

RESOLUTION NO. R- 90-65

RESOLUTION APPROVING ZONING PETITION NO. 89-54
SPECIAL EXCEPTION PETITION OF LAKE WORTH TURNPIKE ASSOCIATES

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. 89-54 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on July 27, 1989; 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. 89-54 the petition of LAKE WORTH TURNPIKE ASSOCIATES, by Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION FOR 13 A HOTEL, AND 2] AN EXISTING PUBLIC AND PRIVATE UTILITY SERVICE (TELEPHONE EXCHANGE BUILDING AND SUBSTATION WHICH EXTINGUISHES A PORTION OF THE SPECIAL EXCEPTION FOR A TELEPHONE EXCHANGE AND SUBSTATION (PETITION 85-57) on a parcel of land lying in Tract 64, Block 24, Palm beach Farms Plat No. 3, Plat Book 2, pages 45 to 54, described as follows: Beginning at the Southwest corner of said Tract 64, thence run Northerly along the West line of said Tract a distance of 660.00 feet to the Northwest corner thereof; thence run Easterly along the North line of said Tract 329.28 feet to a point; thence run Southerly a distance of 660.00 feet to a point in the South line of said Tract; thence run Westerly 329.62 feet along the South line of said Tract to the Point of Beginning; less State Road 802 right-of-way and less the following described portion: Commencing at the intersection of the West line of said Tract 64, Block 24, and the North right-of-way line of State Road No. 802 (Lake Worth West Road), thence Northerly along the West line of said Tract 64, Block 24, a distance of 188.00 feet to the point of Beginning; thence continue Northerly, along the West line of said Tract 64, Block 24, a distance of 55.26 feet to a point; thence Easterly, making an angle with the preceding

course of **80 degrees 27'25"** measured from South to East, a distance of **25.02** feet to a point; thence Southerly, at right angles to the preceding course, a distance of **54.50** feet to a point; thence Westerly, at right angles to the preceding course, a distance of **15.86** feet to the Point of Beginning and less the South **239.34** feet to the East **182.00** feet thereof, being located on the northwest corner of Lake Worth Road (**40th Street South**) and the Sunshine State Parkway (Florida's Turnpike) in a CG-General Commercial Zoning District, was approved on July **27, 1989**, as advertised, subject to the following conditions:

1. Prior to certification, the site plan shall be amended to indicate:
 - a. Existing native vegetation to be preserved;
 - b. Areas for relocation of native vegetation;
 - c. A mix of at least five (5) tree species; and,
 - d. A minimum of fifty (50) percent native trees.
2. Prior to Site Plan Review Committee Certification, the site plan shall be amended indicating the proposed site design and location of Petition **No. 89-53**. The site plan shall be labeled to clearly indicate the petition number and that Petition **No. 89-53** is not included in the certification of the site plan.
3. Simultaneous with Site Plan Review Committee application, the petitioner shall submit two (2) copies of a properly executed Unity of Control unifying both this petition and Petition **No. 89-53**. The Unity of Control shall be subject to approval by the County Attorney.
4. The petitioner shall be required to use a berm and/or wall within the landscape strips along the north and west property lines.
5. Native vegetation shall be preserved to the greatest extent possible.
6. A preclearing inspection shall be required prior to removal of any vegetation.
7. No outdoor loudspeaker system shall be permitted on site.
8. All lighting shall be of low intensity, shielded and directed away from surrounding residential properties and rights-of-way.
9. Off-premise signs shall be not be permitted on site.
10. Sewer service is available to the property. Therefore, no septic tank shall be permitted to the site.
11. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

12. Prior to Site Plan Certification, the site plan shall be amended to indicate a master signage program including sign character and locations. Free standing point of purchase signs, for the subject parcel, along Lake Worth Road shall be limited to one-hundred (100) square feet. The sign shall have a uniform background color and character style. Signage shall be limited to thirty-five (35) feet in height.
13. The hotel and restaurant shall be unified by architectural style and design.
14. A landscaped and/or pedestrian system shall be established between the motel and restaurant.
15. A unified landscape plan shall be developed for the subject site and adjacent gasoline service station parcel, to the east. The landscape plan shall be upgraded by including one (1) native canopy tree for each twenty (20) lineal feet and one (1) palm for each thirty (30) lineal feet of property along Lake Worth Road. Hedge materials shall be installed eighteen (18) inches on center at planting and maintained at a height of thirty-six (36) inches in an opaque healthy condition.
16. 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.
17. Prior to Site Plan approval or September 1, 1989 whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Lake Worth Road, 62 feet from centerline free of all encumbrances and encroachments. Property owner 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.
18. The Property owner shall fund the construction of a right turn lane, east approach and a modified left turn lane, west approach on Lake Worth Road at the project's entrance road concurrent with the reconstruction of Lake Worth Road by Palm Beach County. Construction shall be completed prior to the

issuance of the first Certificate of Occupancy.
NOTE: Should any turn lanes not be permitted by Florida Department of Transportation or Palm Beach County, this petitioner shall be relieved of this obligation. The petitioner shall reimburse Palm Beach County for all costs associated with the construction of this right turn lane including but not limited to plan modifications and all construction costs.

19. 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 **\$18,297.00 (683 trips X \$26.79 per trip)**.
20. Prior to Site Plan approval the property owner shall execute a cross access agreement with the property owner to the east and shall only have one joint access between both parcels (**89-54** and **89-53**) until Lake Worth Road has been four laned.
21. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:
 - a. No building permits shall be issued until construction has begun for Lake Worth Road as a **4/6** lane thoroughfare from east of Lyons Road to the entrance to the Florida Turnpike; and,
 - b. No Building Permits shall be issued for the subject site after December **31, 1991**.
22. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Control on the subject property subject to approval by the County Attorney.
23. The property owner shall convey to the Lake Worth Drainage District an additional **10** feet in width along the east side of the subject property for the required right-of-way for Equalizing Canal **No. 2-W**, by Quit Claim Deed or an Easement Deed in the form provided by said District within ninety (**90**) days of the approval of the Resolution approving this project.
24. 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 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:

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

The Chair thereupon declared the resolution **was** duly passed and adopted this 2nd day of January, 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

