

RESOLUTION NO. R-90-1439

RESOLUTION APPROVING ZONING PETITION NO. **85-42(B)**
SPECIAL EXCEPTION PETITION OF
ROBERT B. WHITLEY AND JOHN AND PATTIE WEYRETER
BY RICHARD **ORMAN**, 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. **85-42(B)** was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on April 30, 1990; 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. **85-42(B)**, the petition of ROBERT B. WHITLEY AND JOHN AND PATTIE WEYRETER, BY RICHARD ORMAN, AGENT, for a SPECIAL EXCEPTION TO AMEND THE MASTER PLAN FOR OLD **MARSH** PLANNED UNIT DEVELOPMENT AND REDESIGNATE A PORTION OF OPEN SPACE AS COMMERCIAL on a parcel of land lying on lot 213, Old Marsh Golf Club, P.U.D., Plat Book 58, Pages 62-75; together with a parcel of land lying adjacent to said Lot 213, commencing at the Northeast corner of said Lot 213 (said point being on the Southerly right-of-way line of Old Marsh Road and on a curve concave to the Northwest, having a radius of 425.00 feet, from which a radial line bears North 29 degrees 15'52" West), proceed Northeasterly along said Southerly right-of-way line of said Old Marsh Road and the arc of said curve through a central angle of 02 degrees 59'22", an arc distance of 22.17 feet to the Northwest corner of Lot 214 of said Old Marsh Golf Club, P.U.D.; Thence South 36 degrees 42'26" East along the West line of said Lot 214, a distance of 113.28 feet to the Southwest corner of said Lot 214; Thence South 33 degrees 39'01" West, a distance of 99.57 feet to the point of intersection with the Easterly prolongation of the South line of

said Lot 213; Thence South 79 degrees 38'09" West along said Easterly prolongation, a distance of 30.00 feet to the Southeast corner of said Lot 213 and the POINT OF TERMINUS. Together with a portion of the Recreation Parcel, in said Plat of Old Marsh Golf Club, P.U.D. , commencing at the Southeast corner of said Recreation Parcel, said point being on the Northerly right-of-way line of said Old Marsh Road and on a curve concave to the Northwest, having a radius of 365.00 feet, from which a radial line bears North 12 degrees 02'47" West, proceed Westerly along said Northerly right-of-way line of said Old Marsh Road and the arc of said curve through a central angle of 18 degrees 03'33", an arc distance of 115.04 feet to the point of tangency; Thence North 83 degrees 59'14" West, continuing along said Northerly right-of-way line, a distance of 126.91 feet; Thence North 21 degrees 01'03" East, a distance of 190.56 feet to the Southerly line of Wetland Preservation Area #3; Thence along said Southerly line of said Wetland Preservation Area #3, through the following four courses: thence South 70 degrees 38'07" East, a distance of 27.56 feet; thence South 70 degrees 26'32" East, a distance of 55.64 feet; thence South 56 degrees 00'18" East, a distance of 43.10 feet; thence South 45 degrees 14'08" East, a distance of 53.02 feet; thence South 12 degrees 02'47" East, leaving said Southerly line of said Wetland Preservation Area #3, a distance of 98.11 feet to the POINT OF BEGINNING and being located on the north side of Hood Road, approximately 2.5 miles west of Military Trail in a RE-Residential Estate Zoning District, was approved on April 30, 1990, as advertised, subject to the following conditions:

1. The petitioner shall comply with all previous conditions of approval unless expressly modified herein.
2. Prior to Master Plan Certification, the Master Plan shall be revised to reflect the commercial designation of a one (1) acre commercial parcel.
3. Use of the commercial POD shall be limited to a maximum 5,000 square foot real estate marketing and property owners association office, limited to Old Marsh Country Club. When this use of the facility is discontinued, the property shall revert to a recreational designation.
4. No building structure or parking area within the commercial POD shall be located within 50 feet of the perimeter of the development.
5. Prior to Master Plan approval, the petitioner shall demonstrate conformance to all minimum property development regulations as found in Section 500.21 L. (Property Development Regulations For Planned Unit Developments - Commercial Uses).
6. 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.
7. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.

8. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
9. The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products as programs are available.
10. The property owner shall pay an additional 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 **\$11,715.00** (72 non-residential trips X **\$55.00** per trip) plus (47 residential trips X **\$165.00** per trip).
11. As provided in the Palm Beach County Zoning Code, Sections **400.2** and **402.6**, failure to comply with any of these conditions of approval at any time may result in:
 - a. 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; and/or
 - b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
 - c. A requirement of the development to conform with updated standards of development, applicable at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions.

Appeals of any **departmental-administrative** actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Marcus moved for approval of the Resolution.

The motion was seconded by Commissioner Howard 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 28th day of August, 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

