

RESOLUTION NO. R-2009- 0896

RESOLUTION APPROVING ZONING APPLICATION DOA-2008-01891
(CONTROL NUMBER 1979-00119)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF GR 305 LLC, GR 470 LLC, GR 2902 LLC, and
BY Land Design South, Inc., AGENT
(ARVIDA TURNPIKE PLAZA)

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, and the Palm Beach County Unified Land Development Code, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA-2008-01891 was presented to the Board of County Commissioners at a public hearing conducted on May 28, 2009; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; 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 applicable standards and provisions of the ULDC for use, layout, function, and general development characteristics, including appropriate portions of Article 4.B, Supplementary Use Standards;
3. This Development Order Amendment, with conditions as adopted, is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development;
4. This Development Order Amendment, 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, is consistent with applicable

neighborhood plans in accordance with BCC policy;

- 8. This Development Order Amendment, has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC; and
- 9. This Development Order Amendment, has demonstrated changed conditions or circumstances that necessitate a modification.

WHEREAS, Article 2.K.3.b (Action by BCC) of the Palm Beach County Unified 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 Application DOA-2008-01891, the application of GR 305 LLC, GR 470 LLC, GR 2902 LLC, and, by Land Design South, Inc., agent, for a Development Order Amendment to to reconfigure the Site Plan 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 May 28, 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 Burt Aaronson and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	
District 7	-	

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 28, 2009.

Filed with the Clerk of the Board of County Commissioners on June 16th, 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

SHARON BOCK, CLERK & COMPTROLLER

BY: [Signature]
COUNTY ATTORNEY

BY: [Signature]
DEPUTY CLERK


EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

PARCELS C AND F OF ARVIDA TURNPIKE PLAZA, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 40, PAGE 148, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 43,587 SQUARE FEET, 1.00 ACRE, MORE OR LESS.

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR PARKING AND ACCESS, AS SET FORTH IN CROSS PARKING AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 11490, PAGE 70, OVER AND ACROSS PARCELS A, B, D, E, G AND H, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 40, PAGE 148, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 3:

NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS, AS SET FORTH IN DECLARATION OF COVENANTS AND RESTRICTIONS RECORDED IN OFFICIAL RECORDS BOOK 3209, PAGE 860, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, OVER AND ACROSS PROPERTY DESCRIBED IN EXHIBIT "D" TO SAID DECLARATION.

EXHIBIT B

VICINITY SKETCH

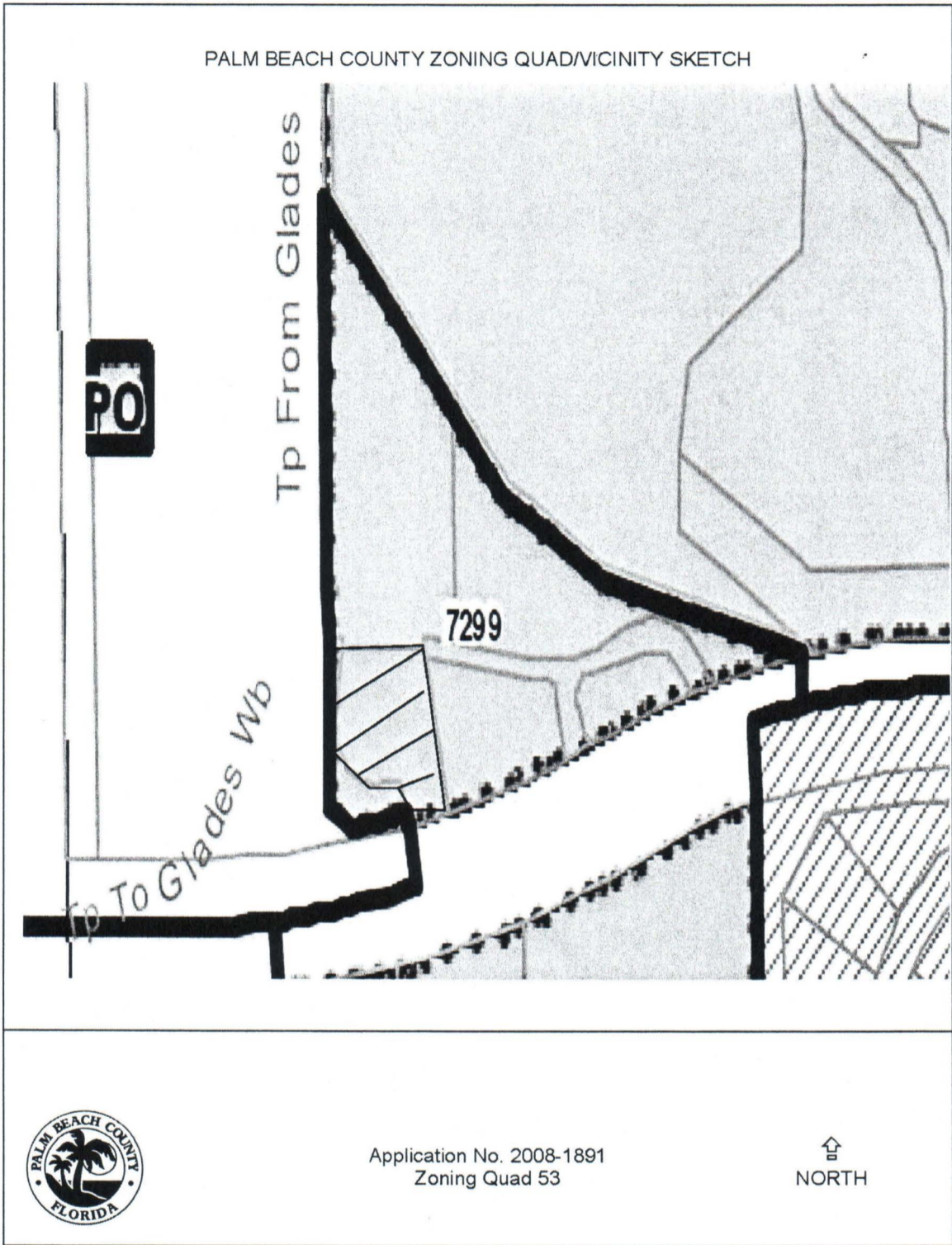


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Condition No. 1 of Resolution No. R-97-2077, Petition No. 79-119(C) which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution No. R-84-55, Petition No. 79-119(A), and Resolution No. R-87-92, Petition No. 79-119(B), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution No. R-84-55, Petition No. 79-119(A), Resolution No. R-87-92, Petition No. 79-119(B) and Resolution No. R-97-2077, Petition No. 79-119(C), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

2. Condition No. 2 of Resolution No. R-97-2077, Petition No. 79-119(C) which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated August 26, 1997. 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)

Is hereby amended to read:

The approved Preliminary Site Plan is dated March 16, 2009. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING-Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for Financial Institution 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)

2. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to show a divider median between the external drive thru lane and the ATM of the financial Institution Building, and as follows:

Minimum width of three (3), excluding curb;

A planting area shall be provided at each end of the median and shall have a minimum five (5) feet by three (3) feet of planting area extended beyond the boundary of the overhead canopy;

One (1) palm tree with a minimum ten (10) feet of grey-wood and appropriate ground cover shall be installed in each planting area; and,

The remaining portion of the median shall be paved with decorative paving such as pre-cast concrete pavers, stamped concrete or any other materials acceptable to the

Landscape Section.

BUILDING AND SITE DESIGN

1. Prior to site plan review certification, petitioner shall provide a Unity of Title agreement covering the entire site. (ONGOING: COUNTY ATTORNEY-Zoning) (Previously Building and Site Design Condition No. 1 of Resolution No. R-97-2077, Petition No. 79-119(C))

2. Condition Building and Site Design 2 of Resolution No. R-97-2077, Petition No. 79-119(C) which currently states:

No drive-in or fast food restaurant uses shall be permitted on site. (ONGOING: CODE ENF-Zoning)

Is hereby deleted. [REASON DELETED BY RESOLUTION R-1987-092, Petition 1979-119(B)]

3. Buildings on site shall be designed to be architecturally compatible with the overall Planned Commercial Development. (DRO: ARCH REVIEW - Zoning) (Previously Building And Site Design Condition No. 3 of Resolution No. R-97-2077, Petition No. 79-119(C)).

ENGINEERING

1. Within ninety (90) days of the Special Exception approval, petitioner shall convey to Palm Beach County eighty (80) feet from the centerline of S.R. 808 for its ultimate right-of-way. (ONGOING:ENGINEERING-Eng)
(Previous Condition E1 of Resolution R-1997-2077, Control No. 1979-119)
[Note:Complete]

2. Petitioner shall construct a median opening with left turn lane, west approach, on S.R 808 at the project's main entrance. (ONGOING:ENGINEERING-Eng)
(Previous Condition E2 of Resolution R-1997-2077, Control No. 1979-119)
[Note:Complete]

3. Petitioner shall construct a right turn lane, east approach, on S.R. 808 at the easterly entrance. (ONGOING:ENGINEERING-Eng)
(Previous Condition E3 of Resolution R-1997-2077, Control No. 1979-119)
[Note:Complete]

4. Condition E4 of Resolution R-1997-2077, Control No. 1979-119, which currently states: This development shall retain onsite 85% of the storm water runoff generated by a three (3) year storm per requirements of the Permit Section, Land Development Division. (ONGOING:ENGINEERING-Eng)

Is hereby deleted.

[Reason: Stormwater Management is a Code Requirement]

5. The developer shall align the project's east entrance with the entrance to the development approved as Petition No. 80-161. (ONGOING:ENGINEERING-Eng)
(Previous Condition E5 of Resolution R-1997-2077, Control No. 1979-119)
[Note:Complete]

6. The developer shall construct at the project's east entrance and Glades Road, concurrent with a paving and drainage permit, issued from the office of the County Engineer:

- a. Left turn lane, west approach
- b. Right turn lane, east approach. (BLDG PERMIT:MONITORING-Eng)
(Previous Condition E6 of Resolution R-1997-2077, Control No. 1979-119)
[Note:Complete]

7.The developer shall construct at the project's west entrance and Glades Road concurrent with a paving and drainage permit issued from the office of the County Engineer,

- a. Right turn lane, east approach. (BLDG PERMIT:MONITORING-Eng)
(Previous Condition E7 of Resolution R-1997-2077, Control No. 1979-119)
[Note:Complete]

8.The developer shall install signalization when warranted, as determined by the County Engineer, at the intersection of Glades Road and the project's east entrance.
(ONGOING:ENGINEERING-Eng) (Previous Condition E8 of Resolution R-1997-2077, Control No. 1979-119) [Note:Complete]

9.The developer shall contribute Sixteen Thousand Eight Hundred and Seventy-Five Dollars (\$16,875.00) toward the cost of meeting this project's direct and identifiable impact. The impact fee monies are to be used toward the Road construction program located within the project area and shall be in the form of a clean irrevocable Letter of Credit to Palm Beach County within ninety (90) days of Special Exception approval. Palm Beach County may then call upon this Letter of Credit within six (6) months of Special Exception approval.
(ONGOING:ENGINEERING-Eng)
(Previous Condition E9 of Resolution R-1997-2077, Control No. 1979-119)
[Note:Complete]

10.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 the restaurant presently is \$35,124.00 (1,386 trips x \$26.79 per trip). (ONGOING:ENGINEERING-Eng)
(Previous Condition E10 of Resolution R-1997-2077, Control No. 1979-119)
[Note:Complete]

11.LANDSCAPE WITHIN MEDIAN OF STATE ROADS

- a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of Glades Road Right-of-Ways. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the Low Cost Planting Concept outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING -Eng)
- b. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expenses. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assigns or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain health and plant material. All landscape material shall be installed prior to the issuance of a certificate of occupancy. (TC: ENGINEERING-Eng)
- c. Declaration of Covenants and Restriction Documents shall be established or amended as required and shall be approved and recorded prior to the issuance of a certificate of

occupancy. (CO:MONITORING- Eng) (Previous Condition E11 of Resolution R-1997-2077, Control No. 1979-119) [Note:Complete]

12. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

a. No building permits for the site shall be issued after December 31, 2012. 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)

13. Prior to issuance of the building permit for the financial institution shown on Application DOA-2008-1891, the property owner shall relocate or abandon the FPL utility easement shown under the proposed building. (BLDG PERMIT:MONITORING-Eng)

14. Prior to final site plan approval by the DRO, the site plan shall be revised to include the platted parcel lines and to show that no buildings encroach into Parcel F. (DRO:ENGINEERING-Eng)

ENVIRONMENTAL

1. The existing on-site cypress preserve areas shall not be encroached upon by new driveways, parking tracts or signage, excepting directional signs. (DRC: ERM-ERM) (Previous Condition No. C.2 of Resolution No. R-97-2077, Control No. 79-119C)

ZONING - LANDSCAPING

1. A six-foot high wall (measured from parking lot grade) shall be installed between the parking lot and the Boca West Golf Course. (DRO:ZONING-Zoning)(Previously Landscape Condition No. 1 of Resolution No. R-97-2077, Petition No. 79-119(C). [Note: Completed]

2. Prior to final DRC approval the site plan shall be amended to indicate a minimum twenty (20) foot wide Type D right-of-way landscape buffer strip along the south property line abutting Glades Road. Credit may be given for existing or relocated vegetation provided it meets current ULDC requirements. (Existing parking improvements are exempted from this requirement) (DRC: CO: LANDSCAPE) (Previous Landscape Condition 2 of Resolution No. R-97-2077, Petition NO. 79-119(C) [Note: Completed]

3. The petitioner shall preserve native vegetation within Parcel E, the 0.2 3 acre triangular shaped east portion of the site. The undeveloped area may include signage, or required improvements including, perimeter buffers, or parking. (ONGOING: LANDSCAPE-Zoning) (Previous Landscape Condition No. 1 of Resolution No. R-97-2077, Petition No. 79-119(C)).

SIGNS

1. Freestanding point of purchase signs fronting or entry wall sign adjacent to Glades Road shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - twelve (12) feet;
- b. Maximum sign face area, one side only - one hundred forty (140) square feet per sign;
- c. Maximum number of signs - three (3); and
- d. Style - monument style only. (BUILDING PERMIT: BLDG-Zoning) (Previous Sign Condition No. 1 of Resolution No. R-97-2077, Petition No. 79-119(C)).

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)

1. 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

a. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

b. 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

c. Referral to code enforcement; and/or

d. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.
(ONGOING: MONITORING - Zoning)