

RESOLUTION NO. R-90-853

RESOLUTION APPROVING ZONING PETITION NO. **89-127**
SPECIAL EXCEPTION PETITION OF COMAC OF PALM BEACH, INC.
BY ROBERT E. BASEHART, AGENT

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. **89-127** was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on December **28, 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. **89-127**, the petition of COMAC OF PALM BEACH, INC., BY ROBERT E. BASEHART, AGENT, for a SPECIAL EXCEPTION TO PERMIT A PLANNED COMMERCIAL DEVELOPMENT TO INCLUDE (1) A HOTEL, AND (2) AN AUTO SERVICE STATION (NO REPAIRS) on a parcel of land lying in Tract **25**, PALM BEACH FARMS COMPANY'S PLAT NO. **9**, Plat Book **5**, Page **58**: Commencing at the Northeast corner of said Tract **25**; Thence, run Westerly **140.00** feet along the North line of said Tract **25** to a point; Thence, run Southerly **616.40** feet along a line **140.00** feet West of and parallel to the East line of said Tract **25** to the POINT OF BEGINNING; Thence, run Westerly **520.45** feet along a line **298.51** feet North of and parallel with the South line of said Tract **25** to a point; Thence, run Northerly along the West line of said Tract **25** to a point **631.40** feet South of the Northwest corner of Tract **25**; Thence, run Easterly **520.48** feet to the POINT OF BEGINNING. And, commencing at the Northeast corner of said Tract **25**; Thence, West along the North line of Tract **25**, a distance of **140.00** feet to the POINT OF BEGINNING; Thence run South on a line parallel to the East line of Tract **25**, a distance of **609.70** feet; Thence, run Westerly **520.30** feet to a point on the West line of Lot **25**, and **614.90** feet South of the Northwest corner of said Lot **25**; Thence, run North to the Northwest corner of said Lot **25**; Thence, run East

along the North line of said Lot 25, a distance of 520.40 feet to the POINT OF BEGINNING; And, a parcel commencing at the Northeast corner of said Tract 25; Thence, West along the North line of said Tract 25, a distance of 140.00 feet; Thence, Southerly parallel with the East line of Tract 25, a distance of 609.70 feet to the POINT OF BEGINNING; Thence, continuing Southerly along said parallel line a distance of 6.70 feet; Thence, Westerly 519.99 feet to a point on the West line of Tract 25 and 631.45 feet South of Northwest corner of Tract 25; Thence Northerly along the West line of Tract 25, 16.55 feet; Thence Easterly 520.30 feet to the POINT OF BEGINNING; **LESS AND EXCEPTING THE FOLLOWING:** Commencing at the Northeast corner of said Tract 25; Thence, West along the North line of Tract 25, a distance of 140.00 feet; Thence, run South on a line parallel to the East line of Tract 25, a distance of 34.03 feet (said point being 86.70 feet on a bearing of South 44 Degrees 33'14" East from the Northeast corner of Section 28, Township 43 South, Range 42 East); Thence, Westerly 421.15 feet to a point on the West side of a 12.00 foot easement; Thence, South 02 Degrees 54'06" East, 256.10 feet; Thence, South 87 Degrees 05'54" West, 56.00 feet to a POINT OF BEGINNING. Thence, South 02 Degrees 54'06" East, 36.00 feet; Thence, South 87 Degrees 05'54" West, 30 feet; Thence, North 02 Degrees 54'06" West, 36.00 feet; Thence, North 87 Degrees 05'54" East, 30.00 feet to a POINT OF BEGINNING, all being located in Section 27, Township 43 South, Range 42 East, and being located on the Southwest corner of the proposed intersection of Okeechobee Boulevard (SR 704) and proposed Jog Road Extension, approximately .2 mile East of Skees Road in a CG-General Commercial Zoning District, was approved on December 28, 1989 as advertised, subject to the following conditions:

1. Prior to site plan review submittal, the site plan shall be amended to indicate:
 - a. Compliance with minimum property development regulations and subdivision requirements.
 - b. Relocation of handicap parking space from the periphery of the auto fuel sales facility to directly adjacent to the convenience store on the south side.
 - c. A minimum stacking distance of forty (40) feet prior to the menu board of the fast food drive through.
 - d. Fifteen (15) feet landscape buffers along Jog Road and Okeechobee Boulevard shall be upgraded with minimum twelve (12) feet high native canopy trees spaced twenty (20) feet on center and a thirty (30) inch high hedge spaced twenty-four (24) inches on center.
2. The petitioner shall reduce the number of parking stalls to allow for the preservation of existing vegetation on site subject to review by Zoning staff.
3. The petitioner shall submit a tree survey to locate and verify the preservation of existing native vegetation within all perimeter landscape strips, interior landscape island, and medians and open space areas.

4. The petitioner shall submit an Alternative Landscape Betterment Plan at the time of Site Plan Review Committee submittal to allow some flexibility in the elimination of parking stalls and subsequent relocation of interior landscape islands which will allow for the preservation of more native vegetation.
5. Use of the site shall be limited to a **125** room hotel, a **84** seat fast food restaurant, a **1,000** square foot convenience store and a **150** seat, **5,200** square foot family restaurant.
6. **No** advertising flags, foreign flags, pennants, banners, streamers, balloons, signs upon any vehicles, prices or vehicle stock numbers or other information as required to be posted on such vehicles by law other than upon a sticker affixed to a side window, or similar objects, gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors, or upon any building, vehicle or wall, other than inside a window as may be permitted by the Sign Code.
7. Security lighting shall be low intensity, shielded, and directed away from adjacent properties and streets, shining only on the subject site.
8. **No** off premise signs shall be permitted on site.
9. There is a potential for hazardous materials to be stored on site. An Affidavit of Notification must be executed by site plan certification.
10. Plans for underground storage tanks must be signed off by the Department of Environmental Resources Management prior to installation.
11. 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.
12. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
13. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
14. The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil.
15. **No** portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10D-6 F.A.C.

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. The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site.
18. 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 the additional square footage presently is **\$233,200.00** (4,240 additional trips X **\$55.00** per trip).
19. The property owner shall convey to the Lake Worth Drainage District the north **75** feet of the subject property by the required right-of-way for Lateral Canal **No. 1**, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to February **1, 1990**.
20. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:

Only Building Permits for the service station and fast food restaurant shall be issued until construction has been begun for Okeechobee Boulevard as a **6** lane median facility from the Florida Turnpike to Golden Lakes Boulevard plus the appropriate paved tapers.
21. The Developer shall plat the subject property in accordance with the provisions of Palm Beach County's Subdivision Platting Ordinance **73-4** as amended prior to issuance of building permits for Phase **2** as defined above.
22. The petitioner shall comply with Florida Statute **723** and all applicable regulations and requirements concerning the abandonment of the mobile home park existing on site.

23. 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
Karen T. Marcus	-- AYE
Carol Roberts	-- AYE
Ron Howard	-- AYE
Carole Phillips	-- AYE

The Chair thereupon declared the resolution was duly passed and adopted this 22nd day of May, 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