

RESOLUTION NO. R-90- 819

RESOLUTION APPROVING ZONING PETITION NO. 89-80
SPECIAL EXCEPTION PETITION OF
DELRAY BEACH SENIOR LIVING CENTER

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. 89-80 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on November 30, 1989; 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 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, 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. 89-80, the petition of DELRAY BEACH SENIOR LIVING CENTER, BY F. MARTIN PERRY, AGENT, for a SPECIAL EXCEPTION TO PERMIT A PLANNED UNIT DEVELOPMENT CONSISTING EXCLUSIVELY OF A CONGREGATE LIVING FACILITY (TYPE 111) on a parcel of land lying in the West 1/2 of the Southwest 1/4 of the Southeast 1/4 of Section 14, Township 46 South, Range 42 East, lying South of State of State Road 806 (West Atlantic Avenue), less the West 63.00 feet thereof, being located on the South side of Atlantic Avenue (SR 806), approximately 300.00 feet West of Markland Lane, in a RM-Multiple Family Residential Zoning District (Medium Density), was approved on November 30, 1989 as advertised, subject to the following conditions:

1. Prior to Site Plan Review submittal the Master Plan shall be amended to indicate:
 - a. Compliance with all Zoning Code requirements and Subdivision Code ordinances and regulations.
 - b. A maximum building height of forty-eight (48) feet.

- c. A fifteen (15) foot wide landscape strip along the north and east property lines and a twenty-five (25) foot PUD buffer along the south and west property lines of the site. These buffers shall meet the requirements of Alternative Landscape Buffer NO.3 and be upgraded with minimum twelve (12) feet high native canopy trees spaced twenty (20) feet on center and a minimum thirty (30) inch hedge spaced twenty-four (24) inches on center.
 - d. If converted to straight residential zoning, a maximum conversion density of eight (8) dwelling units/acre may be permitted.
2. Use of the site shall be limited to a PUD consisting entirely of a 583 residents.
 3. All property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office, which shall provide, among other things, for: Formation of a single "master" property owner's association and automatic membership in the "master" association by any party holding title to any portion of the property included in the PUD.
 4. No off premises signs shall be permitted on site.
 5. Parking **of** vehicles shall take place in designated parking areas only.
 6. The petitioner shall preserve native vegetation located within the perimeter landscape strips and relocate or incorporate into site design any native vegetation found on site.
 7. Prior to Site Plan Review the petitioner shall submit a tree survey to locate and verify the preservation of existing slash pines within all perimeter landscape strips, interior landscape islands and medians.
 8. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
 9. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
 10. 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.

11. Prior to April 1, 1990 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for:
 - a. Sims Road a total of **80** feet west of the L.W.D.D. E-3 canal. This right-of-way shall be extended a minimum distance of **300** feet north of the north right-of-way of the Lake Worth Drainage District L-34 Canal.
 - b. West Atlantic Avenue, **60** feet from centerline.
 - c. The construction of a right turn lane, west approach on West Atlantic Avenue and the project's entrance road. This right-of-way shall be for a minimum of **12** foot in width, **150** feet in length and a taper length of **180** feet.

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.

12. The Property owner shall construct a right turn lane, west approach on West Atlantic Avenue at the project's entrance road concurrent with onsite paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy.
13. If required by the County Engineer the Property owner shall convey to Palm Beach County prior to April 1, 1990 adequate road drainage easements through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of Sims Road and West Atlantic Avenue along the property frontage and for a maximum **400** ft. distance each side of the property boundary lines along Sims Road and West Atlantic Avenue. Said easements shall be no less than **20** feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District the ultimate Thoroughfare Plan Road Section(s) of the included segment.
14. 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 **\$84,040.00** (**1,528** trips X **\$55.00** per trip).

15. The property owner shall convey to the Lake Worth Drainage District the south 20 feet of the West 1/2 of the Southwest 1/4 of the Southeast 1/4 of Section 14, Township 46, Range 42 the required right-of-way for Lateral Equalizing Canal No. 34 and the West 1/2 of the Southwest 1/4 of the Southeast 1/4 for the required right-of-way for Equalizing Canal No. 3, all by Quit Claim Deed or an Easement Deed in the form provided by said District within ninety (90) days of the approval of the Resolution approving this project.
16. The Property owner shall provide construction plans including all turn lanes to **Land Development Division** for the construction of Sims Road as a 2 lane section (expandable to 5 lanes from the project's entrance road South to the north limit of construction by the Lakes of Delray Project) plus the appropriate tapers. These construction plans shall be approved by the County Engineer 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 by September 1, 1990. Plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division.
17. The property owner shall provide for the acquisition by funding any right-of-way required for the construction of Sims Road as referenced in the Condition above. The Developer shall provide surety acceptable to the Office of the County Engineer and County Attorney prior to April 1, 1990.
18. The property owner shall prepare and provide to the County all necessary right-of-way acquisition documents including but not limited to surveys, property owners maps, legal descriptions for acquisition, and parcelled right-of-way maps required for the construction of Sims Road as referenced above and subject to the approval of the County Engineer. These documents shall include a title search for a minimum of 25 years. Notification shall be given to **Land Development Division**.
19. The property owner shall construct Sims Road as a 2 lane section from the project's entrance road South to the northern limits of construction of the Lakes of Delray Project per the condition above. This construction shall be completed prior to July 1, 1991. All canal crossings within the project limits shall be constructed to their ultimate configuration.
20. Surety required to the **Land Development Division** for the offsite road improvements as outlined in Condition No. 16, No. 17, 18 and No. 19 shall be posted with the Office of the County Engineer prior to April 1, 1990.
21. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following occupancy schedule in accordance with an agreement between the County and the developer:

- a) Phase I - Occupancy shall be restricted to a total of **226** beds until the contract for the widening of West Atlantic Avenue from Sims Road to Military Trail is let (currently scheduled in Fiscal Year **1991-92**).
 - b) Phase II - Occupancy shall be restricted to a total of **293** beds until the contract for the four laning of Linton Boulevard from Sims Road to Military Trail is let (currently scheduled in Fiscal Year **1991-92**).
 - c) Phase III - Occupancy shall be restricted to **357** beds until the contract for the six laning of Military Trail from West Atlantic Avenue to Lake Ida Road is let (currently scheduled in Fiscal Year **1991-92**).
 - d) Phase IV - Occupancy shall be restricted to a total of **467** beds in addition to **24** bed Assisted Care Facility until the contract for the widening of West Atlantic Avenue from Military Trail to Congress Avenue is let (currently scheduled in Fiscal Year **1991-92**).
- 22. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance **73-4** as amended.
 - 23. Prior to site plan approval the petitioner shall **develop** an agreement with the Zoning Division to monitor condition **No. 21** above.
 - 24. 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.

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:

Carol J. Elmquist, Chair	--	AYE
Karen T. Marcus	--	AYE
Carol Roberts	--	AYE
Ron Howard	--	AYE
Carole Phillips	--	AYE

The Chair thereupon declared the resolution **was duly passed** and adopted this 22nd day of May, 1990.

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