

RESOLUTION NO. R-93-505

RESOLUTION APPROVING ZONING PETITION NO. 83-114(A)
REZONING PETITION OF ROSACKER PROPERTIES, INC.

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 (Ordinance 73-2, as amended), have been satisfied; and

WHEREAS, Petition No. 83-114(A) was presented to the Board of County Commissioners of Palm Beach County at its Public Hearing conducted on October 29, 1992; and

WHEREAS, the Board of County Commissioners 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 (Ordinance 73.2 as amended); and

WHEREAS, the Board of County Commissioners 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 be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 83-114(A), the petition of ROSACKER PROPERTIES, INC., BY ROBERT BENTZ, AGENT, for a REZONING FROM AGRICULTURAL RESIDENTIAL (AR) ZONING DISTRICT TO GENERAL COMMERCIAL (CG) ZONING DISTRICT on a parcel of land lying in the West half (W 1/2) of the Northeast quarter (N.E. 1/4) of the Northeast quarter (N.E. 1/4) of the Northeast quarter (N.E. 1/4 of Section 22, Township 46 South, Range 42 East, Palm Beach County, Florida, less the Right-of-way for State Road 806, and being located on the S. side of W. Atlantic Ave., .3 mile E. of Carter/Jog Rd., was approved on October 29, 1992, as advertised, subject to the following voluntary commitments:

A. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances- fuels, oils, solvents, or other hazardous chemicals is required. Department of Environmental Resources Management staff are willing to provide guidance on appropriate protective measures. (BUILDING-ERM)

B. HEALTH

1. Water service and sewer service are available to **the** property. Therefore, no potable well and/or on site sewage disposal system shall be permitted on the site. (HEALTH-Building)

C. LANDSCAPE WITHIN THE MEDIAN

1. Prior to site plan certification, the petitioner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist **of** a minimum **of** one (1) fourteen (14) foot tall native tree for each thirty (30) linear feet of the adjacent median to be planted and appropriate ground cover. Trees may be planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected for the following list:

<u>Trees:</u>	<u>Groundcover:</u>
Laurel Oak	Wedilia
Live Oak	Bahia Grass
Slash Pine	
Sabal Palmetto	

Alternative species may be allowed subject **to** approval by the County Engineer. All plant material shall be installed and selected according to xeriscape principles and shall conform with the following:

- a) All plants shall be container grown or field collected and transplanted from the project site.
- b) All plantings shall be done in accordance with detailed planting plans and specifications to be submitted and approved by the County Engineer concurrent with Site Plan certification.

All required median landscaping, including watering, shall be the perpetual maintenance obligation **of** the petitioner and its successors, legal heirs or assignees, **or** duly established Property Owner's Association and/or Homeowner's Association, and shall be installed on or before issuance of the first Certificate of Occupancy or filing **of** the first plat, whichever occurs first. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to receiving the first building permit or filing of the first plat, whichever occurs first, to reflect this obligation. Maintenance shall be in accordance with the issued permits. (ENGINEERING/BUILDING)

D. USE LIMITATION

1. A cocktail lounge as a primary use shall not be permitted on the subject site. (ZONING)
2. No outdoor speakers shall be permitted. (ZONING/BUILDING)

E. ENGINEERING

1. 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 (ENGINEERING).
2. If required by the County Engineer or the South Florida Water Management District 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. (ENGINEERING)
3. The Property owner shall construct appropriate turn lanes on West Atlantic Avenue at the project's entrance road. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (ENGINEERING)
4. The property owner shall convey to the Lake Worth Drainage District eighty-two (82) feet from the proposed south right-of-way line of West Atlantic Avenue for the required right-of-way for the Lake Worth Drainage District Lateral Canal No. 34. This conveyance shall be by Quit Claim Deed or an Easement Deed in the form provided by said District. If the right-of-way is conveyed by easement, then the property owner shall convey a separate road right-of-way warranty deed to Palm Beach County, Land Development Division, for the north twelve (12) feet of the subject property for the construction of a right turn lane, west approach on West Atlantic Avenue. The remaining 70 feet of the subject property may be conveyed to Lake Worth Drainage District by easement in the form provided by Lake Worth Drainage District. These documents shall be submitted prior to January 15, 1993. (MONITORING-Engineering)
5. The Developer shall also provide within this project's internal stormwater management system an equivalent amount of stormwater runoff for the road drainage of West Atlantic Avenue. The amount of runoff required to be stored onsite shall be based upon the applicable County Water Control District, South Florida Water Management District and Palm Beach County Engineering requirements. (ENGINEERING)
6. At the time of site plan certification by the Development Review Committee, the developer shall provide cross access between this petition and the adjacent residential development, as appropriate, depending upon the proposed

uses, in order to reduce traffic impacts on Jog/Carter and West Atlantic Avenue. Prior to final DRC approval, staff shall inform the Board of County Commissioners by the Administrative Inquiry process or other appropriate means, of the proposed access. (ENGINEERING/ZONING)

Commissioner Marcus moved for approval of the Resolution.

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

Mary McCarty, Chair	--	Aye
Ken Foster	--	Aye
Burt Aaronson	--	Aye
Maude Ford Lee	--	Aye
Karen T. Marcus	--	Aye
Warren H. Newell	--	Aye
Carol A. Roberts	--	Absent

The Chair thereupon declared the resolution was duly passed and adopted this 20 day of April, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

