

RESOLUTION NO. R-89-1054

RESOLUTION APPROVING ZONING PETITION NO. 75-69(D)
SPECIAL EXCEPTION PETITION OF ANTHONY V. PUGLIESE III

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. 75-69(D) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on October 27, 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. 75-69(D) the petition of ANTHONY V. PUGLIESE III, by Robert E. Basehart, Agent, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET OF TOTAL FLOOR AREA, A MOTEL, A FINANCIAL INSTITUTION, AND A GASOLINE SERVICE STATION TO REDESIGN THE SITE on a parcel of land lying on a parcel of land lying in the Northwest 1/4 of Section 9, Township 45 South, Range 43 East, being more particularly described as follows:

Commencing at the Northeast corner of said Northwest 1/4 of Section 9; bear North 88 degrees 53' 16" West, along the North line of said Northwest 1/4; being also the center line of Hypoluxo Road, a distance of 40.01 feet to the intersection thereof with the Northerly extension of the Westerly Right-of-way line of Seacrest Boulevard; thence, South 02 degrees 29' 14" West

along said West Right-of-way line, a distance of 190.02 feet to the Point of Beginning of the herein described parcel; thence, continue south 02 degrees 29' 14" West along said Westerly Right-of-Way line, a distance of 1,027.81 feet; thence, North 88 degrees 55' 16" West, a distance of 545.43 feet; thence, South 03 degrees 27' 44" West, a distance of 160.14 feet; thence, North 88 degrees 55' 16" West, a distance of 344.35 feet to an intersection with the West line of Plat "A" of Palm Beach Memorial Park, according to the Plat thereof, as recorded in Plat Book 25, Page 226; thence, North 01 degree 01' 59" along the West line of said Plat "A", said lines being further described as the Easterly Right-of-way line of Interstate Highway North 95 (I-95), a distance of 180.00 feet to the Northwest corner of said Plat "A"; thence North 36 degrees 02' 54" East along said Easterly Right-of-way line, a distance of 143.16 feet; thence, North 10 degrees 38' 03" East along said Easterly Right-of-way line, a distance of 587.24 feet; thence, North 07 degrees 25' 24" East along said Easterly Right-of-way line, a distance of 305.20 feet; thence, North 61 degrees 09' 47" East along said Easterly Right-of-Way line, a distance of 116.44 feet; thence, North 78 degrees 28' 40" East along said Easterly Right-of-way line, a distance of 265.19 feet; thence, North 51 degrees 28' 34" East, along said Easterly Right-of-way line, a distance of 43.88 feet to an intersection with a line 54.00 feet South of and parallel with the centerline of Hypoluxo Road; thence, South 88 degrees 53' 16" East along said Southerly parallel line, a distance of 168.38 feet to a point, said point lying 150.00 feet Westerly of said Westerly Right-of-way line of Seacrest Boulevard as measured along said Southerly Right-of-way line of Hypoluxo Road; thence, South 02 degrees 29' 14" West along a line parallel to the Westerly Right-of-way line of Seacrest Boulevard, a distance of 136.00 feet; thence, South 88 degrees 53' 16" East along a line parallel to said Southerly Right-of-way line of Hypoluxo Road, a distance of 150.00 feet to the intersection thereof with said Westerly Right-of-way line of Seacrest Boulevard and the Point of Beginning, being located on the southwest corner of the intersection of Hypoluxo Road and Seacrest Boulevard, in a CG-General Commercial Zoning District, was approved as advertised, subject to the following conditions:

1. The petitioner shall comply with all previously imposed conditions unless expressly modified herein.
2. Prior to certification, the site plan shall be amended to indicate the following:
 - a. Required landscaping in accordance with Section 500.35 of the Zoning Code;
 - b. Required loading areas for all facilities on-site. Loading zones shall be located exclusive of any vehicular circulation areas and required backup distances of any parking stalls;

- c. Required by-pass lane for the **5,000** square foot bank building. This by-pass lane shall be clearly labeled and utilized exclusively for such purposes;
 - d. Redesign or elimination of the two parking stalls which are located adjacent to the **.4** acre dry detention area;
 - e. Elimination **of** any parking stalls that encroach into required landscape areas or the provision **of** additional square footage in these areas which allow them to be included into the calculations for minimum landscape requirements;
 - f. Parking breakdown for each use on-site;
 - g. Relocation of the southern portion of the **.4** acre dry detention area to allow for the preservation of native slash pine;
 - h. Customer loading area adjacent to the main entrance. This area shall be a minimum of twenty **(20)** feet wide by one-hundred twenty **(120)** feet long and clearly indicated with pavement markings as a "customer loading area"; and
 - i. Thirty **(30)** foot wide north/south circulation route adjacent to the eastern facade of the **132,480** square foot facility.
 - j. Extend the proposed median within the entrance off Hypoluxo Road subject to approval by the County Engineer.
3. The petitioner shall submit an Alternative Landscape **Betterment** Plan at the time **of** Site Plan Review Committee submittal to allow flexibility in the relocation of interior landscape islands which will allow for the preservation of more slash pines and understory vegetation. The vegetation, specifically, "native slash pine" which are located in clusters shall be incorporated into the project design. Areas of existing vegetation to be preserved shall be shown upon the approved development plan prior to site plan certification. These preservation areas shall receive appropriate protection from damage and disturbance in accordance with Section **500.36** of the Zoning Code during the site development and construction phase.
4. Simultaneously with Site Plan Review Committee application submittal, the petitioner shall provide a loading demand statement as outlined in Section **500.19** of the Zoning Code.

5. The two restaurants on-site shall be restricted to 6,000 square feet and 5,000 square feet respectively; and shall not be utilized as drive-up/fast food enterprises.
6. The site shall be limited to 197,980 square feet of total floor area.
7. 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.
8. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
9. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
10. 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.
11. 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 the construction of a right turn lane, north approach on Seacrest Boulevard from the project's middle entrance north to the project's north property line, a minimum of 12 feet in width free of all encumbrances 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 "Safe Sight Corners"

where appropriate at intersections as determined by the County Engineer.

12. The property owner shall construct a right turn lane, north approach on Seacrest Boulevard North to a point 50 feet north of the project's North entrance on Seacrest Boulevard plus appropriate paved tapers. This construction shall include relocation of the existing sidewalk and curb and gutter concurrent with onsite paving and drainage improvements. Construction shall be completed prior to the issuance of a Certificate of Occupancy.
13. Prior to Site Plan approval the property owner shall execute a Unity of Control and provide cross parking, cross access and cross drainage easements.
14. Prior to the issuance of building permits for buildings affected by the existing utility/drainage easement approval, the property owner shall abandon this existing utility/drainage easement and relocate existing drainage structures subject to approval by the County Engineer.
15. Prior to Site Plan approval, this property owner shall convey a cross access agreement to the adjacent Mobil Service Station.
16. Condition No. 18 of Zoning Petition No. 75-69(A), Resolution No. R-84-1098, which presently states:

"18. The east and south facades of the shopping center shall be given architectural treatment consistent with the front of the center to avoid an incompatible industrial appearance impact upon nearby residential and cemetery developments."

Is hereby deleted.

17. Condition No. 20 of Zoning Petition No. 75-69(A), Resolution No. R-84-1098, which presently states:

"20. The developer shall construct a six-foot high stucco finished masonry wall along the 520 feet of the property's east boundary south of the project's main entrance on Seacrest Boulevard. Wall is to be supplemented by 12' to 14' canopy trees planted twenty feet on center and vines planted ten feet on center. Said landscaping shall be installed between the six-foot wall and the property boundary. The south property boundary shall be landscaped with a combination of a three-foot high continuous hedge at time of installation

and 8' to 10 1/2' canopy trees planted at forty feet on center."

Is hereby deleted.

18. Condition No. 21 of Zoning Petition No. 75-69(A), Resolution No. R-84-1098, which presently states:

"21. No free standing establishment serving or selling alcoholic beverages shall be permitted unless accessory to a full service restaurant."

Is hereby deleted.

19. The petitioner shall install a three (3) foot earth berm, supplemented with a solid twenty-four (24) inch hedge and native canopy trees along Seacrest Boulevard.
20. Prior to any construction on the site, the property shall be investigated by a qualified expert to determine if there are any endangered species inhabiting the site. If the study determines that such species exist on the property, no construction may begin until a relocation program is established in conjunction with the appropriate environmental agency, and such a program implemented.
21. Condition No. 20 of Zoning Petition No. 75-69(C) which presently states:
- "20. The property owner shall construct the dual left turn lanes plus a separate right turn lane on the southbound exit ramp of 1-95 onto Hypoluxo Road. This construction shall be completed within six (6) months of the issuance of the permit by the Florida Department of Transportation."

Is hereby amended to read as follows:

"The property owner shall construct the dual left turn lanes plus a separate right turn lane on the southbound exit ramp of 1-95 onto Hypoluxo Road. This construction shall be commenced within forty-five (45) days of the final receipt of the permit from the Florida Department of Transportation."

22. Failure to comply with any conditions of approval 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.

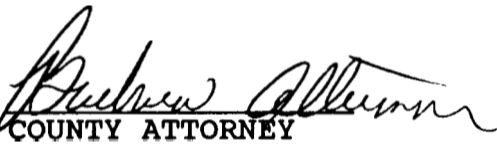
Commissioner Watt moved for approval of the petition. The motion was seconded by Commissioner Elmquist and, upon being put to a vote, the vote was as follows:

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

The foregoing resolution was declared duly passed and adopted this 6th day of June, 1989 confirming action of October 27, 1988.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY :


COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:


DEPUTY CLERK