

RESOLUTION NO. R-93- 338

RESOLUTION APPROVING ZONING PETITION NO. 92-9  
SPECIAL EXCEPTION PETITION OF SOUTH CONGRESS PROPERTIES, 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. 92-9 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on July 30, 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. 92-9, the petition of SOUTH CONGRESS PROPERTIES, INC., BY KIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION TO ALLOW A PLANNED OFFICE BUSINESS PARK on a parcel of land lying in Lot "A", Block 128, THE PALM BEACH FARMS CO. PLAT NO. 7, of Section 30, Township 44 South, Range 43 East, Palm Beach County, Florida, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 5, Page 52, LESS the North 26 feet thereof conveyed to the County of Palm Beach in Official Record Book 2225, Page 1090 and corrected in Official Record Book 4023, Page 1795; containing in all 0.72 acres, more or less, and being located in the SW Corner of the Intersection of S. Congress Ave, and Prince Dr, in the CSH Zoning District, was approved on July 30, 1992, as advertised, subject to the following conditions:**

A. ALL PETITIONS

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. (ZONING)

2. This Special Exception is granted concurrent with a rezoning. 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. 22). 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. (ZONING)
3. The petitioner shall receive certification of the site plan approved by the Board of County Commissioners for the subject property, as amended as required by the conditions of approval, by the Site Plan Review Committee on or prior to October 31, 1992. (MONITORING)

B. BUILDING AND SITE DESIGN

1. The petitioner shall reconfigure the proposed parking area to comply with Section 500.17.C.3 of the zoning code. The maximum allowed square footage shall be proportionally reduced to reflect any reduction in the proposed parking. (ZONING)

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. (HEALTH)
2. The onsite non-community water supply system shall be abandoned and the facility connected to public water within ninety (90) days of its availability within 1,000 feet, by way of easement, of the property. The system water usage shall be recorded and submitted to the Palm Beach County Public Health Unit on the monthly operation report by a certified operator. Irrigation water shall be supplied by a separate system. (HEALTH-Utilities)
3. The onsite sewage disposal system shall be abandoned and the facility connected to public sewer within ninety (90) days of its availability consistent with the facility water usage as recorded on the monthly operating report and the distance from the property to the power line, or required by Palm Beach County Environmental Control Rule - I. (HEALTH-Utilities)
4. There shall be no on site uses which could be detrimental to the on site sewage disposal system and/or the ground water, until the project is connected to public sewer. (HEALTH)

D. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (UTILITIES)

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 onsite 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. **Ir.** 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. (ENGINEERING-DOT)
2. Prior to December 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 Congress Avenue, 55 feet from centerline free of all encumbrances and encroachments. 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 encumbrance and encroachments. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. (MONITORING/BUILDING/Engineering)
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 \$17,985 (327 trips X \$55.00 per trip). (IMPACT FEE COORDINATOR)

F. 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 trees required to be planted on site shall:
  - a. Be a minimum of fourteen (14) feet in height at installation.
  - b. Have a minimum diameter of three and one-half (3.5) inches measured at a point which is at least four and one-half (4.5) feet above existing grade level.
  - c. Have a minimum of five (5) feet of clear trunk and a minimum seven (7) foot canopy spread. (ZONING)

G. LANDSCAPING ALONG THE EAST PROPERTY LINE

1. Landscaping within the required fifteen (15) foot buffer along Congress Avenue shall be upgraded to include:
  - a. One native canopy tree or three (3) clustered native palm trees planted every twenty (20) feet on center. (ZONING)

H. LANDSCAPING ALONG THE NORTH PROPERTY LINE

1. Landscaping within the required ten (10) foot buffer along Prince Drive shall be upgraded to include:
  - a. One native canopy tree or three (3) clustered native palm trees planted every twenty (20) feet on center. (ZONING)

I. LANDSCAPING ALONG THE SOUTH PROPERTY LINE

1. Landscaping and buffering along the south property line shall be upgraded to include:
  - a. One native canopy tree planted every twenty (20) feet on center. (ZONING)
2. Along the interior (north) side of the existing wall on the adjacent property, the property owner shall install twenty-four (24) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (ZONING)

J. LANDSCAPE WITHIN MEDIAN

1. Petitioner shall participate in any future program of the property owners to upgrade the median landscaping on Congress Avenue between 6th Avenue South to the Atlantis City borders in accordance with a permit issued by the Palm Beach County Department of Engineering and Public Works. Landscaping shall consist of a minimum of one (1) fourteen (14) foot tall native tree for each thirty (30) linear feet of the adjacent median to be planted and appropriate ground cover. Trees may be planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected from the following list.

<u>Trees:</u>	<u>Groundcover:</u>
Laurel Oak	Wedilia
Live Oak	Bahia Grass
Slash Pine	
Sabal Palmetto	

Alternative species may be allowed subject to approval by the Zoning Division. All plant material shall be installed and selected according to xeriscape principles and shall conform with the following:

- a. All plants shall be container grown or field collected and transplanted from the project site.

- b. All planting shall be done in accordance with detail planting plans and specifications to be submitted and approved by the Zoning Division within six (6) months after the adoption of a program by the property owners for this portion of Congress Avenue.

All required median landscaping, including watering, shall be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or assignees, or duly established Property Owner's Association and/or Homeowner's Association, and shall be installed on or before issuance of the first Certificate of Occupancy or filing of the first plat, whichever occurs first. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to receiving the first building permit or filing of the first plat, whichever occurs first, to reflect this obligation. Maintenance shall be in accordance with the issued permits. (ENG/BLDG./ZONING).

K. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed downward and away from adjacent properties and streets. (CODE ENFORCEMENT)
2. All lighting fixtures shall not exceed twenty (20) feet in height. Lighting fixtures within fifty (50) feet of residential areas shall not exceed a height of twelve (12) 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)
4. There shall be no rooftop lighting allowed on-site. Lighting fixtures shall be limited to the minimum needed for essential lighting of the site and structures. (BUILDING/CODE ENFORCEMENT)

L. SIGNS

1. Signs shall be limited as follows:
  - a. Maximum sign height - ten (10) feet.
  - b. Maximum total sign face area per side - 100 sq. ft.
  - c. Maximum number of signs - one (1). (BUILDING)
2. 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. (BUILDING)

M. USE LIMITATION

1. Use of the site shall be limited to 9,571 square feet of medical office and clinic. (ZONING/BUILDING)

2. Overnight stays shall be limited to those required for observation and/or emergency treatment only. (ZONING/BUILDING)
3. **No** business activities shall be allowed on the site, including deliveries, prior to 6:00 A.M. nor continue later than 10:00 P.M. Emergency medical treatment shall be exempt from this condition. (CODE ENFORCEMENT)

N. 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	--	aye
Burt Aaronson	--	aye
Maude Ford Lee	--	aye
Karen T. Marcus	--	aye
Warren H. Newell	--	aye
Carol A. Roberts	--	aye

The Chair thereupon declared the resolution was duly passed and adopted this 16th day of March, 1993.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK