

RESOLUTION NO. R-90- 1443

RESOLUTION APPROVING ZONING PETITION NO. 89-127(A)
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(A) 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. 89-27(A), the petition of COMAC OF PALM BEACH, INC, BY ROBERT E. BASEHART, AGENT, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A PLANNED COMMERCIAL DEVELOPMENT TO INCLUDE A CAR WASH AND A FINANCIAL INSTITUTION WITH FIVE (5) DRIVE UP TELLER WINDOWS on a parcel of land lying on a portion of 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 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 Tract 25, said Palm Beach Farms Company, Plat No. 9; 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 of land in Tract 25, Block 1, said Palm Beach Farms Company Plat No. 9: 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 described property: Commencing at the Northeast corner of Tract 25, Palm Beach Farms Company, Plat No. 9; 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 foot easement; Thence, South 02 degrees 54'06" East, 256.10 feet; Thence, South 87 degrees 05'54" West, 56.00 feet to the POINT OF BEGINNING. Thence, South 02 degrees 54'06" East, 36.00 feet; Thence, South 87 degrees 05'54" West, 30.00 feet; Thence, North 02 degrees 54'06" West, 36.00 feet; Thence, North 87 degrees 05'54" East, 30.00 feet to the POINT OF BEGINNING and being located in the south side of Okeechobee Boulevard, .2 mile east of Skees Road in the CG-General Commercial 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. Condition No. 5 of Petition 89-127, which presently states:

"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."

Is amended to state:

"Use of the site shall be limited to a 110 room hotel, two-stories in height and 33,641 square feet; a 5,200 square foot restaurant with 150 seats; a 4,938 square foot fast food restaurant; a 1,000 square foot convenience store with six gasoline pumps and a 756 square foot car wash; and a 4,500 square foot bank with five drive-through tellers."

3. Prior to Site Plan Review submittal, the site plan shall be revised to delineate native tree and vegetation preservation areas.
4. There is a potential for hazardous materials to be stored on site. An Affidavit of Notification must be executed by site plan certification.

5. Plans for underground storage tanks must be signed off by the Department of Environmental Resources Management prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chances of contamination of the groundwater. Double walled tanks and piping shall be a part of those measures, if required by Department of Environmental Resources Management.
6. Secondary containment of stored Regulated Substances (fuels, oils, solvents, or other hazardous chemicals) is required. Department staff are willing to provide guidance on appropriate protective measures.
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 owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil.
11. 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.
12. **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 Florida Administrative Code (F.A.C.)
13. All previously approved Engineering Conditions Numbers **16** through **23** of Petition Number **89-127** are hereby deleted.
14. 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 on site 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.

15. 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.
16. 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.
17. The property owner shall convey to the Lake Worth Drainage District the north **75.00** 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 November **1, 1990**.
18. 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 foot restaurant shall be issued until construction has begun for Okeechobee Boulevard as a six (**6**) lane median facility from the Florida Turnpike to Golden Lakes Boulevard plus the appropriate paved tapers.
19. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance **73-4 as** amended prior to building permits Phase **2** as defined above.
20. Interior landscaping shall be upgraded to include:
 - a. Fifty percent (**50%**) of all required trees shall be a minimum of fourteen feet (**14'**) tall;
 - b. Thirty percent (**30%**) of all required trees shall be a minimum of twelve feet (**12'**) tall; and
 - c. Twenty percent (**20%**) of all required trees shall be a minimum of ten feet (**10'**) tall.
21. Point of Purchase Signs along Okeechobee Boulevard and Jog Road shall be limited to a maximum of two (**2**) sixty (**60**) square foot double-sided signs per frontage with a maximum height of fifteen (**15**) feet. All signs on site shall be of a similar graphic character and architectural style and have a harmonious color scheme. A Master Sign Program shall be submitted at the time of Site Plan Review Committee application which demonstrates conformance to this condition.
22. If the State of Florida Department of Transportation will permit landscaping within the **Jog** Road and Okeechobee Boulevard medians, the petitioner shall obtain appropriate permits to install the following landscaping within the abutting medians:
 - a. One (**1**) ten foot (**10'**) tall native canopy tree for each thirty (**30**) linear feet of frontage;

- b. Appropriate ground cover; and
- c. Complete irrigation.

All materials shall be installed, selected and maintained according to Xeriscape principles. Landscaping and irrigation shall be the perpetual maintenance obligation of the petitioner.

- 23. All hedge planting required by Condition 1.d, **of** Petition No. 89-127 shall be maintained at a minimum **of** forty-eight inches (48") within two (2) years of installation.
- 24. 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: *Andrew Altman*
COUNTY ATTORNEY

BY: *Vicki Bernone*
DEPUTY CLERK

