

RESOLUTION NO. **R-93- 347**
RESOLUTION APPROVING ZONING PETITION NO. **85-69(B)**
MODIFICATION OF COMMISSION REQUIREMENTS
PETITION OF LAKE WORTH **441 ASSOCIATES, LTD.**

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. **85-69(B)** was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on August **27, 1992**; 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. **85-69(B)** the petition of LAKE WORTH **441 ASSOCIATES, LTD.**, BY KIERAN J. KILDAY, AGENT, for a MODIFICATION OF COMMISSION REQUIREMENTS - CONDITION NO. **4** OF RESOLUTION NO. **85-1240** (LOADING AND DUMPSTER PICK UP HOURS), on a parcel of land lying in Tracts **48, 49, 50** and **51**, Block **25**, PALM BEACH FARMS COMPANY PLAT NO. **3**, as recorded in Plat Book **2**, Pages **45** through **54** of the public records of Palm Beach County, Florida, described as follows: BEGINNING at the southwest corner of Tract **49**, Block **25**, PALM BEACH FARMS COMPANY PLAT NO. **3**, as recorded in Plat Book **2**, Pages **45** through **54** of the public records of Palm Beach County, Florida; thence east (bearings cited herein are relative to the bearings shown on Woods Walk Plat One) along the south line of said Tract **49**, a distance of **40.05** feet; thence North **02°53'34"** East along the east right-of-way line of Lake Worth Drainage District Canal **E-3**, said east right of way line **40.00** feet east of and parallel with the west line of said tract **49**, a distance of **239.50** feet to the southwest corner of Tract **E** of Woods Walk Plat One as recorded in Plat Book **58**, Pages **1** through **5** of the public records of Palm Beach County, Florida; thence North **89°59'00"** east along the south boundary of Tract **E** and Tract **I** of said Woods Walk Plat One, a distance of **1,042.89** feet; thence South **00°01'00"** East along the west boundary of said Tract **I**, a distance of **830.24** feet; thence South **89°59'00"** West along the North right of way line of Lake Worth Road, as described in a right

of way deed in Official Records **Book 4850**, Page **1103** of said public records, a distance of **286.22** feet; thence North **87°09'15"** West along said North right of way line as described in said right of way deed, a distance of **400.50** feet; thence South **89°59'00"** West along said north right of way line as described in said right of way deed, a distance of **437.90** feet; thence North **02°53'34"** East along the west line of said Tract **50**, a distance of **571.80** feet to the POINT OF BEGINNING; SUBJECT TO an easement in favor of Lake Worth Drainage District over the west **40.00** feet of Tract **50**, Block **25**, located in the N.E Corner of Lake Worth Road and US **441 (SR 7)**, in the CG Zoning District, was approved on August **27, 1992**, as advertised, subject to the following conditions:

A. ALL PETITIONS

1. Condition **No. 1** of Resolution No. **R-89-1449**, Zoning Petition No. **85-69(A)**, which currently states:

"The developer shall comply with all previous conditions of approval unless expressly modified herein."

Is hereby amended to read:

"All previous conditions of approval applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines for Zoning Code Section **402.9** compliance, as amended, unless expressly modified."
(MONITORING)

2. Condition **No. 2** of Resolution No. **R-89-1449**, Zoning Petition No. **85-69(A)**, which currently states:

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

Is hereby deleted.

B. BUILDING & SITE DESIGN

1. Prior to site plan certification, the site plan shall be amended to reflect the following:
 - a. **A six foot** high solid masonry wall along the north property line with **10-12** foot high canopy trees planted 20 feet on center on the inside of the wall.
 - b. Enclosed loading areas separated from any nearby residential areas by ten foot high wing walls.
 - c. Typical building, access way, parking stall and loading dimensions.
 - d. preservation of significant wooded areas and proposed location of areas of tree preservation.
 - e. Delineation of "lease and/or out parcels".
 - f. The ten foot landscape buffer along the east property line shall be of **75%** capacity. (Previously Condition **No. 1** of Resolution No. **R-85-1240**, Zoning Petition No. **85-69**). (ZONING)

2. All mechanical and air conditioning equipment shall be roof mounted and screened with parapets or be contained within the enclosed loading and service area. (Previously Condition No. 2 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ZONING/BUILDING)
3. The north and east facades of the shopping center shall be given architectural treatment consistent with the front of the center to avoid an incompatible industrial appearance impact upon nearby residential development. (Previously Condition No. 3 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ZONING/BUILDING)

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. (Previously Condition No. 24 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ERM)
2. Any fuel or chemical storage tanks shall be installed with protection against leakage or spillage due to corrosion, breakage, structural failure or other means. The design and installation plans will be submitted to the Health Department for approval prior to installation. (Previously Condition No. 25 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ERM)
3. 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. (Previously Condition No. 26 of Resolution No. R-85-1240, Petition No. 85-69). (ERM)
4. The owner of the facility will participate in an oil recycling program which insures proper reuse of disposal of waste oil. (Previously Condition No. 27 of Resolution No. R-85-1240, Zoning Petition No. 85-69) (HEALTH - ERM)
5. Condition No. 28 of Resolution No. R-85-1240, Zoning Petition No. 85-69, which currently states:

"The petitioner shall present a notarized Affidavit of Disclosure at the Zoning Authority meeting."

Is hereby deleted.

D. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (Previously Condition No. 3 of Resolution No. R-89-1449, Zoning Petition No. 85-69(A)). (HEALTH)
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (Previously Condition No. 4 of Resolution No. R-89-1449, Zoning Petition No. 85-69(A)). (HEALTH)

E. ENGINEERING

1. This development shall retain on site the first one inch of the stormwater runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended. (Previously Condition No. 9 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ENGINEERING)

2. The property owner shall convey for the ultimate right-of-way of:
 - a. Lake Worth Road, 120 feet north of the existing north right-of-way line of the Lake Worth Drainage District L-12 Canal within ninety days of adoption of the Resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of the first Building Permit.
 - b. The ultimate right-of-way from the subject property, required for the "Special Intersection" at Lake Worth Road and State Road 7, 140 feet north of the existing north right-of-way line of the Lake Worth Drainage District L-12 Canal. (Previously Condition No. 10 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ENGINEERING)
3. The Developer shall construct concurrent with the construction of the project's access road onto:
 - a. The proposed residential road for Petition 85-71, a right turn lane north approach and a left turn lane south approach.
 - b. State Road 7, a left turn lane north approach and right turn lane south approach. (Previously Condition No. 11 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ENGINEERING)
4. The Property Owner shall provide Palm Beach County with a road drainage easement with sufficient retention/detention capacity through this project's internal lake system to legal positive out fall for the road drainage of Lake Worth Road and State Road 7. This drainage easement shall be subject to all governmental agency requirements. (Previously Condition No. 12 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ENGINEERING)
5. 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 \$324,480. (Previously Condition No. 13 of Resolution No. R-85-1240, Pet. No. 85-69). (IMPACT FEE COORDINATOR)
6. Based on the amount of traffic generated by this development, the Developer has agreed to contribute an additional \$81,120 toward Palm Beach County's existing Roadway Improvement Program. These total funds (\$405,600) are to be paid prior to the issuance of the first building permit. Credit for the impact fee shall be given toward the work performed in Conditions Number 20 and 21.

If the Fair Share Contribution for Road Improvements Ordinance is amended to increase the Fair Share Fee, this additional amount \$81,120 shall be credited toward the increased Fair Share Fee. (Previously Condition No. 14 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (IMPACT FEE COORDINATOR)

7. The Property Owner shall obtain an on site Drainage Permit from the Palm Beach County Engineering Department Permit section prior to the issuance of a Building Permit. (Previously Condition No. 15 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ENGINEERING)
8. The Property Owner shall obtain a Turnout Permit from the Florida Department of Transportation for access onto State Road 7. (Previously Condition No. 16 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ENGINEERING)
9. The Property Owner shall participate in the Construction of State Road 7 and Lake Worth Road by Petition 84-98 by constructing as a 4 lane median Divided Section:
 - a. State Road 7 from a point 400 feet north of Lake Worth Road (Northern terminus of construction by Petition 84-98), north to a Point 200 feet north of the proposed project entrance plus the appropriate transitions.
 - b. Lake Worth Road from a point 400 feet east of State Road (East terminus of construction of Petition 84-98 east to the projects entrance road onto Lake Worth Road plus the appropriate tapers. (Previously Condition No. 17 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ENGINEERING)
10. The Property Owner shall provide the Construction Plans for Lake Worth Road and State Road 7 per the above requirements. These Construction Plans shall be per the Florida DOT and the County Engineers approval based upon Palm Beach County's minimum Construction Plan standards as they presently exist **or** as they may from time to time be amended.

These Construction Plans shall be completed concurrent with the Construction Plans which will be submitted with Petition **No.** 84-98. (Previously Condition No. 18 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ENGINEERING)

11. The property Owner shall provide Palm Beach County with all associated Right-of-way Documents, including but not limited to, surveys, property owner's maps, legal descriptions for acquisition, parcelled Right-of-way maps, required for the acquisition of Right-of-way for both State Road 7 and Lake Worth Road per the above requirements. The Developer shall enter into an agreement with Palm Beach County's Land Acquisition Section for all required appraisals prior to August 1, 1985; for which this Petition shall provide all necessary funds.

NOTE: It is the intent that all plans, R/W Acquisitions and construction of State Road 7 and Lake Worth Road shall be let as one Contract with the Developer of Petition 84-98. Credit for the impact fee SHALL NOT be given for any work performed under this condition. (Previously Condition No. 19 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ENGINEERING)

12. The Developer shall provide the Construction Plans for Lake Worth Road a 4 lane median divided section expandable to six lanes, from the property entrance road east to a point 100 feet west of the Florida Turnpike

plus any appropriate tapers. These Construction Plans shall be per the Florida DOT and the County Engineers Approval based upon Palm Beach County's minimum Construction Plan standards as they presently exist or as they may from time to time be amended.

These Construction Plans shall be completed prior to December 31, 1986 or prior to the issuance of Building Permit whichever shall occur first. (Previously Condition No. 20 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (MONITORING/Building-Engineering)

13. The Developer shall provide Palm Beach County with all associated Right-of-way Documents, including but not limited to, surveys, property owner's maps, legal descriptions for acquisition, parcelled Right-of-way maps, required for the acquisition of Right-of-way for Lake Worth Road from the projects entrance road east to a point 100 feet west of the Florida Turnpike plus any appropriate tapers. The Developer shall enter into an agreement with Palm Beach County's Land Acquisition for all required appraisals prior to August 1, 1985; for which this Petitioner shall provide all necessary funds. (Previously Condition No. 21 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (MONITORING-Engineering)
14. The petitioner shall convey to the Lake Worth Drainage District the West 40 feet of Tract 50, Block 25, Palm Beach Farms Company Plat No. 3, for the required right-of-way for Equalizing Canal No. 1, by quit claim deed or an easement deed in the form provided by said district within ninety (90) days of adoption of the resolution by the Board of County Commissioners. (Previously Condition No. 22 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (MONITORING-LWDD/Engineering)
15. Surety required for all off-site improvements shall be posted prior to the issuance of a building permit or within 180 days of Special Exception approval, whichever shall first occur. (Previously Condition No. 29 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (MONITORING/BUILDING-Engineering)
16. In order to comply with the Mandatory Traffic Performance Standards the property owner shall be limited to 106,000 square feet of commercial area until Lake Worth Road has been widened to a 4-lane median divided section under the Florida Turnpike. (Previously Condition No. 30 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (BUILDING-Engineering)
17. The petitioner shall provide an eight foot concrete bicycle path along the project's Lake Worth Road and S.R. 7 frontages. (Previously Condition No. 31 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ENGINEERING)
18. The developer shall contribute an additional \$50,000 to be used toward meeting the cost of the State Road 7 and Lake Worth Road intersection improvements. These funds will be paid as follows:
 - a. The amount of \$25,000 to be paid at the time of building permit issuance of Phase I (1 to 85,000 square feet); and,

- b. The amount of \$25,000 to be paid at the time of building permit issuance of Phase II (85,001 square feet to total square feet). (Previously Condition No. 5 of Resolution No. R-89-1449, Zoning Petition No. 85-69(A)). (ENGINEERING)

F. MODIFICATION

1. Condition No. 4 of Resolution No. R-85-1240, Zoning Petition No. 85-69, which currently states:

"No stock loading or dumpster pickup will be permitted between the hours of 8:00 p.m. and 8:00 a.m. Access points shall be such that the removal vehicle need not make unnecessary turning or backing movements."

Is hereby amended to read as follows:

"No stock loading or delivery shall be permitted between the hours of 8:00 p.m. and 8:00 a.m., with the exception of the supermarket grocery store only. For the supermarket grocery store only no stock loading or delivery shall be permitted between the hours of 8:00 p.m. and 7:00 a.m. Monday through Friday and between the hours of 8:00 p.m. and 8:00 a.m. on Saturday and Sunday. Dumpster pickup shall be limited to 8:00 a.m. to 8:00 p.m. for all uses. Access points shall be such that the removal vehicle need not make unnecessary turning or backing movements." (CODE ENFORCEMENT)

G. USE

1. No storage or placement of any materials, refuse, equipment or accumulated debris shall be permitted in the rear of the shopping center. (Previously Condition No. 5 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (CODE ENFORCEMENT)
2. No parking of any vehicles shall be permitted along the rear of the shopping center except in designated spaces or unloading areas. (Previously Condition No. 6 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (CODE ENFORCEMENT)
3. Security lighting shall be directed away from nearby residences. (Previously Condition No. 7 of Resolution NO. R-85-1240, Zoning Petition No. 85-69). (CODE ENFORCEMENT)
4. Condition No. 23 of Resolution No. R-85-1240, Zoning Petition No. 85-69, which states:

"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."

Is hereby deleted. (Reason - Code Requirement)

H. VEGETATION PRESERVATION

1. The developer shall preserve existing significant vegetation wherever possible and shall incorporate said vegetation into the project design. Appropriate measures

shall also be taken to protect these preservation areas during site clearing and construction. Preserved areas of vegetation along the interior and perimeter of the site shall be credited toward meeting interior and perimeter landscaping requirements respectively. (Previously Condition No. 8 of Resolution No. R-85-1240, Zoning Petition No. 85-69). (ZONING)

I. COMPLIANCE

1. Condition No. 6 of Resolution No. R-89-1449, Zoning Petition No. 85-69(A), which currently states:

"Failure to comply with any conditions of approval may result in 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. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code."

Is hereby amended to read as follows:

"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 one or more of the following:

- a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
 - b. The revocation of any 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;
 - c. Rezoning of the property;
 - d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;
 - e. Citation of the property owner for violation of the Zoning Code." (MONITORING)
2. 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 Commissioners decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

Commissioner Marcus moved for approval of the Resolution.

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

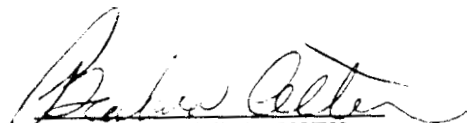
Mary McCarty, Chair	--	aye
Ken Foster	--	aye
Burt Aaronson	--	aye
Maude Ford Lee	--	aye
Karen T. Marcus	--	aye
Warren H. Newell	--	aye
Carol A. Roberts	--	aye

The Chair thereupon declared the resolution was duly passed and adopted this 16th day of March, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK