

RESOLUTION NO. R-85-581

RESOLUTION APPROVING ZONING PETITION 84-192, Special Exception

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. 84-192 was presented to the Board of County Commissioners of Palm Beach County at its public hearing conducted on the 4th January 1985; 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, the Board of County Commissioners made the following findings of fact:

1. With placing conditions linked to roadway improvements, this proposal will be consistent with the requirements of the Comprehensive Plan and Zoning Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, assembled in regular session this the 4th of January 1985, that Petition No. 84-192 the petition of SABRA ENTERPRISES, INC., By David Dardashti, President, for a SPECIAL EXCEPTION TO ALLOW A PLANNED COMMERCIAL DEVELOPMENT INCLUDING A LARGE SCALE COMMUNITY SHOPPING CENTER IN EXCESS OF 50,000 SQUARE FEET OF TOTAL FLOOR AREA AND A MOTEL on the West 1/2 of the East 1/2 of the Southeast 1/4 of the Northwest 1/4 and the East 1/2 of the West 1/2 of the Southeast 1/4 of the Northwest 1/4 of Section 3, Township 41 South, Range 42 East, less right-of-way of Central and Southern Florida Flood Control District. Subject to right-of-way for Indiantown Road (S.R. 706) as laid out and in use.

Together with that part of the West 1/4 of the Southeast 1/4 of the

Northwest 1/4 and the East 1/2 of the Southwest 1/4 of the Northwest 1/4, lying South of Canal C-18 right-of-way of Central and Southern Florida Flood Control District, in Section 3, Township 41 South, Range 42 East, subject to right-of-way for Indiantown Road (S.R. 706) as laid out and in use.

Less and excepting from the above described parcels 1 and 2 the following described parcels designated as (A), (B)(1) and (B)(2) which are also described in Official Record Book 3953, Page 1870:

Parcel (A): That part of the Southwest 1/4 of the Northwest 1/4 of Section 3, Township 41 South, Range 42 East, lying Southerly and Easterly of Canal C-18; lying within 141.00 feet of the centerline of survey; said survey line being described as follows:

Beginning on the West line of said Section 3; at a point South 0 degree 36'44" West 32.27 feet from the Northwest corner of the Southwest 1/4 of said Section 3; thence run North 88 degrees 22'40" East 831.69 feet to the end of said survey line; thence for a point of reference, continue North 88 degrees 22'40" East 1878.04 feet to a point North 1 degree 55'52" East 68.98 feet from the Southeast corner of the Northwest 1/4 of said Section 3; less and except therefrom the existing right-of-way for State Road 706.

Together with all rights of ingress, egress, light, air and view between the grantors' remaining property and any facility constructed on the above described property.

Parcel (B)(1): A portion of Section 3, Township 41 South, Range 42

East, being described as follows:

Commence at the Southeast corner of the Northwest 1/4 of said Section 3; thence run North 1 degree 55'52" East 119.08 feet to the North right-of-way line of State Road 706; thence South 88 degrees 22'44" West 327.75 feet along said line to the Point of Beginning; thence continue South 88 degrees 22'40" West 1462.40 feet along said line; thence North 1 degree 37'20" West 91.00 feet; thence South 88 degrees 22'40" West 61.60 feet to a point on a curve concave to the Southeasterly having a radius of 1193.47 feet; thence from a tangent bearing of North 39 degrees 32'40" East run Northeasterly along said curve 40.46 feet through an angle of 1 degree 56'33" to the end of

this portion of said curve; thence North 88 degrees 22'40" East 95.98 feet; thence South 1 degree 37'20" East 101.00 feet; thence North 88 degrees 22'40" East 1402.05 feet; thence South 1 degree 45'49" West 20.04 feet to the Point of Beginning.

Also Parcel (B)(2): a portion of Section 3, Township 41 South, Range 2

East, being described as follows:

Begin on the South line of the Northwest 1/4 of said Section 3; at a point North 89 degrees 24'25" West 326.89 feet from the Southeast corner of the Northwest 1/4 of said Section 3; thence run North 89 degrees 24'25" West 160.69 feet to the South right-of-way of State Road 706; thence North 88 degrees 22'40" East 160.94 feet along said line; thence South 1 degree 45'49" West 6.22 feet to the Point of Beginning.

Subject to the following:

All matters contained in deed to State of Florida, for use and benefit of Florida Department of Transportation recorded in Official Record Book 3953, Page 1870, right-of-way of central and southern Florida Flood Control District (now South Florida Water Management District) recorded in Official Record Book 115, Page 236, right-of-way of State Road 706, including but not limited to such as shown in Road Plat Book 1, Pages 161 through 166, inclusive. Said property located on the north side of Indiantown Road, approximately .3 mile west of Carver Avenue was approved as advertised subject to the following conditions:

1. Prior to site plan certification, the site plan shall be amended to reflect the following:
  - a) Provision of the required six-foot high solid masonry wall supplemented by 12' to 14' high canopy trees planted at twenty (20) feet on center along the East property boundary abutting residential development.
  - b) Enclosed loading areas separated from any nearby residential areas by ten foot high wing walls.
2. All mechanical and air conditioning equipment shall be roof mounted and screened with parapets or be contained within the enclosed loading and service area.
3. The east facade of the shopping center shall be given architectural treatment consistent with the front of the center to avoid an incompatible institutional appearance impact upon nearby residential development.
4. No stock loading or dumpster pickup will be permitted between the

hours of 8:00 p.m. and 8 a.m.

5. The south and west facades of the shopping center will be landscaped with foundation plantings and with canopy trees within adjacent paved areas.

6. No storage or placement of any materials, refuse, equipment or accumulated debris shall be permitted in the rear of the shopping center.

7. No parking of any vehicles shall be permitted along the north and east of the shopping center except in designated spaces or unloading areas.

8. Security lighting shall be directed away from nearby residences.

9. A 25' wide buffer shall be provided along the property line, between the project and the canal. The 25' wide buffer shall include a 2'-4' high berm throughout the buffer length. The berm must maintain the 4' height throughout at least 80% of the buffer length. The berm is to be supplemented by two (2) rows of trees planted 10'-12' high, 20' on center and a 18 inch hedge planted 24 inches on center. The on center distance between trees may be foreshortened to allow clumping. However, no more than 3 trees may be clumped at one time. The buffer tree and hedge row may follow an undulating alignment throughout the buffer length. However, spacing and height requirements for berm and hedge may not be diminished.

10. Any fuel or chemical storage tanks shall be installed with protection against leakage or spillage due to corrosion, breakage, structural failure or other means. The design and installation plans will be submitted to the Health Department for approval prior to installation.

11. Any toxic or hazardous waste generated at this site shall be properly handled and disposed of in accordance with Chapter 7-30, F.A.C.

12. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties.

13. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.

14. The owner of the facility will participate in an oil recycling program which insures proper reuse or disposal of waste oil.

15. The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division.

16. The property owner shall convey for the ultimate right of way of Indiantown Road, 70 feet from centerline approximately an additional 20' within 90 days of adoption of the Resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of first Building Permit.

17. The developer shall construct concurrent with onsite paving and drainage improvements pursuant to a paving and drainage permit issued from the office of the County Engineer for the first phase improvements, a Left Turn Lane, West Approach and a Right Turn Lane, East Approach, on Indiantown Road at the project's entrance road(s).

18. The Developer 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. Presently, the Fair Share Fee for this project is

\$115,825.00. The Developer has voluntarily agreed to contribute this \$115,825.00 after 24 months of special exception approval or prior to the issuance of Building Permits for more than 11,000 total gross feet.

If the Fair Share Contribution for Road Improvements Ordinance is amended to increase the Fair Share Fee, this additional amount shall be credited toward the increased Fair Share Fee.

19. Based on the amount of traffic generated by this development, the Developer has agreed to contribute an additional \$115,825.00 toward Palm Beach County's existing Roadway Improvement Program. This portion of the impact fee shall be paid upon request by the County Engineer's Office for the funding of the right of way on the north side of Indiantown Road or within 12 months of special exception approval, whichever shall first occur, as outlined in condition Bo. 22 below.

20. Property Owner and Developer shall comply with all provisions of Palm Beach County's Subdivision and Platting Ordinance 73-4 as amended.

21. This project shall be limited to the following phasing plan in order to meet the Mandatory Traffic Performance Standards:

a) There shall be no more than 8,500 square feet of gross retail building area until the contract for the construction of Indiantown Road has been let from Center Street to I-95 (currently scheduled for the calendar year 1985-1986). After this contract has been let, building permits for 77,375 square feet of retail space may be obtained.

b) This project shall be limited to the retail portion of 77,375 square feet the proposed project until I-95 has been constructed and has paved continuity from Indiantown Road south to P.G.A. Boulevard.

c) Six months after the contract has been let for the I-95 construction, the developer shall be permitted a building permit for the office portion of the site plan plus the 128 room hotel.

22. The development shall be limited to only the three eastern entrance/exits until Indiantown Road has been constructed as a 4-lane median divided section across the project's frontage, per the County Engineer's approval.

23. The developer shall construct non-mountable curbing on Indiantown Road along the project's frontage concurrent with the 4-laning of Indiantown Road. This developer shall be responsible for any change order associated with the construction and shall coordinate directly with the Department of Transportation.

24. The Developer shall provide to Palm Beach County right of way plans and all associated documents necessary for the right of way taking of Central Boulevard as a 120 foot ultimate section from Indiantown Road north to the C-18 Canal. These shall be made available to Palm Beach County within 6 months of special exception approval. All plans and associated documents shall be per the approval of the County Engineer.

NOTE: The petition in the southeast corner of the intersection of Indiantown Road and Central Boulevard has the obligation to four-lane Central Boulevard from Toney Penna Road to Indiantown Road. This obligation has not been met and it is the intent of staff to seek the rezoning of this parcel back to the original zoning. It is the intent that this be done during the month of December, 1984. Should the Board of County Commissioners instruct staff to prepare the petition for the rezoning of this parcel, and then approve the rezoning of this subject parcel, this developer has volunteered to the following alternate conditions upon the direction of the office of

the County Engineer.

25. The developer shall provide the Construction Plans of Central Boulevard as a four-lane curbed median divided section on the north and south approaches of Central Boulevard and Indiantown Road, a distance of 300 feet plus the appropriate tapers. These Construction Plans shall be per the County Engineer's approval and shall be completed within 6 months of special exception approval.

26. The developer shall construct Central Boulevard as a four-lane curbed median divided section on the north and south approaches on Central Boulevard at its intersection with Indiantown Road as outlined in the previous condition. This construction shall be concurrent with the construction of Indiantown Road by the Florida Department of Transportation on the east and west side of Central Boulevard.

27. The developer shall receive credit for the work performed as outlined in condition Nos. 23, 24, and 25 toward the impact fee as outlined in condition Nos. 18 and 19. This credit shall be given based upon a certified cost estimate by the developer's engineer subject to approval by the office of the County Engineer.

28. Petitioner agrees to cooperate with the County's efforts to create a park on public lands located near petitioner's property and the adjacent water management district right of way for the C-18 canal including exchanging a portion of petitioner's lands adjacent to the C-18 right of way for lands which the County may acquire adjacent to and east of petitioner's lands; provided, however, that County has made a final determination as to the lands to be exchanged on or before 10 months from date of this hearing.

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

Ken Spillias, Chairman	--	AYE
Dorothy Wilkens, Vice Chairman	--	AYE
Kenneth M. Adams, Member	--	AYE
Karen T. Marcus, Member	--	AYE
Jerry L. Owens, Member	--	AYE

The foregoing resolution was declared duly passed and adopted this 9th day of April confirming action of the 4th January 1985.

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: Barbara O. Polyn  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

Andy Brown  
County Attorney