

RESOLUTION NO. R-93- 400

RESOLUTION APPROVING ZONING PETITION DOA74-123(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF FRED KELLER, TRUSTEE

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, 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 Article 5 of the Palm Beach County Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA74-123(A) was presented to the Board of County Commissioners at a public hearing conducted on March 25, 1993; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, section 5.8 (Compliance with Time Limitations), of the Palm Beach County Land Development Code 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 Palm Beach County Comprehensive Plan.
2. This proposal is consistent with the requirements of the Palm Beach County Land Development Code and all other applicable local land development regulations.

WHEREAS, Article 5 of the Palm Beach County Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition DOA74-123(A), the petition of FRED KELLER, TRUSTEE, BY: DENNIS P. KOEHLER, AGENT for a DEVELOPMENT ORDER AMENDMENT in the LIGHT INDUSTRIAL (IL) Zoning District, to allow an Auction, Outdoor facility for vehicles only in a previously approved Planned Industrial Development (PID) on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located on a vicinity sketch as shown on EXHIBIT B, attached hereto and made a part hereof, was approved on March 25, 1993, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

| | | |
|---------------------|----|--------|
| Mary McCarty, Chair | -- | Aye |
| Burt Aaronson | -- | Aye |
| Ken Foster | -- | Aye |
| Maude Ford Lee | -- | Absent |
| Karen T. Marcus | -- | Aye |
| Warren Newell | -- | Aye |
| Carol A. Roberts | -- | Aye |

The Chair thereupon declared that the resolution was duly passed and adopted this 25 day of March, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: [Signature]
COUNTY ATTORNEY

BY: [Signature]
DEPUTY CLERK

EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION

A parcel of land in Palm Beach County, Florida, more particularly described as follows: That part of the East Half of Tract 41, Block 6, less the West 132 feet thereof, as shown on the Plat of Palm Beach Farms Company Plat Number 3, according to the plat thereof recorded in Plat Book 2, Page 46, Public Records of Palm Beach County, Florida, lying northerly from the northerly right of way line of State Road No. 80, as recorded in Road Plat Book 2, Page 15, Public Records of Palm Beach County, Florida, Less and Except therefrom the following described parcel:

Beginning at the northeast corner of Tract 41, Block 6, Palm Beach Farms Company Plat No. 3, according to the Plat thereof recorded in Plat Book 2, Page 46, Public Records of Palm Beach County, Florida; thence southerly along the easterly line of said Tract 41, a distance of 279.5 feet; thence westerly a distance of 363.0 feet, more or less, to a point lying 132 feet easterly of the westerly line of the East half of said Tract 41; thence northerly along a line parallel to said westerly line, a distance of 279.5 feet, more or less, to a point in the northerly line of said Tract 41; thence easterly along said northerly line of Tract 41, a distance of 363.0, more or less, to the point of beginning. Containing 1.93 acres, more or less.

EXHIBIT C

CONDITIONS OF APPROVAL

A. STANDARD CONDITIONS

1. All previous conditions of approval applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines in Palm Beach County Land Development Code Section 5.8 (Compliance), as amended, unless expressly modified herein. (MONITORING)
2. Prior to February 14, 1995, the petitioner shall remove all existing billboards from the site and provide documentation to the Zoning Division that the billboards have been removed. (MONITORING/ZONING)

B. USE LIMITATIONS

1. The subject property shall be limited to the maximum display of one hundred eleven (111) vehicles for sale at any time. (CODE ENFORCEMENT)
2. The subject property shall be limited to two thousand one hundred sixty (2160) square feet of office and sale building area. (CODE ENFORCEMENT)
3. Vehicle Auctions shall be limited to a maximum of two (2) vehicle auctions within any seven day period. In addition no more than one (1) evening vehicle auction shall be permitted within the same seven (7) day period. (Note: This condition does not limit site access or office activities) (CODE ENFORCEMENT)
4. The evening vehicle auction shall be limited to the hours of 7:00 P.M. to 10:00 P.M. (CODE ENFORCEMENT)
5. The hours of operations for the auto auction facility shall be limited to 10:00 A.M. to 4:00 P.M.. for day time auctions, and 7:00 P.M. to 10:00 P.M. for evening auctions (CODE ENFORCEMENT)
6. The hours of operation, excluding the auto auction are limited to 8:00 A.M. to 8:00 P.M.. (CODE ENFORCEMENT)
7. There shall be no outdoor loud speaker system that is audible from the exterior of the site. (CODE ENFORCEMENT)
8. Outdoor lighting shall not exceed twenty (20) feet in height measured from finished grade to the highest point. (BUILDING)
9. The customer parking areas shall be clearly delineated from the sales vehicle parking area. (CODE ENFORCEMENT)
10. There shall be no loading or unloading of vehicles on site by truck, and/or equipment which carry more than two (2) vehicles. (CODE ENFORCEMENT)

C. LANDSCAPING AND BUFFERING

1. Prior to the issuance of the first Building Permit or May 1, 1993, whichever occurs first, the applicant shall submit a site plan that meets the requirements of Section 7.3, of the Palm Beach County Unified Land Development Code. The applicant may submit to the Zoning Division for approval an Alternative Landscape Betterment Plan that utilizes palms and other relocatable vegetation. At a minimum three (3) palms trees with eight (8) feet of clear trunk shall be required for each required shade tree. (ZONING)

D. HEALTH

1. The application and engineering plans to construct a non community drinking water supply system must be submitted to the Health Unit prior to site plan approval by the Development Review Committee. (HEALTH)
2. The application and engineering plans to construct an on-site wastewater disposal system must be submitted to the Health Unit prior to site plan approval by the Development Review Committee. (HEALTH)
3. The application for an on-site sewage disposal system operating permit must be submitted to the Health Unit prior to site plan approval by the Development Review Committee. (HEALTH)
4. No automotive repair, maintenance and/or car washing will be allowed on-site until such time as the property is connected to public sewer. (HEALTH)

E. ENGINEERING

1. Prior to January 1, 1994, or prior to the issuance of the first building permit whichever shall first occur, the property owner shall reserve to Palm Beach County Land Development Division the ultimate right-of-way for Southern Boulevard, 220 feet north of the existing south right-of-way line along the project's entire frontage, 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 reservation shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. In addition the property owner shall execute an appropriate removal agreements acceptable to the County Engineer and Attorney. (MONITORING/BUILDING - Engineering - County Attorney).
2. 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 \$13,915.00 (253 trips X \$55.00 per trip) (IMPACT FEE COORDINATOR).
3. Prior to site plan certification by the Development Review Committee, the petitioner shall obtain a Base Building Line Waiver from the County Engineer. (ENGINEERING)

F. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances-fuels, oils, solvents, or other hazardous chemicals is required. Department of Environmental Resources Management staff are willing to provide guidance on appropriate protective measures. (BUILDING-ERM)

Petitioner: Fred Keller (Trustee)
Owner: Same
Agent: Dennis P. Koehler
Telephone: 684-2841
Project Manager: Joe Verdone

Property Location: The subject property is located on north side of Southern Boulevard (S.R. 80), 160 feet east of Benoist Farms Road, in the Light Industrial (IL) Zoning District.

Request: A Development Order Amendment for a Requested Use to allow an outdoor auction facility (vehicles only) in a previously approved Planned Industrial (PID).

PETITION SUMMARY:

The petitioner proposes to amend a previously approved 7.83 acre PID to allow a 1.93 acre outdoor auction facility for vehicle sales with a 2160 square foot building, 111 vehicle display spaces and parking for 61 customers. The facility is proposing to conduct auctioning activities two days a week and will be opened only for limited hours. The petitioner has described the proposed use as a two day a week auction that will occur once a week from 10:00 A.M. to 4:00 P.M., and once a week from 7:00 P.M. to 10:00 P.M.. The office operation will be open for regular hours of 8:00 A.M to 8:00 P.M. for the intake and contract processing of vehicles for the auctions.

ISSUES SUMMARY:

The majority of the subject property is located in the future ultimate right-of-way for State Road 80 (Southern Boulevard). The Engineering Division will require the property owner to reserve approximately 150 feet of additional right-of-way in conjunction with an executed removal agreement for all structures and improvements within the right-of-way. The applicant is aware of this requirement.

At this time no funding or development is scheduled for the expanded right-of-way. Because the majority of the subject parcel is within the future right-of-way the applicant will be submitting an Alternative Landscape Betterment Plan that utilizes vegetation that can be easily relocated when the County requires the removal of all encroachments. The site has a concurrency reservation based on a proposed bi-weekly auction, and limited office and business activities. The site also supports several billboards which staff recommends be removed by time certain conditions of approval.

| TABULAR DATA: | <u>Existing</u> | <u>Proposed +/-</u> |
|--|-------------------------------|-------------------------------|
| Zoning District | Light Industrial (IL) / SE | Light Industrial (IL) / SE |
| Use: | | Public Auto Auction |
| Total Acreage: | 7.83 acres | 7.83 acres |
| Site Acreage: | NA | 1.93 acres |
| Display Spaces | NA | 111 spaces |
| Parking: | NA | 61 spaces |
| Floor Area (This Petition): | NA | 2160 SF |
| FAR | NA | 2.56‡ |
| Access | Souther Boulevard | Southern Boulevard |

STAFF RECOMMENDATION:

Staff recommends approval of this petition, subject to the following twenty three (24) conditions:

ACTION BY THE ZONING COMMISSION, MARCH 4, 1993

Motion to recommend approval of this petition subject to voluntary conditions, carried 7 to 0.

A. STANDARD CONDITIONS

1. All previous conditions of approval applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines in Palm Beach County Land Development Code Section 5.8 (Compliance), as amended, unless expressly modified herein. (MONITORING)
2. Prior to February 14, 1995, the petitioner shall remove all existing billboards from the site and provide documentation to the Zoning Division that the billboards have been removed. (MONITORING/ZONING)

B. USE LIMITATIONS

1. The subject property shall be limited to the maximum display of one hundred eleven (111) vehicles for sale at any time. (CODE ENFORCEMENT)
2. The subject property shall be limited to two thousand one hundred sixty (2160) square feet of office and sale building area. (CODE ENFORCEMENT)
3. Vehicle Auctions shall be limited to a maximum of two (2) vehicle auctions within any seven day period. In addition no more than one (1) evening vehicle auction shall be permitted within the same seven (7) day period. (Note: This condition dose not limit site access or office activities) (CODE ENFORCEMENT)
4. The evening vehicle auction shall be limited to the hours of 7:00 P.M. to 10:00 P.M. (CODE ENFORCEMENT)
5. The hours of operations for the auto auction facility shall be limited to 10:00 A.M. to 4:00 P.M.. for day time auctions, and 7:00 P.M. to 10:00 P.M. for evening auctions (CODE ENFORCEMENT)
6. The hours of operation, excluding the auto auction are limited to 8:00 A.M. to 8:00 P.M.. (CODE ENFORCEMENT)
7. There shall be no outdoor loud speaker system that is audible from the exterior of the site. (CODE ENFORCEMENT)
8. Outdoor lighting shall not exceed twenty (20) feet in height measured from finished grade to the highest point. (BUILDING)
9. The customer parking areas shall be clearly delineated from the sales vehicle parking area. (CODE ENFORCEMENT)
10. There shall be no loading or unloading of vehicles on site by truck, and/or equipment which carry more than two (2) vehicles. (CODE ENFORCEMENT)
11. The site shall be limited to the auctioning of motor vehicles only. (CODE ENFORCEMENT)
12. There shall be no storage or auctioning of inoperable vehicles on site. (CODE ENFORCEMENT)

C. LANDSCAPING AND BUFFERING

1. Prior to the issuance of the first Building Permit or May 1, 1993, whichever occurs first, the applicant shall submit a site plan that meets the requirements of Section 7.3, of the Palm Beach County Unified Land Development Code. The applicant may submit to the Zoning Division for approval an Alternative Landscape Betterment Plan that utilizes palms and other relocatable vegetation. At a minimum three (3) palms trees with eight (8) feet of clear trunk shall be required for each required shade tree. (ZONING)

D. HEALTH

1. The application and engineering plans to construct a non community drinking water supply system must be submitted to the Health Unit prior to site plan approval by the Development Review Committee. (HEALTH)
2. The application and engineering plans to construct an on-site wastewater disposal system must be submitted to the Health Unit prior to site plan approval by the Development Review Committee. (HEALTH)
3. The application for an on-site sewage disposal system operating permit must be submitted to the Health Unit prior to site plan approval by the Development Review Committee. (HEALTH)
4. No automotive repair, maintenance and/or car washing will be allowed on-site until such time as the property is connected to public sewer. (HEALTH)

E. ENGINEERING

1. Prior to January 1, 1994, or prior to the issuance of the first building permit whichever shall first occur, the property owner shall reserve to Palm Beach County Land Development Division the ultimate right-of-way for Southern Boulevard, 220 feet north of the existing south right-of-way line along the project's entire frontage, 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 reservation shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. In addition the property owner shall execute an appropriate removal agreements acceptable to the County Engineer and Attorney. (MONITORING/BUILDING - Engineering - County Attorney).
2. 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 \$13,915.00 (253 trips x \$55.00 per trip) (IMPACT FEE COORDINATOR).
3. Prior to site plan certification by the Development Review Committee, the petitioner shall obtain a Base Building Line Waiver from the County Engineer. (ENGINEERING)

F. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances-fuels, oils, solvents, or other hazardous chemicals is required. Department of Environmental Resources Management staff are willing to provide guidance on appropriate protective measures. (BUILDING-ERM)

G. SIGNS

1. Free standing point of purchase signs shall be limited to the following conditions:
 - a) A maximum height of ten (10) feet measured from finished grade to the highest point;
 - b) Maximum one hundred (100) square feet of sign face area per side; and,
 - c) A maximum of one (1) sign on site. (ZONING)

STAFF REVIEW AND ANALYSIS

PLANNING COMMENTS

LAND USE PLAN DESIGNATION: Industrial.

Underlying Land Use: None.

CONSISTENCY WITH LAND USE PLAN DESIGNATION: The Planning Division has reviewed the petition and determined that the proposal is consistent with this parcel's Industrial Future Land Use designation. According to the Palm Beach County Comprehensive Plan, wholesaling activities and uses and structures appropriate to the primary use are appropriate in areas designated industrial.

COMPATIBILITY WITH SURROUNDING LAND USES: The proposed use of the site is compatible with the surrounding land uses.

CONCURRENCY: This site has a Concurrency Reservation for 960 square feet of general office and 1,200 sq. ft. of vehicle sales. The certificate for case number 92-11-23-004-C expires January 20, 1994. There is a condition to this reservation; the Auto Auction shall be limited to two days a week, with hours of operation from 10:00 A.M. to 4:00 P.M. each day of operation.

URBAN SERVICE AREA: The subject property is within the Urban Service Area.

FUTURE ANNEXATION AREAS: The subject site is within the City of Haverhill future annexation area.

SPECIAL OVERLAY DISTRICT: None.

MANDATORY PERFORMANCE STANDARDS

1. **WATER SERVICE:** On-site water non-community potable water supply.
2. **SEWER SERVICE:** On-site wastewater and sewage disposal system.
3. **MAJOR THOROUGHFARES:**
 - a. Traffic from this project is 253 trips/day.
 - b. Land Development Evaluation & Palm Beach County Subdivision & Platting Requirements: N/A
 - c. **Required Engineering Related Permits:**
 - 1) The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department, Permit Section, prior to the application of a Building Permit.
 - 2) The property owner shall obtain a Turnout Permit from the Florida Department of Transportation for access onto Southern Boulevard.
 - d. Petitioner has estimated the buildout of the project to be 1 year.

| <u>TRAFFIC:</u> | <u>Southern Boulevard</u> | <u>Southern Boulevard</u> |
|---|---------------------------|-------------------------------------|
| SEGMENT: | Project entrance-Jog Road | Project entrance-Benoist Farms Road |
| PRESENT: | 31,563 | 29,008 |
| HISTORICAL GROWTH TRAFFIC: | - | - |
| OTHER DEVELOPMENT TRAFFIC: | - | - |
| FROM PETITION: | 202 | 51 |
| TOTAL: | 31,765 | 29,059 |
| PRESENT CAPACITY AT LEVEL OF SERVICE "D": | 30,200* | 30,200* |
| PRESENT LANEAGE: | 5 Lane | 5 Lane |
| EXISTING LEVEL OF SERVICE: | D | D |

*Projects meets alternate test 1 of the Traffic Performance Standards.

4. ENVIRONMENTAL IMPACTS:

a. DEPARTMENT OF ENVIRONMENTAL RESOURCE MANAGEMENT:

1. The property is not located within a Wellfield Protection Zone.

b. VEGETATION PROTECTION: The site was cleared and developed in the mid 1970's, the site supports some a prohibited vegetation and a small amount of pioneer species and some prohibited vegetation.

OTHER CONSIDERATIONS

1. FIRE PROTECTION: Fire protection is available to the site.
2. DRAINAGE:
 - a. Drainage District Confirmation: Lake Worth Drainage District
 - b. On-Site Provisions: None. Will have positive outfall to LWDD.
 - c. Flood Hazards: Not anticipated

ZONING EVALUATION

SITE FACTORS: A 1.93 acre site 363 feet wide and an average depth of 240 feet with frontage and access from State Road 80. The site currently supports limited prohibited vegetation.

ADJACENT LAND USES:

| | | |
|---------------|----------------------------|---|
| NORTH: | Comprehensive Plan: | Industrial |
| | Zoning District: | Light Industrial (IL) |
| | Supporting: | General Industrial Uses |
| SOUTH: | Comprehensive Plan: | Low Residential 2 |
| | Zoning District: | AR |
| | Supporting: | State Road 80 - SFWMD C 51 Canal - Scattered Single Family Homes and Nurseries |
| EAST: | Comprehensive Plan: | Industrial |
| | Zoning District: | Light Industrial (IL) |
| | Supporting: | Triple A Truss |
| WEST: | Comprehensive Plan: | Industrial |
| | Zoning District: | Agricultural Residential (AR) |
| | Supporting: | Nurseries |

SURROUNDING LAND USES:

The property is surrounded on the east west and north by industrial land use, with the east and north developed as industrial and the west used as a nursery. To the south across State Road 80 and the SFWMD C 51 Canal is Agricultural Residential (AR) zoned land with scattered single family homes.

ZONING CODE REQUIREMENTS:

The applicant submitted a preliminary site plan and has demonstrated to the DRC that the site can be developed as proposed. The applicant will be required to submit a detailed final site plan to the DRC for certification if the Board approves this petition. Staff will review the site at that time for compliance to the conditions of approval and the minimum code requirements of the Palm Beach County Land Development Code prior to the issuance of a building permit.

PROJECT DESIGN\ANALYSIS:

The site should function well if the billboards are removed. If the billboards remain approximately four parking spaces will be required to be removed or relocated on site to ensure safe backing distances from the support poles. Because the property is surrounded by industrial land use, no additional landscaping or buffering was required. Staff has discussed the possibilities of the applicant substituting shade trees with palms and has placed a minimum replacement ratio of 3 palms for each required shade tree to ensure that the landscaping will meet the purpose and intent of the Palm Beach County Land Development Code Section 7.3 (Landscaping and Buffering).

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RECOMMENDED FINDINGS OF FACT

This request is consistent with the Palm Beach County Comprehensive Plan; the Palm Beach County Land Development Code (Ordinance 92-20) Article 5.1.H. (Development Order Amendment) and Article 4.1 (Board of County Commissioners - Land Development Regulation Commission - powers and duties).

This Rezoning request is consistent with the Palm Beach County Land Development Code, Article 1.1.D (Purpose and Intent), Article 6.4 (Zoning Districts - Use Regulations and Definitions) and with all other land use and property development regulations of the Palm Beach County Land Development Code.