

ORIGINAL

RESOLUTION NO. R-91-1175

RESOLUTION APPROVING ZONING PETITION NO. 78-1(A)  
MODIFICATION OF COMMISSION REQUIREMENTS  
PETITION OF JOSEPH L. & MARY LOU LACOURSIERE

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. 78-1(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on June 27, 1991; 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 the 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, Chapter 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. 78-1(A), the petition of JOSEPH L. AND MARY LOU LACOURSIERE, BY MARK FOLEY, AGENT, for MODIFICATION OF COMMISSION REQUIREMENTS ON CONDITION NO. 3 (PERMITTED USES) on a parcel of land lying on Lots 8 and 9, HYPOLUXO RIDGE, as in Section 9, Township 45 South and Range 43 East, recorded in Plat Book 22, Page 48, and being located on the S SIDE OF HYPOLUXO RD., APPROXIMATELY 200 FT. W OF OVERLOOK RD., IN THE CG ZONING DISTRICT, was approved on June 27, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section 402.7 (E)2 (b) (Site Plan Review Committee Powers and Standards of Review).

2. The petitioner shall submit the site plan approved by the Board of County Commissioners for this site to the Site Plan Review Committee prior to September 1, 1991.

B. BUILDING AND SITE DESIGN

1. Total floor area shall be limited to a maximum of 7,343 square feet.

C. CERTIFICATE OF CONFORMITY

1. Prior to site plan certification, the petitioner shall obtain a Certificate of Conformity if necessary, which indicates, to the best of the petitioners ability, compliance with all minimum property development regulations of the Zoning Code.

D. DUMPSTER

1. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind a solid enclosure. The open end of the enclosure shall have an obscuring, opaque gate.

E. ENGINEERING

1. 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.
2. Prior to Site Plan approval, this property owner shall:
  - a. Receive variances for back out parking onto Hypoluxo Road, unless grandfathered as determined by the Zoning Division.
  - b. Execute cross parking, access and drainage easements to the property to the east subject to approval by the County Attorney.
3. Petitioner shall enter into a Right-of-way Reservation Agreement with Palm Beach County prior to site plan certification to protect the additional fifteen (15) feet of right-of-way for Hypoluxo Road as currently depicted on the Thoroughfare Right-of-way Protection Map, namely 110 feet total right-of-way. The Agreement shall protect Palm Beach County from any enhanced business damages which could be interpreted to result from this approval as any damages beyond the fair market value of the land as determined on the date of this approval.

F. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The production, use or storage of regulated substances in excess of five(5) gallons or twenty-five(25) lb. dry weight on this site is prohibited.
2. The Petitioner shall submit an Affidavit of Notification to the Department of Environmental Resources Management prior to Site Plan certification.

G. HEALTH

1. All residential uses on site shall be eliminated.
2. Permissible commercial uses shall be limited to the uses designated in Condition K.1. only.
3. The on-site public water supply system shall be constructed, inspected and released into service prior to site plan approval.

H. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

I. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the site plan to reflect conformance to minimum Landscape Code requirements, to the maximum extent possible.
2. The property owner shall provide four (4) planters; or sidewalk cut-outs supporting trellised vines a minimum of six (6) feet in height, along the front facade of the structure. The location of the planters/cut-outs shall be indicated on the certified site plan.

J. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed away from adjacent properties and streets and be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement.

K. MODIFICATION

1. Condition No. 3 of Zoning Petition 78-1 (Resolution No. R-78-215) which presently states:

"The use of this site shall be limited to a ceramic retail store, an upholstery/re-upholstery shop, and a beauty salon due to the low traffic volume of these uses because the site lacks sufficient size and parking to accommodate more intense uses. Any change in the above uses shall require Board of County Commission approval."

is hereby amended to state:

"The use **of** this site shall be limited to the following:

Ceramic retail store  
Electronic equipment sales, no repair or  
installation service  
Monument sales  
Retail appliance sales, no repair service  
Upholstery/re-upholstery shop  
Furniture sales  
Leather goods  
Carpet sales  
Shoe shop  
Retail cosmetics  
Newsstands  
Antique shop  
Professional Offices (no doctors or dentists)

Any change in the above uses shall require Board of  
County Commission **approval.**"

**L. PARKING**

1. Vehicle parking shall be limited to the parking **areas** designated on the approved site plan. No parking **of** vehicles shall be permitted in landscaped areas, right-of-way or interior drives.

**M. RECYCLE SOLID WASTE**

1. The property owner/lessee's shall participate **in** a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products.

**N. SIGNS**

1. All new or replaced signs fronting on Hypoluxo Road shall be limited as follows:
  - a. Maximum sign height - ten (10) feet.
  - b. Maximum total sign face area - fifty (50) square feet.
  - c. Maximum number of signs - one (1).
2. All on site signs shall comply with the Palm Beach County Sign Code and shall indicate principal uses only. **No** snipe signs, balloons, banners or other prohibited types of advertisement or signs shall be permitted on-site.
3. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions **of** approval, the regulations of the amended Sign Code shall supersede all sign-related conditions of approval.

O. UNITY OF TITLE

1. Prior to site plan certification, the petitioner shall record a Unity of Title or provide a perpetual easement which includes the subject property and the adjacent twenty-five (25) foot parking easement on the west, subject to approval by the County Attorney.

P. USE LIMITATION

1. No retail business activities shall be allowed on the site, including deliveries, prior to 6:00 a.m. nor continue later than 10:00 p.m.
2. No storage or placement of any material, refuse, equipment or debris shall be permitted in the rear of the facility.

Q. 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 Roberts moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	Aye
Carole Phillips	--	Aye
Carol A. 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 3rd day of September, 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

