

5/44/43

RESOLUTION NO. R-91-252

RESOLUTION APPROVING ZONING PETITION NO. 80-138(A)
MODIFICATION OF COMMISSION REQUIREMENTS
PETITION OF MARK AND JOY BOZICEVIC
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. 80-138(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on August 30, 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 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. 80-138(A), the petition of MARK AND JOY BOZICEVIC, BY KIERAN J. KILDAY, AGENT, FOR A MODIFICATION OF COMMISSION REQUIREMENTS REGARDING A SPECIAL EXCEPTION FOR THE REPAIR AND SALE OF HYDRAULIC JACKS AND TOOLS, APPROVED UNDER RESOLUTION 80-1111, TO INCLUDE OTHER CG (COMMERCIAL GENERAL) PERMITTED USES on a parcel of land described as Lots 5 through 11 inclusive, Block 5, Palm Acres Estates, recorded in Plat Book 20, Page 5 and being located on the NORTHEAST CORNER OF THE INTERSECTION OF CONGRESS AVENUE AND ALABAMA STREET, IN THE CG ZONING DISTRICT was approved on August 30, 1990, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The developer shall comply with all previous conditions of approval unless expressly modified herein.

B. ENVIRONMENTAL RESOURCE MANAGEMENT

1. Secondary containment for stored regulated substances - fuels, oils, solvents, or other hazardous chemicals - is required. The Environmental Resources Management Department staff will provide guidance on appropriate protective measures.

ORIGINAL

C. IMPACT FEE

1. The petitioner shall pay to Palm Beach County an impact fee for commercial uses allowed on the subject property. The fee shall be calculated according to the impact fee rates in effect in 1980 and to include credit for the impact fee paid in 1980 for the repair and sale of hydraulic jacks and tools (\$612.50).

D. LANDSCAPING

1. The petitioner shall upgrade all existing perimeter landscaping in accordance with a Landscape Betterment Plan (Exhibit No. 15). This Plan shall include, at a minimum, the following additional landscaping in addition to existing native vegetation on site:
 - a. Along the north property line, adjacent to the parking area fronting on Congress Avenue - three (3) ten foot (10') tall live oak trees and a continuous, opaque ligustrum hedge, consisting of no less than 19 new plants.
 - b. Along the south property line - a continuous, opaque ligustrum hedge, consisting of no less than 4 new plants.
 - c. Along the east property line - a continuous, opaque ligustrum hedge, consisting of no less than 3 new plants.
 - d. Along the west property line - four (4) ten foot (10') tall sabal palm trees and a continuous, opaque ligustrum hedge, consisting of no less than 6 new plants.
 - e. One (1) ten foot (10') tall live oak tree shall be planted within the existing interior landscape island at the southwest corner of the existing building.
2. All new hedge material is to replace missing vegetation and shall be planted at a height of no less than 24 inches. All hedges shall be maintained at a height of no less than 36 inches within one year of installation.
3. All plant material shall be fully irrigated and maintained in a healthy viable condition.

E. PARKING

1. Parking areas shall be restriped as required to meet current parking requirements.
2. No outdoor storage or display of vehicles, equipment or merchandise for sale shall be permitted.
3. Dumpsters, garbage and refuse receptacles shall not be permitted within required parking spaces or vehicle circulation areas. All such receptacles shall be confined to the area designated on the approved site plan and shall be concealed behind an enclosure having an architectural treatment compatible with the principal building. The open end of the enclosure shall and an obscuring, opaque gate.

F. USES

1. Uses on the site shall be limited to the following:
 - a. Appliance sales only - no service or maintenance
 - b. Auctions
 - c. Convenience store
 - d. Cosmetic sales, retail
 - e. Department store, retail sales only
 - f. Electronic equipment, retail sales only
 - g. Financial institution
 - h. Florist
 - i. Furniture, sales retail
 - j. Retail, the sale of non toxic or hazardous items only
 - k. Hardware, retail sales only
 - l. Leather goods, retail sales only
 - m. Monument, sales retail
 - n. Newsstands
 - o. Pharmacy, retail
 - p. Precision instruments and optics retail sales only; no service or maintenance
 - q. Self storage facility
 - r. Septic tank service company, dispatch and office only
 - s. Shoe shop for retail sales only, no repair
 - t. Upholstery shop

G. PERMITS AND REGULATIONS

1. The owner shall obtain an "**On-Site Sewage Disposal System Operating Permit**" prior to any Zoning change or approval. This application must include a hazardous waste assessment form for each business operated at this site and a copy of a valid occupational license for each business.
2. The existing septic tank system shall remain valid for use under the terms it was originally approved, provided its estimated sewage flow does not exceed 400 gpd, as defined by Palm Beach County (PBC) ECR-I, section 10, Table 11.

*400 gpd is based from PBC ECR-I, as the maximum capacity for a 750 gallon septic tank.

In addition to these requirements, the following conditions shall apply to all future uses and should be made a part of any zoning approval on the subject property:

H. FUTURE USES

1. The referenced facility must connect to a sanitary sewer system as soon as one is made available, as defined by PBC ECR-I, section 9.
2. There shall be no additional approval of uses that have the potential to generate a hazardous waste at this site until the facility connects to a sanitary sewerage system. This condition does not apply to any existing business that presently operates at this site **under a** valid occupational license.
3. All future uses shall conform to those specified **above**. At such time, however, the subject property connects to a public sewer system, and the existing septic tank system is abandoned, all permitted uses within the General Commercial (CG) Zoning District shall be **allowed**.
4. Any future expansion to the site that will generate an estimated sewage flow of more than **400** gpd, will require that the existing septic system be modified or abandoned to conform with all existing regulations.

I. 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 Phillips moved for approval of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted this 26th day of February, 1991.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY : *Richard Otter*
COUNTY ATTORNEY

BY : *M. J. V. H. H. H.*
DEPUTY CLERK

