

RESOLUTION NO. R-91-368

RESOLUTION APPROVING ZONING PETITION NO. 88-29(A)
SPECIAL EXCEPTION PETITION OF DSK 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. 88-29(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on October 25, 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 the 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, Chapter 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. 88-29(A), the petition of DSK ASSOCIATES, BY ROBERT A. BENTZ, AGENT, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A PCD TO INCREASE BUILDING SQUARE FOOTAGE on a parcel of land lying in Lot 1 and the south 40.00 feet of lot A, Smithview, together with: A parcel in the northeast $\frac{1}{4}$ of the northwest $\frac{1}{4}$ of Section 29, Township 43 south, Range 43 east; commencing at the intersection of the east line of Madrid Park, Plat Book 13, page 78, with the north line of said Section 29 (the north line of said section 29 is assumed to bear south 88 degrees 45' 36" east, a distance of 293.87 feet to the point of intersection with the northerly extension of the east line of Frank Street as shown on said Plat of Smithview, thence south 03 degrees 37' 04" west along said extension a distance of 15.00 feet to a point on the south right of way line of Okeechobee Blvd. Road Plat Book 4, page 221, and the Point of Beginning of the hereinafter described parcel of land; thence continue south 03 degrees 37' 04" west along the east line of Frank Street a distance of 192.78 feet; thence south 10 degrees 11' 09" west a distance of 7.00 feet; thence south 01 degrees 55' 44" west a distance of 300.00 feet to the southwest corner of lot 6 of said Smithview Plat; thence south 88 degrees 04' 16" east along the south line of said lot 6 a distance of 60.00 feet to the southeast

corner thereof; thence south 01 degrees 55' 44" west along the east line of lot 5 of said Smithview plat a distance of 100.00 feet to the southeast corner thereof and to a point on the north line of a parcel of land described in Deed Book 931, page 380, thence south 88 degrees 43' 36" east along the aforementioned north line a distance of 76.46 feet; thence north 01 degrees 44' 54" east along the west line of a parcel of land described in Deed Book 861, page 542, a distance of 84.43 feet; thence south 88 degrees 45' 36" east parallel with the north line of said section 29 a distance of 20.00 feet; thence north 01 degrees 44' 54" east parallel with the east line of said plat of Madrid Park a distance of 50.00 feet; thence south 88 degrees 45' 36" east parallel with the north line of said section 29 a distance of 235.00 feet; thence north 01 degrees 44' 54" east parallel with the east line of said plat of Madrid Park a distance of 216.00 feet; thence south 88 degrees 45' 36" east parallel with the north line of said section 29 a distance of 98.00 feet; thence north 01 degrees 44' 54" east parallel with the east line of said plat of Madrid Park a distance of 124.00 feet; thence north 88 degrees 45' 36" west parallel with the north line of said section 29 a distance of 98.00 feet; thence north 01 degrees 44' 54" east parallel with the east line of said plat of Madrid Park a distance of 195.00 feet to a point on the south right of way line of Okeechobee Blvd. thence north 88 degrees 45' 36" west along said right of way line a distance of 372.62 feet to the Point of Beginning.

TOGETHER WITH:

A parcel in said section 29, described as follows: Commencing at a point in the north line of said section 29, this point being 666.00 feet east of the east line of said Madrid Park plat; thence south parallel with the east line of said Madrid Park a distance of 15.00 feet to the Point of Beginning; thence continue south parallel with the east line of Madrid Park a distance of 195.00 feet; thence east parallel with the north line of said section 29 a distance of 98.00 feet; thence north parallel with the east line of Madrid Park a distance of 195.00 feet; thence west parallel with the north line of said section 29 a distance of 98.00 feet to the Point of Beginning, and being located on the S. SIDE OF OKEECHOBEE BLVD. (SR 704), 250 FT E. OF CHURCH ST., in the CG Zoning District, was approved on October 25, 1990, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The petitioner shall comply with all previous conditions of approval, unless expressly modified herein.
2. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.
3. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review).

B. DUMPSTERS

1. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind an enclosure having an

architectural treatment compatible with the principal building. The open end of the enclosure shall have an obscuring, opaque gate.

C. HEALTH

1. 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.
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
4. 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.

D. IRRIGATION QUALITY WATER

1. 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.

E. LANDSCAPING

1. Prior to site plan certification, the site plan, and the site plan tabular data, shall be revised to conform to the landscape conditions of approval, and where possible to the requirements of Section 500.35 (Landscape Code) of the Zoning Code.

The following conditions shall be met prior to January 25, 1991:

2. The petitioner shall install, maintain, irrigate and replace all trees and landscape material on the entire subject property in accordance with Section 500.35.I (Installation, Maintenance, Irrigation and Replacement) of the Landscape Code.
3. The landscape strip along the southeast boundary of the property, where the site abuts residential uses, shall be supplemented with four (4) fourteen foot native canopy trees and a continuous opaque hedge. Hedge material shall be installed at thirty-six (36) inches in height and shall be maintained at a minimum height of forty-eight (48) inches within one year of installation.
4. The hedge along the entire south and east perimeters of the entire subject property shall be maintained at a minimum height of forty eight (48) inches.
5. Trees shall be allowed to reach a minimum height of fifteen (15) feet and shall be maintained according to Arbor Society Standards and Landscape Code requirements.

6. All plant material shall be fully irrigated and maintained in a healthy viable condition.

F. LANDSCAPING WITHIN MEDIAN

1. If permissible by the State Department of Transportation or County Engineering Department, the petitioner shall landscape the median of all abutting right-of-ways. 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.

G. LIGHTING

1. Outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent properties and streets.

H. RECYCLE SOLID WASTE

1. 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.

I. SIGNS

1. All on-site signs shall comply with the Palm Beach County Sign Code, Ordinance No. 72-23, and shall indicate principal uses only. Specifically, no snipe signs, banners, balloons or other prohibited types of advertisement shall be permitted on site.
2. No off-premise signs shall be permitted on site.
3. Prior to site plan certification, the petitioner shall provide signage information on the site plan which specifies the existing signs' locations and sizes. No additional pole, monument or point of purchase signs shall be allowed on site.

J. SITE DESIGN

1. Prior to certification, the site plan shall be amended to indicate the following:
 - a. The location of the loading zone and the bay doors for the existing auto care facility,
 - b. The location of the sign that designates the parking spaces on the west side of Frank Street for employee and auto care only,
 - c. The relocation or elimination of the loading space on the east side of the 15,795 square foot building,
 - d. The relocation of all dumpsters to designated areas,

- e. The correct number of parking spaces and interior islands for the row of parking fronting on Okeechobee Boulevard,
 - f. The one-way designation for the access aisle on the west side of the existing auto care facility,
 - g. The on-site access aisle for the auto care facility that is located on the east side of the proposed restaurant, and
 - h. The adjacent land uses.
2. No outdoor speaker or public address systems which are audible from the exterior of the site, shall be permitted.
 3. All new mechanical and air-conditioning equipment shall be roof mounted and screened within parapets or be contained within an enclosed loading and service area.
 4. Prior to Site Plan approval or December 26, 1990, the petitioner shall revise the Concurrency Reservation for this project to reflect the actual capacity needed for the proposed project. This Concurrency Reservation application (90-07-18-009C) should be reduced by 3,825 square feet.

K. COMPLIANCE

1. 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 * Foster moved for approval of the Resolution.

The motion was seconded by Commissioner Lee and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	ABSENT
Carol A. Roberts	--	ABSENT
Carol J. Elmquist	--	ABSENT
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 26th day of March, 1991.

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: *Nichelle P. Brown*
DEPUTY CLERK

