

RESOLUTION NO. R-91- 1481

RESOLUTION APPROVING ZONING PETITION NO. 91-36
SPECIAL EXCEPTION PETITION OF NISIZE REALTY, INC.

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. 91-36 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on July 25, 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. 91-36, the petition of NISIZE REALTY, INC., BY: SCOTT J. WILLIAMS, AGENT., for a SPECIAL EXCEPTION TO ALLOW A MEDICAL OFFICE AND CLINIC, (OUT PATIENT ONLY) on a parcel of land lying on Lots 20 through 26, inclusive, less road right-of-way for State Road 802, as recorded in Official Record Book 301, Page 452, BELLE W E PARK, in accordance with the Plat thereof, in Plat Book 13, Page 67; AND, the West 125.00 feet of the South 251.83 feet of Tract 106, lying north of State Road 802 and east of BELLE W E PARK, as recorded in Official Record Book 1080, Page 188, MODEL LAND COMPANY SUBDIVISION, as recorded in Plat Book 5, Page 79; AND, being that certain strip of land, 5.00 feet in width and being part of an alley as shown on BELLE VUE PARK, a subdivision in Section 20, Township 44 South, Range 43 East, in Plat Book 13, Page 67, bounded as follows: Bounded on the West by the East line of Lots 22, 23, 24, 25 and 26 of said BELLE W E PARK; Bounded on the South by the Northerly right-of-way line of Lake Worth Road; Bounded on the East

R 91 148 1

by the Easterly boundary line of said BELLE W E PARK, said line being 5.00 feet Easterly of and parallel with the East line of said Lots 22 - 26; and, bounded on the North by the Easterly prolongation of the North line of said Lot 26; The above described parcel of land also being described as: A parcel of land being a portion of Tract 106 MODEL LAND COMPANY SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, as recorded in Plat Book 5, Page 79 and a portion of the plat of BELLE W E PARK, as recorded in Plat Book 13, Page 67, said parcel being specifically described as follows: From the Southwest corner of said Section 20, run Easterly, along the South line of said section, a distance of 838.10 feet; thence, turn an angle of 91°05'45", as measured from East to North, a distance of 40.01 feet to a point on the Northerly right-of-way line of Lake Worth Road (State Road 802) as described in Official Record Book 301, Page 452 and as shown on the right-of-way map for State Road 802, Section 9361-150; said point being the POINT OF BEGINNING; thence run Westerly, along a line 40.00 feet North of, as measured at right angles to and parallel with the South line of said Section 20, and along said Northerly right-of-way line of Lake Worth Road, a distance of 264.49 feet to a point on the West line of Lot 20, as shown on the aforesaid plat of BELLE W E PARK; thence turn an angle of 91°07'36", as measured from the preceding course to the North and run Northerly, along the West line of Lots 20, 23, 24, 25 and 26 of said plat of BELLE W E PARK, a distance of 251.22 feet to the Northwest corner of said Lot 26; thence, turn an angle of 89°02'00", as measured from the preceding course to the East and run along the North line of said Lot 26 and its Easterly prolongation, a distance of 140.00 feet to a point on the East line of a 5.00 foot alley, as called for on said plat of BELLE W E PARK; thence turn an angle of 180°03'16", as measured from the preceding course thru the North and run along the Northerly line of that certain parcel of land as described in Official Record Book 1080, Page 188, a distance of 124.62 feet the Northeast corner of said parcel; thence, turn an angle of 90°59'25", as measured from the preceding course to the South and run along the Easterly line of said parcel described in Official Record Book 1080, Page 188, a distance of 251.83 feet to the POINT OF BEGINNING; SUBJECT TO easements, reservations, restrictions and rights-of-way of record, and being located NE CORNER OF LAKE WORTH RD. AND BELLEVUE AVE. , APPROX. 300 FT. E OF CONGRESS AVE. , in the CN Zoning District, was approved on July 25, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County.
2. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 23). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Zoning Code Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval contained herein.

R 91 148 11

B. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters, shall:
 - a. Be confined to areas designated on the site plan and shall be screened by a solid opaque enclosure constructed of brick, concrete, concrete block, or other decorative masonry, or comparable wood or steel, consistent with the architectural character of the development or principal building. The open end of the enclosure shall have an obscuring, opaque gate.
 - b. All exterior sides of such enclosures, except the open end, shall be landscaped with thirty-six (36) inch high shrub and hedge material planted twenty-four (24) inches on center.

C. HEALTH

1. The application and engineering plans to construct on site potable water supply and/or on-site sewage disposal system must be submitted to the Health Unit prior to site plan approval.
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

D. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation preservation conditions of approval.

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 December 15, 1991 or prior to the issuance of the first Building Permit whichever shall first occur, the property owner shall convey to Palm Beach County Roadway Production Division by road right-of-way warranty

deed for Lake Worth Road, 55 feet from centerline free of all encumbrances and encroachments. Developer 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.

3. 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 at the time of the Building Permit presently is \$4,400.00 (80 trips X \$55.00 per trip).
4. No direct access to the site shall be permitted from Lake Worth Road.

F. LANDSCAPING AND BUFFERING ALONG PROPERTY LINES

1. Landscaping along the required landscape strips on the south and west property lines shall be upgraded to include:
 - a. One twelve (12) foot tall native canopy tree planted every twenty (20) feet on center.
 - b. One twelve (12) foot tall native palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may replace one required canopy tree.
 - c. Thirty-six (36) inch tall hedge or shrub material planted twenty-four (24) inches on center.
2. Landscaping along the north and east property lines shall be upgraded to include:
 - a. One twelve (12) foot tall native canopy tree planted every twenty (20) feet on center.
 - b. Thirty-six (36) inch tall hedge or shrub material planted twenty-four (24) inches on center.

G. LANDSCAPE WITHIN MEDIAN

1. If permitted by the Florida State Department of Transportation (FDOT) or the County Engineer, the petitioner shall landscape the median of all abutting rights-of-way. This landscaping shall consist of one twelve (12) foot tall native canopy tree for each thirty (30) linear feet of the adjacent median, appropriate ground cover and irrigation. Trees may be planted singly or in clusters, with a maximum spacing of sixty (60) feet on center. All landscape material shall be selected, maintained and installed according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation of the property owner and shall be installed prior to the issuance of the first certificate of occupancy (C.O.) for the site. The petitioner shall obtain written permission from the FDOT or the County Engineer prior to site plan certification.

H. 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.
2. Lighting fixtures shall not exceed twenty (20) feet in height.
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement.

I. RECYCLE SOLID WASTE

1. The property owner and/or all lessees 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.

J. SIGNS

1. New signs on the property shall be limited as follows:
 - a. Maximum sign height - ten (10) feet.
 - b. Maximum total sign face area - 60 square feet.
 - c. Maximum number of signs - one (1).
 - d. Sign shall be a monument type.
2. Prior to the issuance of a new sign permit for the development, the petitioner shall submit a Master Sign Program to the Zoning Division which specifies sign location, sign dimensions, unified color, unified graphics, typical base planting details, and conformance to all sign related conditions of approval.

K. SITE SPECIFIC CONDITIONS

1. Prior to certification, the site plan shall be revised to indicate the following:
 - a. Parking and access driveway dimensions.
 - b. Required landscaping.
 - c. Minimum 55 feet ultimate right-of-way from centerline of Lake Worth Road.
 - d. Safe sight corners.
 - e. Proposed structure complying with setbacks required by the Zoning Code.
 - f. The landscape strip along Lake Worth Road shall be shown as minimum fifteen (15) feet wide after the dedication of the required ultimate right-of-way for that road.

R91 1481

2. Professional offices shall be limited to a maximum of 2,000 square feet per use. The petitioner shall submit an architectural plan complying with this requirement, together with the site plan, for certification to the Site Plan Review Committee.
3. The entire site approved under this petition shall be maintained and irrigated in accordance with Section 500.35 (Landscape Code) of the Zoning Code.
4. The driveway to the south shall be limited to an entrance only and the driveway to the north to an exit only.

L. VEGETATION PROTECTION

1. Existing native vegetation shall be incorporated into the project design to the maximum extent, or be relocated on the site to landscape areas.

M. COMPLIANCE

1. As provided in 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.

2. The approval of this petition shall not affect any Zoning Code Section 402.9 (Mandatory Review of Development Approval) review date established as the result of a previous approval for this property.

R91 14811

Commissioner Roberts moved for approval of the Resolution.

The motion was seconded by Commissioner Phillips 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	--	ABSENT
Mary McCarty	--	AYE
Ken Foster	--	ABSENT
Maude Ford Lee	--	ABSENT

The Chair thereupon declared the resolution was duly passed and adopted this 8th day of October, 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

R 91 14811