

RESOLUTION NO. R-91- 1463

RESOLUTION APPROVING ZONING PETITION NO. 75-151(B)
MODIFICATION OF COMMISSION REQUIREMENTS
PETITION OF K & R 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. 75-151(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on July 25, 1991; 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. 75-151(B), the petition of K & R ASSOCIATES, BY JEFFREY A. ORNSTEIN, AGENT, for a MODIFICATION OF COMMISSION REQUIREMENTS on a parcel of land lying in Tract "C", Plat No. 6 of DELRAY VILLAS, Plat Book 47, Pages 24 and 25, Section 11, Township 46 South, Range 42 East, in the RS Zoning District, was approved on July 25, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The petitioner shall comply with all previous conditions of approval, including original deadlines for Zoning Code Section 402.9 compliance, unless expressly modified herein.
2. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 102). Any modifications must be approved by the Board of County Commissioners

unless the proposed use or design changes are permitted pursuant to Zoning Code Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval.

B. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters, shall be confined to areas designated on the site plan and shall be screened by a solid opaque enclosure constructed of brick, concrete, concrete block, or other decorative masonry or comparable wood or steel, consistent with the architectural character of the development. The open end of the enclosure shall have an obscuring opaque gate. All exterior sides of such enclosures, except the open end, shall be landscaped with thirty-six (36) inch high shrub and hedge material planted twenty-four (24) inches on center. This provision shall not apply to litter containers provided for the convenience of pedestrians.

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. No further utility confirmation is required for this modification.

D. MODIFICATION OF COMMISSION REQUIREMENTS

1. Condition No. 9 of Petition No. 75-151, Resolution No. R-75-863, which presently reads as follows:

"The commercial tract "A" shall be limited to forty thousand (40,000) feet gross floor area per Traffic Impact Analysis."

Is amended to read as follows:

The commercial tract "A" shall be limited to 40,264 square feet of gross floor area.

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 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.

2. Prior to Site Plan approval the property owner shall verify conveyance to Palm Beach County Land Development Division by road right-of-way warranty deed the required right-of-way for West Atlantic Avenue, 60 feet from centerline free of all encumbrances and encroachments. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer.
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. The Fair Share Fee for this project at the time of the Building Permit presently is \$550.00 (10 trips X \$55.00 per trip).

F. USE LIMITATION

1. No outdoor speaker or public address systems shall be permitted on site. Existing outdoor loud speakers or public address systems shall be removed from site.

G. COMPLIANCE

1. As provided in 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.

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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.

2. The approval of this petition shall not affect any Zoning Code Section 402.9 (Mandatory Review of Development Approval) review date established as the result of a previous approval for this property.

Commissioner Roberts moved for approval of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted this 8th day of October, 1991.

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