

RESOLUTION NO. R-89- 732

RESOLUTION APPROVING ZONING PETITION NO. 88-63
SPECIAL EXCEPTION PETITION OF CHARLES ZAHN AND LENO GIESLER

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 Ordinance No. 73-2 have been satisfied: and

WHEREAS, petition No. 88-63 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on July 29, 1988; and

WHEREAS, the Board of County Commissioners 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 made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 88-63 the petition of CHARLES ZAHN AND LENO GIESLER, by Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION TO PERMIT A COMMERCIAL, NEW AND USED AUTOMOBILE, TRUCK, BOAT, MOTORCYCLE, MOBILE HOME, RECREATIONAL VEHICLE SALES AND RENTAL AND REPAIR FACILITIES AND LOTS (NO SERVICE) on a parcel of land lying on Lot 1, Fleming Park, Section 36, Township 43 South, Range 42 East as recorded in Plat Book 18, Page 70, being located on the west side of Military Trail (SR 809), approximately 247 feet north of Green Street, in a CG-General Commercial Zoning District, was approved as advertised, subject to the following conditions:

1. Prior to certification, the site plan shall be amended to indicate the following:
 - a. Required six (6) foot high masonry wall wherever this parcel abuts residentially zoned property.

2. The petitioner shall preserve all vegetation that is located within the perimeter landscape strips. Sabal palms located throughout the site shall be transferred to the westernmost green area on site.
3. Use of the site shall be limited to the sale and display of 65 new and used automobiles. No vehicle repairs shall be permitted on site.
4. No stock loading or dumpster pickup will be permitted between the hours of 9:00 p.m. and 7:00 a.m.
5. No outside storage of disassembled vehicles or parts thereof shall be permitted on site
6. Lighting used to illuminate the premises shall be shielded and directed away from streets and neighboring properties. Lighting within the western 150 feet of the site shall be limited to fixtures that are a maximum of eighteen (18) feet in height.
7. No outdoor loudspeaker system shall be allowed on site.
8. No vehicle shall be parked with its hood or trunk open, nor elevated off the ground in any way. Vehicles shall not be parked in any right-of-way or driveway.
9. Vehicle parking shall be limited to the parking spaces designated on the approved site plan. No parking of vehicles is to be permitted in landscaped areas, right-of-way, or interior drives.
10. The petitioner shall provide an area on the site to unload vehicles from car carriers or towing vehicles. Sufficient maneuvering area shall be provided and shall be located out of on-site and off-site vehicular traffic circulation. This area shall be designated on the site plan.
11. No off-premise signs shall be permitted on the site.
12. The application and engineering plans, calculations, etc. to construct well and/or septic tank must be submitted to the Health Department prior to site plan approval (or prior to issuance of Building Permit for straight rezoning).
13. 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. 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.

14. Within 90 days of approval of this project, the property owner shall convey to Palm Beach County by road right-of-way warranty deed for Military Trail, 53 feet from centerline free of all encumbrance; and encroachments. Petitioner 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 "**SafeSight Corners" where appropriate at intersections as determined by the County Engineer.
15. 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 presently is \$3,268.00 (122 trips X \$26.79 per trip).
16. In addition the petitioner shall contribute the amount of \$163.00 as established in Article V Section 3 (Insignificant Project Standard) of the Traffic Performance Standards Code. These funds of \$163.00 shall be paid prior to the issuance of the first Building Permit or prior to whichever shall first occur.
17. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$163.00 shall be credited toward the increased Fair Share Fee.
18. The western thirty-two (32) feet of the property shall be maintained as a landscape buffer. The petitioner shall install a six (6) foot high solid masonry wall along the western property line, supplemented with one (1) native canopy tree, ten (10) to twelve (12) feet in height upon planting, planted a minimum of twenty (20) feet on center. The trees shall be planted on the western side of the six (6) foot wall.

19. Failure to comply with the conditions herein may result in 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. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code.

Commissioner Marcus moved for approval of the petition. The motion was seconded by Commissioner Elmquist and upon being put to a vote, the vote was as follows:

Carol A. Roberts	--	Aye
Carol J. Elmquist	--	Aye
Karen T. Marcus	--	Aye
Dorothy Wilken	--	Absent
Jim Watt	--	Aye

The foregoing resolution was declared duly passed and adopted this 25th day of April, 1989 confirming action of July 29, 1988.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY:

Robert Altman
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:

James J. Hardy
DEPUTY CLERK