

RESOLUTION NO. R-90-1887

RESOLUTION APPROVING ZONING PETITION NO. 75-69(E)  
MODIFICATION OF COMMISSION REQUIREMENTS  
PETITION OF ANTHONY V. PUGLIESE, III  
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. 75-69(E) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on June 28 1990; and

WHEREAS, the Board of County Commissicners, 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 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. 75-69(E), the petition of ANTHONY V. PUGLIESE, III, BY ROBERT E. BASEHART, AGENT, for a MODIFICATION OF COMMISSION REQUIREMENTS on a parcel of land being Parcel 1: A parcel of land in the northwest 1/4 of Section 9, Township 45 South, Range 43 East, more particularly described as follows: Beginning at the northeast corner of said northwest 1/4 of Section 9, bear north 88 degrees 53'16" west, along the north line of said northwest 1/4 being also the centerline of Hypoluxo Road, a distance of 40.01 feet to the intersection thereof with the northerly extension of the westerly right-of-way line of Seacrest Boulevard; thence south 02 degrees 29'14" west along said west right-of-way line, a distance of 190.02 feet to the Point of Beginning of the herein described parcel; thence continue South 02 degrees 29'14" west along said west right-of-way line a distance of 986.53 feet; thence north 87 degrees 30'46" west, a distance of 868.06 feet to the intersection thereof with the easterly right-of-way line of Interstate Highway No. 95 (1-95); thence north 36 degrees 02'54 east, along said easterly right-of-way line a distance of 91.17 feet; thence north 10 degrees 38'03" east, along said easterly right-of-way line a distance of 587.24 feet; thence north 07 degrees 25'24" east, along said easterly right-of-way line a distance of 305.20 feet; thence north 61 degrees 09'47" east, along said right-of-way line a distance of 116.44 feet; thence north 78 degrees 28'40" east along said easterly right-of-way line a distance of 265.19 feet; thence north 51 degrees 28'34" east, along said easterly right-of-way line a

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distance of 45.45 feet to the intersection thereof with the southerly right-of-way line of Hypoluxo Road; thence south 88 degrees 53'16" east along said southerly right-of-way line a distance of 167.20 feet to a point, said point lying 150.00 feet westerly of said westerly right-of-way line of Seacrest Boulevard, as measured along said southerly right-of-way line of Hypoluxo Road; thence south 02 degrees 29'14" west, along a line parallel to said westerly right-of-way line of Seacrest Boulevard, a distance of 137.00 feet; thence south 88 degrees 53'16" east, along a line parallel to said westerly right-of-way line of Hypoluxo Road, a distance of 150.00 feet to the intersection thereof with said westerly right-of-way line of Seacrest Boulevard and the Point of Beginning. Parcel 2: A parcel of land in the northwest 1/4 of Section 9, Township 45 South, Range 43 East, described as follows: Commencing at the northeast corner of said northwest 1/4 of Section 9; thence north 88 degrees, 53'16" west, along the north line of the northwest 1/4, being also the centerline of Hypoluxo Road, a distance of 40.01 feet to the intersection with the northerly extension of the westerly right-of-way line of Seacrest Boulevard; thence south 02 degrees 29'14" west, along said west right-of-way line, a distance of 190.02 feet; thence continue south 02 degrees 29'14" west, along said west right-of-way line, a distance of 986.53 feet to the Point of Beginning; thence north 87 degrees 30'46" west, a distance of 868.06 feet to the intersection with the easterly right-of-way line of Interstate Highway No. 95 (1-95); thence south 36 degrees 02'54" west, along said easterly right-of-way line, a distance of 51.99 feet to the northwest corner of PLAT "A" OF PALM BEACH MEMORIAL PARK, as in Plat Book 25, Page 226; thence south 01 degree 01'59" west along the west line of said PLAT "A" OF PALM BEACH MEMORIAL PARK, a distance of 180.00 feet; thence south 88 degrees 55'16" east, a distance of 344.35 feet; thence north 03 degrees 27'44" east, a distance of 160.14 feet; thence south 88 degrees 55'16" east, a distance of 545.43 feet to the intersection with the said westerly right-of-way line of Seacrest Boulevard; thence north 02 degrees 29'14" east, a distance of 41.28 feet to the said Point of Beginning and being located on the southwest corner of the intersection of Hypoluxo Road and Seacrest Boulevard, in a CG-General Commercial Zoning District, was approved on June 28, 1990 as advertised, subject to the following conditions:

STANDARD CONDITIONS:

1. The petitioner shall comply with all previous conditions of approval, unless expressly modified herein.

ENGINEERING

2. 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.

3. 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.

#### HEALTH

4. 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.
5. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
6. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

#### IRRIGATION QUALITY WATER

7. When irrigation quality water is available within five-hundred (500) feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

#### LANDSCAPING

8. Prior to Site Plan Review approval, the site plan for the outparcel containing two (2) restaurants shall be revised to include:
  - a. Landscaping of the off-street parking area to meet the 1990 Landscape Code;
  - b. Native canopy trees shall be provided at one (1) tree per 1,500 square feet of outparcel area and shall be:
    1. 20% - 14 feet tall
    2. 30% - 12 feet tall
    3. 50% - 10 feet tall
  - c. The twenty-five (25) foot buffer between the outparcel and Hypoluxo Road shall contain 10 foot tall native canopy trees 30 feet on center and a 24 inch hedge 24 inches on center.

#### LANDSCAPE WITHIN MEDIAN

9. If permittable by the State Department of Transportation or County Engineering Department, the petitioner shall landscape the median of Hypoluxo Road where the right-of-way abuts the out parcel. This landscaping shall consist of: one ten (10) foot tall native canopy tree planted an average of thirty (30) feet on center, and appropriate ground cover and irrigation. All materials shall be selected, maintained and installed according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation of the property owner.

MODIFICATIONS

10. Condition No. 5 of Resolution 89-1054 approving Petition No. 75-69(D), which presently states:

"The two restaurants on site shall be restricted to 6,000 square feet and 5,000 respectively; and shall not be utilized as drive-up/fast food enterprises.!!

Is hereby deleted.

11. Staff recommends that an alternative condition be approved which reads:

"Restaurants on site shall be restricted to one 2,250 square foot drive-up fast food restaurant and two eat-in only restaurants totaling 8,550 square feet, for a total of 10,800 square feet."

RECYCLE SOLID WASTE

12. 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.

COMPLIANCE

13. 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:

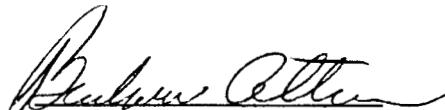
Carol J. Elmquist, Chair	--	AYE
Karen T. Marcus	--	AYE
Carol Roberts	--	AYE
Ron Howard	--	AYE
Carole Phillips	--	ABSENT

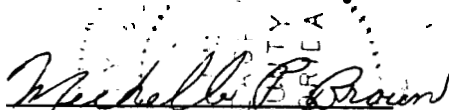
The Chair thereupon declared the resolution was duly passed and adopted this 6th day of November, 1990.

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

