

RESOLUTION NO. R-90-1294

RESOLUTION APPROVING ZONING PETITION NO. 90-2
SPECIAL EXCEPTION PETITION OF JEFFREY D. REY AND JOHN S. REY

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. 90-2 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on January 25, 1990; 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 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, 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. 90-2, the petition of JOHN S. REY AND JOHN S. REY, for a SPECIAL EXCEPTION FOR A RESTAURANT AND LOUNGE on a parcel of land lying in Block 6, Central Industrial Park, North, Plat Book 38, Pages 81 through 83, inclusive; Subject to restrictive covenants in Official Record Book 3195, Page 1939, as assigned in Official Record Book 3490, Page 269; Subject to restrictions as to rights of ingress, egress, light, air and view between subject property and any facility construction on the property described as to the West 150.00 feet of the South 3/4 of the Northwest 1/4 of the Southwest 1/4 of Section 19, Township 42 South, Range 43 East, (1-95) as contained in Deed dated 04/09/65, Official Record Book 1200, Page 466, and being located on the east side of Garden Road, approximately 1.05 mile north of Blue Heron Boulevard in a IL-Light Industrial Zoning District, was approved on January 25, 1990 as advertised, subject to the following conditions:

1. Prior to Site Plan Review the petitioner shall amend the site plan to indicate the following:
 - a. Compliance with Zoning Code requirements and Land Development regulations.

- b. An upgrade of existing landscaping. Bottlebrush trees which are diseased or dead shall be replaced with minimum ten (10) feet high native canopy trees. A minimum of 50% of new trees added to the site shall be native canopy trees.
 - c. Hedge material around the perimeter of the site shall be upgraded with minimum thirty (30) inch tall plants, spaced twenty-four (24) inches on center in areas where existing hedge material is sick, dead or non-existent.
 - d. All vegetated areas shall receive 100% irrigation.
 - e. A complete set of landscape plans shall be provided at the time of building permitting which demonstrate conformance to minimum Landscape Code requirements and conditions of approval.
2. Use of the restaurant/lounge on site shall be limited to 1,547 square feet. The hours of operation shall be from 6:00 A.M. to 12:00 A.M. unless otherwise provided by local ordinance.
 3. No advertising flags, foreign flags, pennants, banners, streamers, or balloons shall be permitted on site. No gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors or upon any building, vehicle or wall, or other than inside a window as may be permitted by the Sign Code. Also, flashing signs, electronics, message boards, etc., shall not be permitted on-site.
 4. The parking of vehicles shall be limited to designated display areas only. No parking of vehicles within public rights-of-way or required landscape buffers shall be permitted.
 5. 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.
 6. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
 7. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
 8. 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 \$2,475.00 (45 external trips X \$55.00 per trip).

9. In addition the Developer shall contribute the amount of **\$242.00** as established in Article V Section 3 (Insignificant Project Standard) of the Traffic Performance Standards Code. These total funds of **\$2,717.00** shall be paid prior to the issuance of the first Building Permit.
10. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of **\$242.00** shall be credited toward the increased Fair Share Fee.
11. 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 Marcus moved for approval of the Resolution.

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

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| Carol J. Elmquist, Chair | -- | Aye |
| Karen T. Marcus | -- | Aye |
| Carol Roberts | -- | Aye |
| Ron Howard | -- | Aye |
| Carole Phillips | -- | Aye |

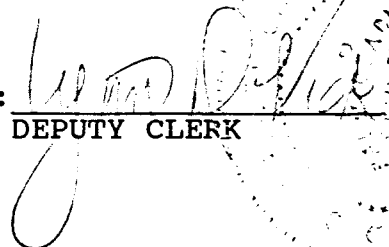
The Chair thereupon declared the resolution was duly passed and adopted this 7th day of August, 1990.

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

