

0207 a

RESOLUTION NO. R-2009- 0002

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2007-02022
(CONTROL NUMBER 1982-00129)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF WEST PALM HOSPITALITY LLC
BY DAVID L. CARPENTER & ASSOC., AGENT
(SYKES COMMERCIAL)

WHEREAS, the Palm Beach County Board of County Commissioners, pursuant to Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Development Order Amendments for Class B Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Application ZV/DOA/R-2007-02022 was presented to the Board of County Commissioners at a public hearing conducted on January 8, 2009; 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 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
3. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. 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.
6. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Development Order Amendment, with conditions as adopted, is consistent

with applicable Neighborhood Plans.

- 8. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
- 9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.A.1.K.3.b (Board Action) of the Palm Beach County Unified Land Development Code requires that 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 Application ZV/DOA/R-2007-02022 the petition of West Palm Hospitality LLC, by David L. Carpenter & Assoc., agent, for a a Development Order Amendment to reconfigure the site plan, add square footage and restart the commencement clock on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on January 8, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

- | | |
|---|----------|
| Commissioner John F. Koons, Chairman | - Aye |
| Commissioner Burt Aaronson, Vice Chairman | - Absent |
| Commissioner Karen T. Marcus | - Aye |
| Commissioner Shelley Vana | - Aye |
| Commissioner Mary McCarty | - Absent |
| Commissioner Jess R. Santamaria | - Aye |
| Commissioner Addie L. Greene | - Aye |

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 8, 2009.

Filed with the Clerk of the Board of County Commissioners on January 13, 2009.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

BY: 
CHAIR 
Deputy Clerk

EXHIBIT A

LEGAL DESCRIPTION

THAT PART OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LYING SOUTH OF OKEECHOBEE ROAD AND BEING THE SOUTHERLY 510 FEET OF THE NORTHERLY 590 FEET OF THE WESTERLY 620.38 FEET OF THE EASTERLY 1260.38 FEET THEREOF. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

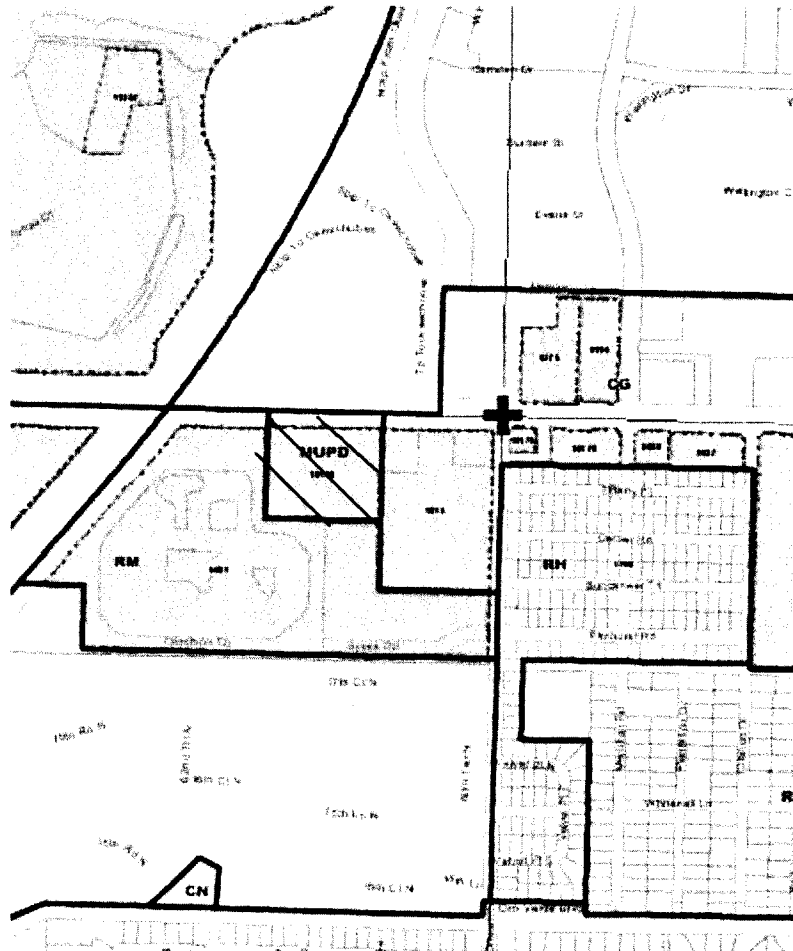
COMMENCE AT THE NORTHEAST CORNER OF SECTION 27, THENCE WITH A BEARING OF SOUTH 01' 52' 53" WEST, ALONG THE EAST LINE OF SECTION 27, A DISTANCE OF 75.00 FEET, TO A POINT ON THE SOUTH RIGHT OF WAY OF OKEECHOBEE BOULEVARD, EXTENDED, AND A LINE LYING 75.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SECTION 27; THENCE WITH A BEARING OF NORTH 88' 18' 09" WEST, ALONG THE SOUTH RIGHT OF WAY LINE OF OKEECHOBEE BOULEVARD, A DISTANCE OF 640.00 FEET TO A POINT; THENCE WITH A BEARING OF SOUTH 01' 52' 53" WEST, ALONG A LINE LYING 640.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SECTION 27, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE AFOREMENTIONED LINE LYING PARALLEL TO THE EAST LINE OF SECTION 27, WITH A BEARING OF SOUTH 01' 52' 53" WEST, A DISTANCE OF 510.00 FEET TO A POINT; THENCE WITH A BEARING OF NORTH 88' 18' 09" WEST, ALONG A LINE LYING 590.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SECTION 27 AND THE CENTERLINE OF OKEECHOBEE BLVD., A DISTANCE OF 620.38 FEET TO A POINT ON THE EAST LINE OF THE PLAT, THE CLASSIC AT WEST PALM BEACH, AS RECORDED IN PEAT BOOK 61, PAGE 158, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE WITH A BEARING OF NORTH 01' 52' 53" EAST, ALONG THE EAST LINE OF SAID PLAT, A DISTANCE OF 499.96 FEET TO THE NORTH EAST CORNER OF SAID PEAT AND THE SOUTH RIGHT OF WAY LINE OF OKEECHOBEE BOULEVARD, AS RECORDED IN DEED BOOK 1121, PAGE 622, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE WITH A BEARING OF SOUTH 88' 18' 09" EAST, ALONG THE SOUTH RIGHT OF WAY LINE OF OKEECHOBEE BLVD.~ AND A LINE LYING 90.00 FEET SOUTH OF THE NORTH LINE OF SECTION 27, A DISTANCE OF 67.00 FEET; THENCE WITH A BEARING OF NORTH 88' ~50' 06" EAST, A DISTANCE OF 200.24 FEET TO A POINT ON A LINE LYING 80.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SECTION 27; THENCE WITH A BEARING OF SOUTH 88' 18' 09" EAST, ALONG A LINE, LYING 80.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SECTION 27, A DISTANCE OF 353.42 FEET MORE or~ LESS TO THE POINT OF BEGINNING

TOGETHER WITH THAT CERTAIN EASEMENT FOR INGRESS AND EGRESS CREATED BY GRANT IN WARRANTY DEED DATED JULY 10, 1~78, FROM HARVEY E. SYKES, SR. AND MILDRED N. SYKES, HIS WIFE, TO RAMBLEW000 PLAZA, A FLORIDA JOINT VENTUR'E, AS RECORDED IN OFFICIAL RECORDS BOOK 2890, PAGE 798, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

CONTAINING 314,726 SQUARE FEET, (7.225 ACRES) MORE OR LESS AND SUBJECT TO EASEMENTS, RESERVATIONS, AND RIGHTS OF WAY OF RECORD

EXHIBIT B
VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. ZV/DOA/R2007-2022
Zoning Quad 31
Date



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.All previous Conditions of Approval as contained in Resolution R-83-195, Petition 1982-129 have been revoked. (ONGOING: ZONING -Zoning)(Previous All Petitions Condition 1 of Resolution 2007-078, Control No. 1982-129)

2.All Petitions Condition 2 of Resolution 2007-078 (Control No. 1982-129) which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Site Plan is dated November 2, 2006. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

Is hereby amended to read:

Development of the site shall be in accordance with the Site Plan dated July 28, 2008. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

3.Based on Article 2.E of the Unified Land Development Code, this development order meets the requirements to receive a new three (3) year review date from the date of approval of this resolution. (ONGOING: MONITORING-Zoning)

ARCHITECTURAL REVIEW

1.At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the hotel buildings A and B shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

ENGINEERING

1.Condition E.1 of Resolution R-2007-0078, Control Number 1982-00129, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule.

A) Building Permits for more than 150 PM peak hour trips which will provide for the following maximum mix of square footages and land uses:

- 28,750 square feet of gross leasable general commercial floor area (and)
138 room hotel (and)

12,400 square feet of medical office

shall not be issued until contract has been awarded for the eight lane construction of Okeechobee Boulevard from SR 7 to Jog Road plus the appropriate paved tapers. The mix of allowable commercial uses listed above as permitted by the Zoning Division, may be adjusted by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (BLDG PERMIT: MONITORING-Eng)

B) No Building Permits for the site may be issued after January 1, 2008. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the property owner shall be restricted to the following phasing schedule:

a.No building permits for the site shall be issued after December 31, 2011. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2.E of the Unified Land Development Code. (DATE: MONITORING Eng)

2.The property owner shall pay a Fair Share Fee in the amount equal to 1.5 times the required impact fee. This increased impact fee payment to be paid at the time of issuance of the first Building Permit. (ONGOING: ACCOUNTING-Impact Fee Coordinator) (Previous Condition E.2, Resolution R-2007-0078, Control Number 1982-00129)

3.The following strategies shall be implemented and shall be coordinated with the County Engineer and shall include but not be limited to:

- a. Encourage the use of mass transit usage to and from the site through
- Provision of bus stops and bus stop signs within the site
 - Distribution and posting of bus schedules onsite
 - Coordination with Palm Tran and or other mass transit service within the site if feasible as determined by Palm Tran
 - Provide for Bicycle facilities onsite
- (ONGOING) (Previous Condition E.3, Resolution R-2007-0078, Control 1982-00129)

4.The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Okeechobee Boulevard. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

a..The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

b..All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

c..At property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING-Eng)

d..Alternately, at the option of the Property Owner, and prior to the issuance of the first Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Okeechobee Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDG PERMIT: MONITORING -Eng)

5. Prior to issuance of the first building permit the property owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

6. Prior to DRO Final Site Plan approval, property owner shall obtain and record proper drainage easements for site drainage to achieve legal positive outfall. (DRO: ENGINEERING-Eng)

HEALTH

1. Property owners and operators of facilities generating industrial, hazardous or toxic waste shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: CODE ENF - Health)(Previous Condition HEALTH 1. of Resolution R-2006-708, Control 1982-0129)

ZONING - LANDSCAPING

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 1 of Resolution 2007-078, Control No. 1982-129)

2. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:

- a. palm heights: twelve (12) feet clear trunk;
- b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 2 of Resolution 2007-078, Control No. 1982-129)

3. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 3 of Resolution 2007-078, Control No. 1982-129)

4. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 4 of Resolution 2007-078, Control No. 1982-129)

ZONING - LANDSCAPING-FOCAL POINTS

5. All landscape focal points shall be subject to review and approval by the Landscape Section and reflected on the Regulating Plan prior to final approval by the Development Review Officer (DRO). (DRO: ARCH REVIEW - Zoning) (Previous Landscape Condition 5 of Resolution 2007-078, Control No. 1982-129)

ZONING - LANDSCAPING-ALONG THE NORTH PROPERTY LINE (OKEECHOBEE ROAD)

6. In addition to the code requirements and the proposed landscaping, landscaping and buffer width along the north property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet

c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 6 of Resolution 2007-078, Control No. 1982-129)

ZONING - LANDSCAPING-ALONG THE WEST AND SOUTH PROPERTY LINES (ABUTTING RESIDENTIAL)

7. In addition to code requirements and the proposed landscaping, landscaping along the west and south property lines shall be upgraded to include:

- a. a six (6) foot high opaque concrete block wall. Height of the wall shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure; and,
- b. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 7 of Resolution 2007-078, Control No. 1982-129)

ZONING - LANDSCAPING-FPL GUIDELINES ON NORTH, EAST AND WEST PROPERTY LINES

8. Landscape Condition 8 of Resolution 2007-078, Control No. 1982-129, which currently states:

Landscape buffer details shall be revised to comply with Florida Power and Light (FPL) Guidelines for the north, east and west buffers. (DRO: LANDSCAPE - Zoning)

Is hereby deleted [REASON: Code Requirement]

SIGNS

1. Freestanding signs shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - fifteen (15) feet;
 - b. maximum sign face area per side - one hundred (100) square feet;
 - c. maximum number of signs - two (2);
 - d. style - monument style only;
- (BLDG PERMIT: BLDG - Zoning) (Previous Sign Condition 1 of Resolution 2007-078, Control No. 1982-129)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the ULDC 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; and/or

- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida.

(ONGOING:

MONITORING

-

Zoning)