

RESOLUTION NO. R-92-1826

RESOLUTION APPROVING ZONING PETITION NO. 92-21  
SPECIAL EXCEPTION PETITION OF MAR/JAME LIMITED

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. 92-21 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on June 29, 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. 92-21, the petition of MAR/JAME LIMITED, BY KIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION TO ALLOW PLANNED GENERAL COMMERCIAL DEVELOPMENT, INCLUDING A FINANCIAL INSTITUTION WITH FOUR (4) DRIVE UP TELLER UNITS on a parcel of land lying in The North 1/2 of the North 1/2 of the Northwest 1/4 of the Northwest 1/4 of Section 7, Township 45 South, Range 43 East, Palm Beach County, Florida, LESS the North 40.00 feet thereof and LESS the West 40.00 feet thereof, and being located on the SE CORNER OF LAWRENCE RD. AND HYPOLUXO RD., was approved on June 29, 1992, as advertised, subject to the following conditions:

A. ANNEXATION

1. The property owner shall voluntarily annex into the City of Boynton Beach at such time the subject property becomes contiguous to the same or is the subject of an annexation proposal by the same. (PLANNING)

B. BUILDING AND SITE DESIGN

1. The minimum setback for all structures adjacent to the south property line shall be 75 feet. (ZONING-BUILDING)
2. The maximum height, from grade to roof line, for all structures shall be limited to one story, not to exceed 20 feet in height. (BUILDING)
3. Architectural character and treatment which is compatible and harmonious with abutting development shall be provided on all sides of the building. (BUILDING)
4. All air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the principle structure. (BUILDING)
5. Prior to site plan certification, petitioner shall submit architectural control guidelines to require a uniform architectural style for the entire subject property. At a minimum, these documents shall include elevations that indicate a clearly defined uniform architectural theme, exterior and roofing material specifications. All buildings permitted on site shall be in conformance with this plan and specifications. (ZONING-BUILDING)

C. CONCURRENCY

1. The Certificate of Concurrency Reservation, Case Number 92-03-25-001-C, must be revised prior to application to the Site Plan Review Committee/Development Review Committee to reflect the change in use from a 3,000 square foot fast-food restaurant to a 3,000 square foot sit-down restaurant. (PLANNING)

D. 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 50 feet of the 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 twenty-four (24) 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)

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. 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. (COUNTY ENGINEER)

2. Prior to February 1, 1993 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 60.5 feet from centerline for Lawrence Road 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. (MONITORING-BUILDING-ENGINEERING)
3. The Property owner shall construct a left turn lane, east approach on Hypoluxo Road at the project's east entrance. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BUILDING-ENGINEERING)
4. 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 \$146,135 (2,657 trips X \$55.00 per trip). (IMPACT FEE COORDINATOR)
5. Property owner shall contribute the sum of Twenty Thousand Dollars (\$20,000) for signalization at the project's entrance and Hypoluxo Road to the Palm Beach County Traffic Division. These funds shall be paid prior to the issuance of a building permit. (BUILDING)
6. Prior to site plan certification, the property owner shall record a Unity of Title on the subject property subject to approval by the County Attorney. This Unity of Title may be broken with the approval of the Executive Director of Planning, Zoning and Building. (COUNTY ATTORNEY-ENGINEERING)

F. 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. Water service and sewer service are available to the property. Therefore, no potable well and/or on site sewage disposal system shall be permitted on the site. (HEALTH-BUILDING)

G. 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)

H. 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 required trees in landscape buffer strips shall meet the following minimum standards:
  - a. Tree height: fourteen **(14)** 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 tip. Each radius shall measure at least **3.5** feet in length. (ZONING)
3. Landscape divider medians shall be provided at all entrances to the project. The minimum width shall be six **(6)** feet. One native canopy tree and appropriate ground cover shall be planted for every twenty **(20)** linear feet of divider median.

I. LANDSCAPE WITHIN THE MEDIAN

1. Prior to site **plan** certification, the petitioner shall **apply to** the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent **median(s)** of all abutting rights-of-way. When permitted **by 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 for the following list:

Trees:

Laurel Oak  
Live Oak  
Slash Pine  
Sabal Palmetto

Groundcover:

Wedilia  
Bahia Grass

Alternative species may be allowed subject to approval by the County Engineer. 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 plantings shall be done in accordance with detailed planting plans and specifications to be submitted and approved by the County Engineer concurrent with Site Plan certification.

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. (ENGINEERING-BUILDING)

J. LANDSCAPING - INTERIOR

1. One landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred linear feet. (ZONING)
2. Landscaped divider medians shall be provided between all abutting rows of parking spaces. The minimum width of this median shall be ten (10) feet. One native canopy tree or native palm tree and appropriate ground cover shall be planted for each thirty (30) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center. (ZONING)

K. LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINES (ABUTTING RIGHTS-OF-WAY)

1. Landscaping within the required buffer along north and west shall be upgraded to include:
  - a. One (1) native canopy tree planted every twenty (20) feet on center.
  - b. Three (3) native palm trees for each thirty (30) linear feet of frontage.
  - c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (ZONING)

**L. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)**

1. Landscaping and buffering along the south property line shall be upgraded to include:
  - a. A minimum fifteen (15) foot wide landscape **buffer** strip.
  - b. An eight (8) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. The existing chainlink fence may remain until such time the required wall is constructed. The required wall may be constructed in phases, in accordance with the certified site plan. In the event the wall is constructed in phases, the chainlink fence may be removed only where the wall is constructed. (ZONING)
2. The following landscaping requirements shall be installed on the exterior side of the required wall:
  - a. One (1) native canopy tree planted every twenty (20) feet on center.
  - b. One native palm tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location.
  - c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches. (ZONING)
3. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub 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)

**M. 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 fifteen (15) feet in height. (BUILDING)
3. All outdoor lighting shall be extinguished no later than 11:30 p.m. Security lighting only is excluded from this requirement. (CODE ENFORCEMENT)

**N. PARKING**

1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within loading and delivery areas designated on the site plan. (BUILDING-CODE ENFORCEMENT)

O. RECYCLE SOLID WASTE

1. All property owners and lessee's 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)

P. SCHOOL BOARD

1. The petitioner shall install stop bars and signs at the project's entrances on Hypoluxo Road and Lawrence Road in accordance with the Manual of Uniform Traffic Control Devices. This petitioner shall also install pedestrian/bicycle crossing signs warning vehicles exiting this project that school children are crossing in this area to Santaluces High School between the hours of 7:15 a.m. - 8:15 a.m. and 3:30 p.m. - 4:15 p.m., and Citrus Cove Elementary School between the hours of 7:30 a.m. - 8:15 a.m. and 2:00 p.m. - 2:45 p.m. Plans detailing these control devices for vehicular and pedestrian/bicycle traffic safety shall be submitted to the Growth Management Center of the School Board for approval prior to site plan certification. (SCHOOL BOARD-ZONING)
2. The sale of alcoholic beverages at this site is prohibited prior to 5:00 p.m., Monday through Friday. (CODE ENFORCEMENT)

Q. SIGNS

1. Freestanding signs fronting on Hypoluxo Road 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. 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)
3. The petitioner shall be required to remove the existing billboard from the site prior to the issuance of any certificates of occupancy. (BUILDING)

R. USE LIMITATION

1. No outdoor loudspeaker system audible off site shall be permitted. (CODE ENFORCEMENT)
2. No retail business activities shall be allowed on the site, including deliveries, prior to 6:00 a.m. nor continue later than 11:00 p.m. (CODE ENFORCEMENT)
3. No storage or placement of any material, refuse, equipment or debris shall be permitted in the rear of each structure. (CODE ENFORCEMENT)

4. No outdoor retail business activities shall be allowed on the site, excluding deliveries. (CODE ENFORCEMENT)

S. UNITY OF CONTROL

1. Prior to site plan certification, petitioner shall record in the public record a Unity of Control for the entire subject property in a form acceptable to the County Attorney. (ZONING-COUNTY ATTORNEY)

T. VEGETATION

1. Preserve in place or relocate Oak located near the Southwest corner of the property. (ZONING)
2. Trees to be preserved shall receive appropriate protection during site development. No clearing shall commence until all protection devices are installed by the petitioner, and inspected and approved by the Zoning Division. (ZONING)

U. COMPLIANCE

1. As provided in Zoning Code Sections 400.2 and 4C2.6, failure to comply with any of these condition!; of approval at any time may result in one or more of the following:
  - a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
  - b. The revocation of any 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;
  - c. Rezoning of the property;
  - d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;
  - e. Citation of the property owner for violation of the Zoning Code. (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 Commissioners decision, shall be by petitioner 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: *Andrew Altier*  
COUNTY ATTORNEY

BY: *Robert J. Man*  
DEPUTY CLERK

