

RESOLUTION NO. R-92- 1812

RESOLUTION APPROVING ZONING PETITION NO. 75-83(B)
SPECIAL EXCEPTION PETITION OF ROBERT KAPLAN

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. 75-83(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on May 28, 1992; 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. 75-83(B), the petition of ROBERT KAPLAN, BY ROBERT E. BASEHART, AGENT, for a SPECIAL EXCEPTION TO ALLOW BOAT SALES, RETAIL OR RENTAL; AND VEHICLE SALES AND RENTAL (MOTORCYCLE AND JET SKIS, SALES AND SERVICE ONLY) on a parcel of land lying on Lots 20 through 26, inclusive, MILITARY PARK 3RD NICHOLS ADDITION, less the North 15 feet of Lots 20 through 24, inclusive and the East 35 feet of Lots 24 through 26, inclusive, according to the plat recorded in Plat Book 11, Page 72, as recorded in the Public Records of Palm Beach County, Florida, said land situate, lying and being located in Palm Beach County, Florida, and being located on the SW CORNER OF MILITARY TRAIL AND HIBISCUS AVE., IN THE CG ZONING DISTRICT, was approved on May 28, 1992, as advertised, subject to the following conditions:

A. BUILDING AND SITE DESIGN

1. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material.
(BUILDING)

B. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall not be located within seventy-five (75) feet of the west property line; shall be confined to areas designated on the site plan and shall be screened by a solid opaque enclosure. The open end of the enclosure shall have an obscuring, opaque gate.

All exterior sides of such enclosures, except the open end, shall be landscaped with thirty (30) inch high shrub and hedge material planted twenty-four (24) inches on center at installation. Alternative landscaping may be permitted which is acceptable to the Zoning Division. This provision shall not apply to litter containers provided for the convenience of pedestrians. (BUILDING-Zoning)

C. HEALTH

1. 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. (HEALTH)
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (HEALTH)
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (HEALTH)
4. The owner, occupant or tenant of the facility shall participate in an oil recycling program which ensures proper re-use or disposal of waste oil. (HEALTH)
5. No portion of this project is to be approved on potable well or septic tank, existing or new. Existing septic tanks are to be abandoned, in accordance with Chapter 10D-6, F.A.C. (HEALTH)

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. (ZONING)
2. All new required trees planted in landscape buffer strips shall meet the following minimum standards:
 - a. Tree height: ten (10) feet
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.

- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch trip. Each radius shall measure at least 3.5 feet in length. (ZONING)

E. ENGINEERING

1. Prior to October 15, 1992 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 twenty-five (25) foot Safe Sight Corner at the intersection of Military Trail and Hibiscus Avenue. 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. (MONITORING/BUILDING-Engineering)

F. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CODE ENFORCEMENT)
2. All lighting fixtures shall not exceed twenty (20) feet in height. (BUILDING)
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement. (CODE ENFORCEMENT)

G. RECYCLE SOLID WASTE

1. The property owner 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. (SOLID WASTE AUTHORITY)

H. SIGNS

1. Signs fronting on Military Trail shall be limited as follows:
 - a. Maximum sign height, measured from finished grade - ten (10) feet;
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - one (1). (BUILDING)
2. No freestanding signs shall be permitted on Hibiscus Avenue. (BUILDING)
3. 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. (CODE ENFORCEMENT)

4. 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. (ZONING)

I. USE LIMITATION

1. Use of the site shall be limited to 9925 square feet of floor area for the sale and rental of motorcycles and jet skis. (BUILDING)
2. Loading and unloading of inventory shall occur on site only in required loading spaces as designated on the certified site plan. (CODE ENFORCEMENT)
3. No outdoor loudspeaker system audible off site shall be permitted. (CODE ENFORCEMENT)
4. No business activities shall be allowed on the site, including deliveries, prior to 9:00 a.m. nor continue later than 6:00 p.m, Tuesday through Friday, and prior to 9:00 a.m. nor later than 5:00 p.m. on Saturdays. No business activity will be allowed on Sunday or Monday. (CODE ENFORCEMENT)
5. Use of the site shall be limited to sales, leasing and repair as an accessory use of new or used motorcycles; and jet skis and customary accessory uses. A maximum of ten such vehicles shall be displayed outdoors on site. (CODE ENFORCEMENT)
6. No storage or placement of any inventory, material, refuse, equipment, or debris shall be permitted in the rear of the facility. (CODE ENFORCEMENT)
7. The property owner shall not operate any machinery, vehicle or use which exceeds 50 decibels at any property line at any time. (CODE ENFORCEMENT)
8. No vehicle test driving shall be permitted on local streets. (CODE ENFORCEMENT)

J. VEHICLE SALES OR LEASING

1. Vehicles shall only be parked or displayed in the approved areas designated on the certified site plan. (CODE ENFORCEMENT-Zoning)
2. No advertising flags, foreign flags, pennants, banners, streamers, balloons, signs upon any vehicles, prices or vehicle stock numbers or other information except that required to be posted on such vehicles by law. (CODE ENFORCEMENT)
3. No 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 except as may be permitted by the Sign Code. (CODE ENFORCEMENT)
4. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (CODE ENFORCEMENT)
5. There shall be no outdoor repair of vehicles. (CODE ENFORCEMENT)

6. The petitioner shall provide an area on site to unload vehicles from delivery vehicles. This area shall be a minimum of fifteen (15) feet wide and thirty-five (35) feet long, shall have sufficient maneuvering area adjacent to it, shall be located out of the vehicular traffic circulation and shall not be adjacent to residentially zoned lots. The unloading area shall be located a minimum of fifty (50) feet from any residentially zoned property. (BUILDINGS-Code Enforcement)
7. Repair facilities and sales of parts may be provided as an accessory use. Repair facilities shall be located within the building and at least one-hundred (100) feet from any residentially zoned lot. (BUILDING-Code Enforcement)
8. No vehicles, other than for customer and employee parking, shall be stored or displayed on the site except those which are intended for sale and are in running condition. (CODE ENFORCEMENT)
9. Display of vehicles shall be limited to 600 square foot in the front yard, with a minimum setback of 40 feet, on concrete pads only, and only as designated on the certified site plan. (CODE ENFORCEMENT)

K. 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. (MONITORING)
2. 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. (MONITORING)

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:

Mary McCarty, Chair	--	AYE
Ken Foster, Vice Chair	--	ABSENT
Burt Aaronson	--	AYE
Maude Ford Lee	--	AYE
Karen T. Marcus	--	AYE
Warren Newell	--	AYE
Carol A. Roberts	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 1st day of December, 1992.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

