

RESOLUTION NO. R- 86-855

RESOLUTION APPROVING ZONING PETITION 86-5, Special Exception

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 No. 73-2 have been satisfied; and

WHEREAS, Petition No. 86-5 was presented to the Board of County Commissioners of Palm Beach County at its public hearing conducted on the 2nd May 1986; 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, the Board of County Commissioners made the following findings of fact:

1. With phasing of building area linked to thoroughfare improvements, this proposal will be consistent with the requirements of the Comprehensive Plan and Zoning Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, assembled in regular session this the 2nd of May 1986, that Petition No. 86-5 the petition of DEAN VEGOSEN, TRUSTEE, By Kieran Kilday, Agent for a SPECIAL EXCEPTION TO ALLOW A PLANNED COMMERCIAL DEVELOPMENT on a parcel of land lying in Section 11, Township 46 South, Range 42 East, said parcel being more particularly described as follows:

Commencing at the East Quarter Corner of Section 11, thence with a bearing of South 89 degrees 20'58" West, along the East-West Quarter line of Section 11, a distance of 60.00 feet to a point on the West Right-of-way line of Military Trail (S.R. 809); thence with a bearing of South 0 degree 19'42" East, along the West Right-of-way line of Military Trail Right-of-way a distance of 286.15 feet to a point on

the South Right-of-way line of Via Delray, as recorded in Official Record Book 2226, Page 1210; said point being the Point of Beginning; thence continue along the aforementioned West Right-of-way line of Military Trail a distance of 384.84 feet; thence with a bearing of South 89 degrees 17'12" West, a distance of 384.73 feet; thence with a bearing of North 0 degree 39'02" West, a distance of 410.40 feet to a point on the South Right-of-way line of Via Delray; thence with a bearing of North 89 degrees 20'58" East, along the South Right-of-way line of Via Delray, a distance of 361.89 feet to a point; thence with a bearing of South 45 degrees 29'22" East, a distance of 35.46 feet more or less to the Point of Beginning.

Less the following:

A parcel of land lying in Section 11, Township 46 South, Range 42 East, said parcel being more particularly described as follows:

Commencing at the East Quarter Corner of Section 11, thence with a bearing of South 89 degrees 20'58" West, along the East-West Quarter line of Section 11, a distance of 60.00 feet to a point on the West Right-of-way line of Military Trail (S.R. 809); thence with a bearing of South 0 degree 19'42" East, along the West Right-of-way line of Military Trail Right-of-way a distance of 286.15 feet to a point on the South Right-of-way line of Via Delray, as recorded in Official Record Book 2226, Page 1210; said point being the Point of Beginning; thence continue along the aforementioned West Right-of-way line of Military Trail a distance of 184.86 feet; thence with a bearing of South 89 degrees 20'58" West, a distance of 209.00 feet; thence with a bearing of North 0 degree 19'42" West, a distance of 210.00 feet to a point on the South Right-of-way line of Via Delray; thence with a bearing of North 89 degrees 20'58" East, along the South Right-of-way line of Via Delray, a distance of 183.86 feet to a point; thence with a bearing of South 45 degrees 29'22" East, a distance of 35.46 feet more or less to the Point of Beginning. Said property located on the west side of Military Trail (S.R. 809), approximately 1.2 miles north of Atlantic Avenue (S.R. 806), being bounded on the north by Via Delray was approved as advertised subject to the following conditions:

1. Prior to site plan certification, the site plan shall be amended to reflect the following:
 - a) Required landscaping between the vehicular use areas and the adjacent properties or variance relief obtained from the Board of Adjustment.
 - b) 8-10 foot in height canopy trees planted 30 feet on center along all property lines abutting residentially zoned properties.
2. Prior to Site Plan Certification, cross access and parking agreements shall be executed in a form acceptable to the County Attorney.
3. The west and the south facades of the building shall be given architectural treatment consistent with the front of the building to avoid an incompatible appearance impact upon nearby residential development.
4. No stock loading or dumpster pickup will be permitted between the hours of 8:00 p.m. and 8:00 a.m.
5. No storage or placement of any materials, refuse, equipment or accumulated debris shall be permitted behind the structure.
6. No parking of any vehicles shall be permitted along the rear of the shopping center adjacent to the required landscape areas. Parking, clearly marked "Employees Only", and "Loading" will be permitted adjacent to the rear of the buildings only as shown on the site plan.
7. Security lighting shall be directed away from nearby residences.
8. The required six (6) foot high wall shall receive identical architectural treatment on both sides.
9. Any fuel or chemical storage tanks shall be installed in accordance with Chapter 17-61, Florida Administrative Code. The design and installation plans will be submitted to the Health Department for approval prior to installation.
10. Any toxic or hazardous waste generated at this site shall be properly handled and disposed of in accordance with Chapter 17-30, F.A.C.
11. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties.
12. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.
13. The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division. This drainage system shall be maintained in an acceptable condition per the County Engineers approval.
14. The property owner shall construct left turn lane, south approach and a right turn lane, north approach on Military Trail at the project's entrance road concurrent with onsite paving and drainage improvements pursuant to a paving and drainage permit issued from the office of the County Engineer.
15. 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. The Fair Share Fee for this project presently is \$79,941.00 (2,984 trips X \$26.79 per trip).

16. Based on the Traffic Performance Standards (Category "A"), the Developer shall contribute an additional \$39,971.00 toward Palm Beach County's existing Roadway Improvement Program, these total funds of (\$119,912.00 to be paid as follows: One-half of the \$119,912.00 shall be paid prior to September 1, 1986 (or prior to the issuance of a building permit, whichever shall first occur). The remaining one-half shall be paid prior to July 1, 1987 (or prior to the issuance of a building permit, whichever shall first occur).

prior to the issuance of a building permit or prior to June 1, 1986 whichever shall first occur.

If the Fair Share Contribution for Road Improvements Ordinance is amended to increase the Fair Share Fee, this additional amount of \$39,971.00 shall be credited toward the increased Fair Share Fee,

17. The Developer shall construct raised curbing on both sides of the existing median on Via Delray from Military Trail west to the project's west property line concurrent with onsite paving and drainage improvements pursuant to a paving and drainage permit issued from the County Engineer. Any median opening will require a permit from the County Engineer.

18. The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department Permit section prior to the application of a Building Permit.

19. The property owner shall obtain a Turnout Permit from the Palm Beach County Engineering Department, Permit Section for access onto Military Trail and Via Delray.

20. In order to comply with the mandatory traffic performance standards the property owner shall be restricted to the following phasing schedule:

Building permits shall not be issued for more than 15,400 square feet until the contract for the construction of Military Trail has been let as a 4 lane section from High Point Entrance to Via Delray Boulevard plus the appropriate paved tapers.

21. The property owner shall only be permitted one access onto Military Trail per the County Engineers approval.

22. The petitioner shall not be permitted to establish any restaurant, bar, or lounge nor any food preparation activity which involves on-site cooking. It is not the intent of this condition to prohibit limited heating of food prepared elsewhere. Any exhaust fan shall use heavy duty filters to eliminate odors.

Commissioner Owens, moved for approval of the petition. The motion was seconded by Commissioner Spillias, and upon being put to a vote, the vote was as follows:

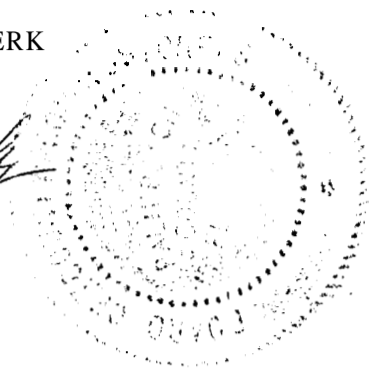
Karen T. Marcus, Chairman	--	AYE
Jerry L. Owens, Vice Chairman	--	AYE
Ken Spillias, Member	--	AYE
Dorothy Wilken, Member	--	AYE
Kenneth M. Adams, Member	--	ABSENT

The foregoing resolution was declared duly passed and adopted this 10th day of June, 1986 confirming action of the 2nd May 1986.

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: *Barbara O'Leary*
Deputy Clerk



APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Mindy Sprague
County Attorney