

RESOLUTION APPROVING ZONING APPLICATION DOA/CA-2009-00981
(CONTROL NUMBER 1992-00039)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF NGUYEN INVESTMENTS LLC
BY JON E SCHMIDT & ASSOCIATES, AGENT
(THE FOOD COURT)

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/CA-2009-00981 was presented to the Board of County Commissioners at a public hearing conducted on August 27, 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 relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
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 has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. 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.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

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/CA-2009-00981, the application of Nguyen Investments LLC, by Jon E Schmidt & Associates, agent, for a Development Order Amendment to to reconfigure the site plan and delete square footage 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 August 27, 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	¥	Aye
Commissioner Priscilla A. Taylor	¥	

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 27, 2009.

Filed with the Clerk of the Board of County Commissioners on September 10, 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: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

PARCEL B, GLADSTONE COMMERCIAL CENTER ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 82, PAGE 81, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

EXHIBIT B
VICINITY SKETCH

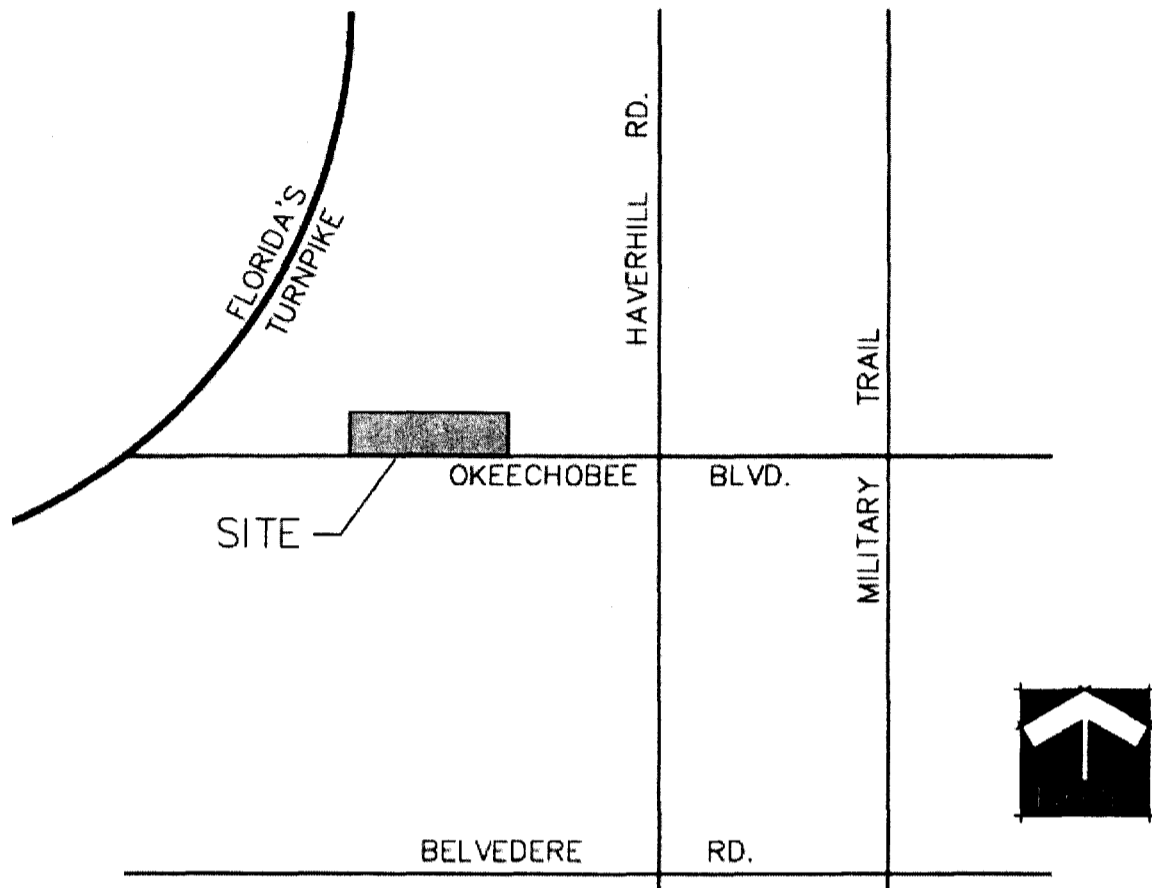


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS-PARCEL A

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-96-395, Control 95-120 and Resolution R-96-654, Control 95-120 have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

ENGINEERING

1. Previous Condition E.1 of Resolution R-96-654, Control No. 95-120, which currently states:

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, Zoning Petition Number 95-120(A), to be paid at the time of issuance of the Building Permit presently is \$6,903.00 (251 additional trips for the fast food restaurant X \$27.50 per trip). (BLDG PERMIT: MONITORING-Eng)

is hereby deleted. [Reason: Impact Fees are a code requirement]

2. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record a cross access agreement from the subject property to the property adjacent to the east in a form acceptable to the County Attorney. (DRC:ENGINEERING-Eng)

(Previous Condition D.4 of Resolution R-96-654, Control 95-120)

[Note: Completed ORB10443/PG1503]

3. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record a cross drainage agreement from the subject property to the property adjacent to the east in a form acceptable to the County Attorney. (DRC: ENGINEERING-Eng)

(Previous Condition D.5 of Resolution R-96-654, Control 95-120)

[Note: Completed ORB10443/PG1503]

LANDSCAPE - GENERAL-PARCEL A (FAST FOOD)

1. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:

a. Tree height: fourteen (14) feet.

b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.

c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (CO: LANDSCAPE - Zoning) (Previous Condition A.1 of Resolution R-96-654, Control 95-120)

LANDSCAPE - PERIMETER-PARCEL A (FAST FOOD) ALONG SOUTH PROPERTY LINE (ADJACENT TO MARGINAL ACCESS ROAD)

2. Landscaping and buffering along the south property line, adjacent to the marginal access road, shall be upgraded to include:

a. A minimum ten (10) foot wide landscape buffer strip;

b. One (1) canopy tree planted every twenty (20) linear feet with a maximum spacing of thirty (30) feet on center. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and,

c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches. (CO: LANDSCAPE - Zoning) (Previous Condition B.1 of Resolution R-96-654, Control 95-120)

LIGHTING-PARCEL A (FAST FOOD)

1.All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO: BLDG - Zoning)

(Previous Condition D.2 of Resolution R-96-654, Control 95-120)

2.All outdoor lighting fixtures shall not exceed 25 feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)

(Previous Condition D.3 of Resolution R-96-654, Control 95-120)

SIGNS-PARCEL A (FAST FOOD)

1.Point of purchase and/or freestanding signs along the south property line fronting toward Okeechobee Boulevard 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 - 50 square feet; and,

c. Maximum number of signs - one (1). (CO: BLDG- ZONING)

(Previous Condition C.1 of Resolution R-96-395, Control 95-120)

SITE DESIGN-PARCEL A FAST FOOD

1.Prior to site plan approval, the petitioner shall amend the site plan to indicate all dumpsters and trash compactors, a minimum of fifty (50) feet from the west property line and two hundred (200) from the south property line, and shall be confined to areas designated on the site plan. (DRC: BLDG - Zoning)

(Previous Condition D.1 of Resolution R-96-654, Control 95-120)

COMPLIANCE

1.In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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 (CO); 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 Unified Land Development Code (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 Official Zoning Map Amendment, Conditional Use, Requested Use, 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. (ONGOING: MONITORING - Zoning)