

RESOLUTION APPROVING ZONING PETITION **DOA88-29(B)**
DEVELOPMENT ORDER AMENDMENT
PETITION OF DKS ASSOC.

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, 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 Article 5 of the Palm Beach County Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition **DOA88-29(B)** was presented to the Board of County Commissioners at a public hearing conducted on January 3, 1994; and

WHEREAS, the Board of County commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, section 5.8 (Compliance with Time Limitations), of the Palm Beach County Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach county Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, **with conditions** as adopted, complies with standards imposed on it by applicable provisions of the Palm Beach County Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Development Order Amendment has a concurrency reservation/exemption and therefore complies with Art. 11 (Adequate Public Facility Standards) of the Palm Beach County Land Development Code.
9. This Development Order Amendment, with conditions. as

adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 of the Palm Beach County Land Development 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 Zoning Petition **DOA88-29(B)** the petition of DKS ASSOC. for a DEVELOPMENT ORDER AMENDMENT in the General Commercial (CG) Zoning District, to amend the master plan to add an access point for a previously approved parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located on a vicinity sketch as shown on EXHIBIT B, attached hereto and made a part hereof, was approved on January 3, 1994; subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted this 3rd day of January, 1994.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Dorothy Wilken*
COUNTY ATTORNEY

BY: *Lisa M. Blain*
DEPUTY CLERK

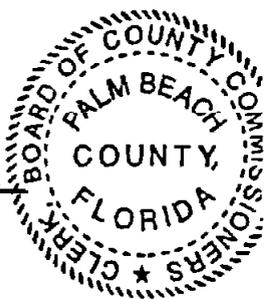


EXHIBIT A

LEGAL DESCRIPTION

PROPERTY DESCRIPTION:

PARCEL I : Lot 1, according to the Plat of SMITHVIEW, as recorded in Plat Book 23, page 112, Public Records of Palm Beach County, Florida

Together with:

PARCEL I I: A parcel of land in the Northeast Quarter of the Northwest Quarter of Section 29, Township 43 South, Range 43 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the intersection of the East line of the Plat of MADRID PARK, as recorded in Plat Book 13, page 78, Public Records of Palm Beach County, Florida, with the North line of said Section 29; thence South $88^{\circ} 45' 36''$ East along the North line of said Section 29 (the North line of said Section 29 is assumed to bear South $88^{\circ} 45' 36''$ East and all other bearings are relative thereto) a distance of 293.01 feet to the point of intersection with the northerly extension of the East line of Frank Street as shown on the Plat of Smithview, as recorded in Plat Book 23, page 112, Public Records of Palm Beach County, Florida; thence South $03^{\circ} 37' 04''$ West along said extension a distance of 15.00 feet to a point on the South right of way line of Okeechobee Boulevard as shown in Road Plat Book 4, page 221, Public Records of Palm Beach County, Florida and the POINT OF BEGINNING of the hereinafter described parcel of land; thence continue South $03^{\circ} 37' 04''$ West along the East line of Frank Street a distance of 192.78 feet; thence South $10^{\circ} 11' 09''$ West a distance of 77.00 feet; thence South $01^{\circ} 55' 44''$ West a distance of 300.00 feet to the southwest corner of Lot 6 of said Plat of Smithview; thence South $88^{\circ} 04' 16''$ East along the South line of said Lot 6 a distance of 60.00 feet to the southeast corner thereof; thence South $01^{\circ} 55' 44''$ West along the East line of Lot 5 of said Plat of Smithview a distance of 100.00 feet to the southeast corner thereof and to a point on the north line of a parcel of land described in Deed Book 931, page 380, Public Records of Palm Beach County, Florida; thence South $88^{\circ} 43' 36''$ East along the aforementioned north line a distance of 76.46 feet; thence North $01^{\circ} 44' 54''$ East along the West line of a parcel of land described in Deed Book 861, page 542, Public Records of Palm Beach County, Florida a distance of 84.43 feet; thence South $88^{\circ} 45' 36''$ East parallel with the North line of said Section 29 a distance of 20.00 feet; thence North $01^{\circ} 44' 54''$ East parallel with the East line of said plat of Madrid Park a distance of 50.00 feet; thence South $88^{\circ} 45' 36''$ East parallel with the North line of said Section 29 a distance of 235.00 feet; thence North $01^{\circ} 44' 54''$ East parallel with the East line of said plat of Madrid Park a distance of 216.00 feet; thence South $88^{\circ} 45' 36''$ East parallel with the North line of said Section 29 a distance of 98.00 feet; thence North $01^{\circ} 44' 54''$ East parallel with the East line of said plat of Madrid Park a distance of 124.00 feet; thence North $88^{\circ} 45' 36''$ West parallel with the North line of said Section 29 a distance of 98.00 feet; thence North $01^{\circ} 44' 54''$ East parallel with the East line of said plat of Madrid Park a distance of 195.00 feet to a point on the south right of way line of Okeechobee Boulevard; thence North $88^{\circ} 45' 36''$ West along said right of way line a distance of 372.62 feet to the Point of Beginning.

LESS AND EXCEPT right-of-way for Okeechobee Boulevard as described in Official Record Book 7416, Page 1470, Public Records of Palm Beach County, Florida.

Containing in all 5.352 acres more or less.

Subject to easements and rights-of-way of record.



EXHIBIT C

CONDITIONS OF APPROVAL

A. STANDARD CONDITIONS

1. All previous conditions of approval contained in Resolutions R-89-956 and R-91-368 applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines pursuant to Section 5.8 of the ULDC, as amended, unless expressly modified. (MONITORING)

2. Condition No. A.1 of Resolution R-91-368, which currently states:

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

Is hereby deleted. [CONDITIONS ARE CONSOLIDATED]

3. Condition No. A.2 of Resolution R-91-368, which currently states:

The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.

Is hereby deleted. [CODE REQUIREMENT]

4. Condition No. A.3 of Resolution R-91-368, which currently states:

Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section **402.7 (E) 2 (b)** (Bite Plan Review Committee Powers and Standards of Review).

Is hereby deleted. [REASON: CODE REQUIREMENT]

B. DUMPSTERS

1. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind an enclosure having an architectural treatment compatible with the principal building. The open end **of** the enclosure shall **have an** obscuring, opaque gate. (Previously Condition B.1 of Resolution R-91-368) (BUILDING/CODE ENFORCEMENT)

C. HEALTH

i. Generation and disposal **of** hazardous effluents **into** sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP) and Agency responsible for sewage works are constructed and **used** by project tenants or owners generating such effluents. (Previously Condition C.1 **of** Resolution R-91-368) (HEALTH)

2. Condition No. C.2 of Resolution R-91-368, which currently states:

*

Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.

Is hereby amended to state:

Sewer service-is available to the property. Therefore, no septic tank shall be permitted on this site. All existing **onsite** sewage disposal systems must be abandoned in accordance with Chapter **10D-6**, PAC., and Palm Beach County ECR-I. (HEALTH)

3. Condition No. C.3 of Resolution R-91-368, which currently states:

Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

Is hereby amended to state:

Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing **onsite** potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II. (HEALTH)

4. *The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil. (Previously Condition No. C.3 of Resolution R-91-368) (HEALTH)*

5. Condition 10 of Resolution R-89-956, which currently states:

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.

Is hereby deleted. [REASON: DUPLICATE CONDITION]

6. Condition 11 of Resolution R-89-956, which currently states:

Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.

Is hereby deleted. [REASON: DUPLICATE CONDITION]

7. Condition 12 of Resolution R-89-956, which currently states:

Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

Is hereby deleted. [REASON: DUPLICATE CONDITION]

D. IRRIGATION QUALITY WATER

1. Condition No. C.3 of Resolution **R-91-368**, which currently states;

When irrigation quality water is available within **five-hundred (500)** feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the **property owner.**

Is hereby amended to state:

When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Protection and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner.
(UTILITIES)

E. LANDSCAPING

1. Condition E.1 of Resolution R-91-368, which currently states:

Prior to site plan certification, the site plan, and the site plan tabular data, shall be revised to conform to the landscape conditions of approval, and where possible to the requirements of Section 500.35 (Landscape Code) of the Zoning Code.

Is hereby deleted. [REASON: CODE REQUIREMENT]

The following conditions shall be met prior to January 25, 1991:

2. **The** petitioner shall install, maintain, irrigate and replace all trees and landscape material on the entire subject property in accordance with Section 500.35.1 (Installation, Maintenance, Irrigation and Replacement) of the Landscape Code. (Previously condition F.2 of Resolution R-91-368) (ZONING)
3. The landscape strip along the southeast boundary of the property, where the site abuts residential uses, shall be supplemented with four **(4)** fourteen foot native canopy trees and a continuous opaque hedge. Hedge material shall be installed at thirty-six (36) inches in height and shall be maintained at a minimum height of **forty-eight** (48) inches within one year **of** installation. (Previously condition F.3 of Resolution R-91-368) (ZONING)
4. The hedge along the entire south and east perimeters of the entire subject property shall be maintained at a minimum height of forty eight (48) inches. (Previously condition F.4 of Resolution R-91-368) (ZONING)
5. Trees shall be allowed to reach a minimum height of fifteen (15) feet and shall be maintained according to Arbor Society Standards and Landscape Code requirements. (Previously condition F.5 of Resolution R-91-368) (ZONING)
6. Condition F.6 of Resolution R-91-36, which currently states:

All plant material shall be fully irrigated and maintained in a healthy viable condition.

Is hereby amended. [REASON: CODE REQUIREMENT]

F. LANDSCAPING WITHIN MEDIAN

1. Condition F.1 of Resolution R-91-368, which currently states;

If permittable by the **State** Department of Transportation or County Engineering Department, the petitioner shall landscape the median **of** all abutting right-of-ways. This landscaping shall consist **of:** one tea **(10)** foot tall native canopy tree planted an average of thirty (30) feet on center, and appropriate ground cover and irrigation. All materials shall be selected, maintained and installed according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation **of** the property owner.

Is hereby amended to state:

- a. Prior to June 1, 1995, 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:

Trees:

Laurel Oak
Live Oak
Slash Pine
Sabal Palmetto

Ground cover:

Wedilia
Bahia Grass

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:

- 1) All plants shall be container grown or field collected and transplanted from the project site.
 - 2) 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. (BUILDING/ENGINEERING)
- b. 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 Homeowners' Association, and shall be installed on or before August 1, 1995. (BUILDING/ENGINEER - Zoning)
- c. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to June 1, 1995 to reflect this obligation. Maintenance shall be in accordance with the issued permits. (BUILDING/ENGINEERING - County Attorney)

G. LIGHTING

1. Outdoor lighting used to illuminate **the** premises shall be low intensity, shielded and directed away from adjacent

properties and streets. (Previously Condition G.1 of resolution R-91-368) (CODE ENFORCEMENT)

H. RECYCLE SOLID WASTE

1. The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products, as programs are available. (Previously condition H.1 of Resolution R-91-368) **(SWA)**

I. SIGNS

1. Condition I.1 of Resolution R-91-368, which currently states:

All on-site signs shall comply with the Palm Beach County Sign Code, Ordinance No. 72-23, and shall indicate principal uses only. Specifically, no snipe signs, banners, balloons or other prohibited types of advertisement shall be permitted on site.

Is hereby deleted. [REASON: CODE REQUIREMENT]

2. No off-premise signs shall be permitted on site. (Previously condition I.2 of Resolution R-91-368) (CODE ENFORCEMENT)
3. Prior to site plan certification, the petitioner shall provide **signage** information on the site plan which specifies the existing signs' locations and sizes. No additional pole, monument or point of purchase signs shall be allowed on site. (Previously condition I.3 of Resolution R-91-368) (ZONING)
4. Condition 9 of Resolution R-89-956, which currently states:

No off-premise signs shall be permitted on the site.

Is hereby deleted. [REASON: DUPLICATE CONDITION]

J. SITE DESIGN

1. Condition J.1 of Resolution R-91-368, which currently states:

Prior to certification, the site plan shall be amended to indicate the following:

- a. The location **of** the loading zone and the bay doors **for** the existing auto care facility,
- b. *The* location **of** the sign that designates the parking spaces on the west side of Frank street for employee and auto care only,
- c. *The* relocation or elimination of the loading space on the east side of the 15,795 square foot building,
- d. The relocation of all dumpsters to designated areas,
- e. The correct number of parking spaces and interior islands for the row of parking fronting on Okeechobee Boulevard,
- f. The one-way designation for the access aisle on the west side of the existing auto care facility,

g. The on-site **access** aisle **for** the auto care facility that **is** located on the east side of the **proposed** restaurant, and

h. The **adjacent** land uses.

Is hereby amended. [REASON: CONDITION SATISFIED]

2. No outdoor **speaker** or public **address systems** which **are** audible from the exterior of the site, shall **be** permitted. (Previously condition 5.2 of Resolution R-91-368) (CODE ENFORCEMENT)
3. All new mechanical and air-conditioning equipment shall be roof mounted and screened within parapets or be contained within **an** enclosed loading and service area. (Previously condition 5.3 of Resolution R-91-368) (BUILDING)
4. Prior to Bite Plan approval or December 26, 1990, the petitioner shall revise the Concurrency Reservation for this project to reflect the actual capacity needed for the proposed project. This Concurrency Reservation application (**90-07-18-009C**) should be reduced **by** 3,825 square feet. (Previously condition J.4 of Resolution R-91-368) (PLANNING)
5. Condition 1 of Resolution R-89-956 which currently states:

Prior to certification, the site plan shall be **amended** to indicate the following:

- a) location and the number of bay doors which will serve the auto care facility
- b) relocation **of** the loading zone along the western property line to an area that will not conflict with cars accessing the cellular phone facility.
- c) required loading berth adjacent to the 5,040 square foot structure.

Is hereby deleted. (REASON: CONDITION SATISFIED]

6. Vehicle parking shall be limited to the parking spaces designated on the approved site plan. No parking of vehicles shall be allowed in landscaped areas, **rights-of-way** or interior drives. (Previously condition 4 of Resolution R-89-956) (ZONING)

K. USE LIMITATION

1. The petitioner shall either relocate the proposed west to east access point which serves the 5,000 proposed building to the south, or be restricted from utilizing the following uses, convenience store, cafeteria, liquor store, lounge, video rental, drive-up financial institution, a fast food restaurant. (Previously condition 2 of Resolution R-89-956) (ZONING)
2. The auto care facility shall be limited to the sale and installation of cellular phones, alarms, or car stereos. (Previously condition 3 of Resolution R-89-956) (ZONING)
3. No outside storage of disassembled vehicles or parts thereof shall be permitted on site. (Previously condition 5 of Resolution R-89-956) (CODE ENFORCEMENT)

4. All auto service work shall be conducted indoors. (Previously condition 6 of Resolution R-89-956) (CODE ENFORCEMENT)
5. The petitioner shall clearly mark the parking spaces located across from the street to the west as employee and auto care service parking only. All cars being serviced shall be parked in this area, additional spaces in the rear **of** the center shall be **labelled** as employee parking only. (Previously condition 7 of Resolution R-89-956) (CODE ENFORCEMENT)
6. Condition 8 of Resolution R-89-956, which currently states:

Prior to Bite Plan certification, the property **owner** shall record a Unity of Control on the subject parcel.

Is hereby deleted. [REASON: CODE REQUIREMENT]

L. COMPLIANCE

1. Condition K.1 of Resolution R-91-368, which currently states:

As provided in the Palm Beach County 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.

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.

Is hereby deleted. [REASON: CODE REQUIREMENT]

2. Condition 13 of Resolution R-89-956, which currently states:

Failure to comply with the conditions herein 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**. Violations of the conditions herein shall constitute violation of the Palm Beach County Zoning Code,

Is hereby deleted. [REASON: CODE REQUIREMENT]