be parked in any right-of-way or driveway.
12. **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.

13. Repair facilities and sales of parts may be provided as an accessory use. Repair facilities and paint and body shops shall be located at least 100 feet from any residentially zoned lot. Service bay doors shall not be oriented toward any adjacent residentially zoned property, except where currently existing, or oriented toward any adjacent public street, unless it can be demonstrated to the Site Plan Review Committee that it is not feasible to comply.
14. Use of the site shall be limited to **the** commercial sales, leasing and repair of new or used automobile and customary accessory uses.
15. Vehicle parking shall be limited to the parking spaces designated on the approved site plan. **No** parking of vehicles is to be allowed in landscaped areas, rights-of-way, or interior drives.
16. **No** outside storage of disassembled vehicles or parts thereof shall be permitted on site.
17. **If** a Specialized Vehicular Use Area is utilized for display **of** vehicles, there shall be a barrier separating it from customer parking. This barrier may be in the form of a landscape strip, curbing, removable bollards or other suitable barrier approved by the Zoning Division.
18. 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.
19. Sewer service is available to the property. Therefore, **no** septic tank shall be permitted on the site.
20. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
21. 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.
22. **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.
23. 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.

24. 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.
25. 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.
26. **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 Marcus moved for approval of the Resolution.

The motion was seconded by Commissioner Howard 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 7th day of August, 1990.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: *Andrew Altier*
COUNTY ATTORNEY

BY: *John B. Dunkle*
DEPUTY CLERK

