

RESOLUTION NO. R-2014-0558

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2013-01335
(CONTROL NO. 1973-00220)
a Development Order Amendment
APPLICATION OF McDonalds USA, LLC
BY Land Design South, Inc., AGENT
(Nassau Square - McDonald's)

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 applications relating to zoning;

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

WHEREAS, Zoning Application DOA/R-2013-01335 was presented to the Board of County Commissioners at a public hearing conducted on April 24, 2014;

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;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Development Review Procedures) 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 the request;

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;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a Development Order Amendment; and,

WHEREAS, Article 2.A.1.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 W/DOA/R-2013-01335, the petition of McDonalds USA, LLC, by Land Design South, Inc., agent, for a Development Order Amendment to reconfigure the Site Plan; add square footage; and, add a Requested Use in the Multiple Use Planned Development (MUPD) Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on April 24, 2014, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Vana moved for the approval of the Resolution.

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

Commissioner Priscilla A. Taylor, Mayor	- Aye
Commissioner Paulette Burdick, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Shelley Vana	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Jess R. Santamaria	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on April 24, 2014.

Filed with the Clerk of the Board of County Commissioners on April 25th, 2014.

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 R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

A portion of PARCEL "A", PLAT OF NASSAU SQUARE, according to the Plat thereof, as recorded in Plat Book 50 at Pages 134 and 135 of the Public Records of Palm Beach County, Florida, being more particularly described as follows:

Commence at the Southeast corner of Parcel "D" of said PLAT OF NASSAU SQUARE, said corner being the intersection of the North Right-of-Way line of Lake Worth Road (State Road No. 802) as shown on said plat, and the West Right-of-Way line of Nassau Road; thence North $89^{\circ}58'41''$ West along the South line of said Parcel "D", Parcel "C" and Parcel "A" of said PLAT OF NASSAU SQUARE and 791.24 feet; thence North $00^{\circ}10'06''$ West departing said South line and North Right-of-Way line for 29.57 feet to the Point of Beginning of the hereinafter described parcel of land; thence continue North $00^{\circ}10'06''$ West for 113.43 feet; thence South $69^{\circ}55'00''$ East for 19.72 feet; thence North $00^{\circ}06'13''$ West for 33.98 feet; thence North $89^{\circ}53'47''$ East for 205.17 feet; thence South $68^{\circ}53'14''$ East for 65.26 feet; thence South $00^{\circ}01'54''$ East for 118.20 feet; thence North $89^{\circ}51'35''$ West for 284.24 feet to the Point of Beginning.

EXHIBIT B
VICINITY SKETCH

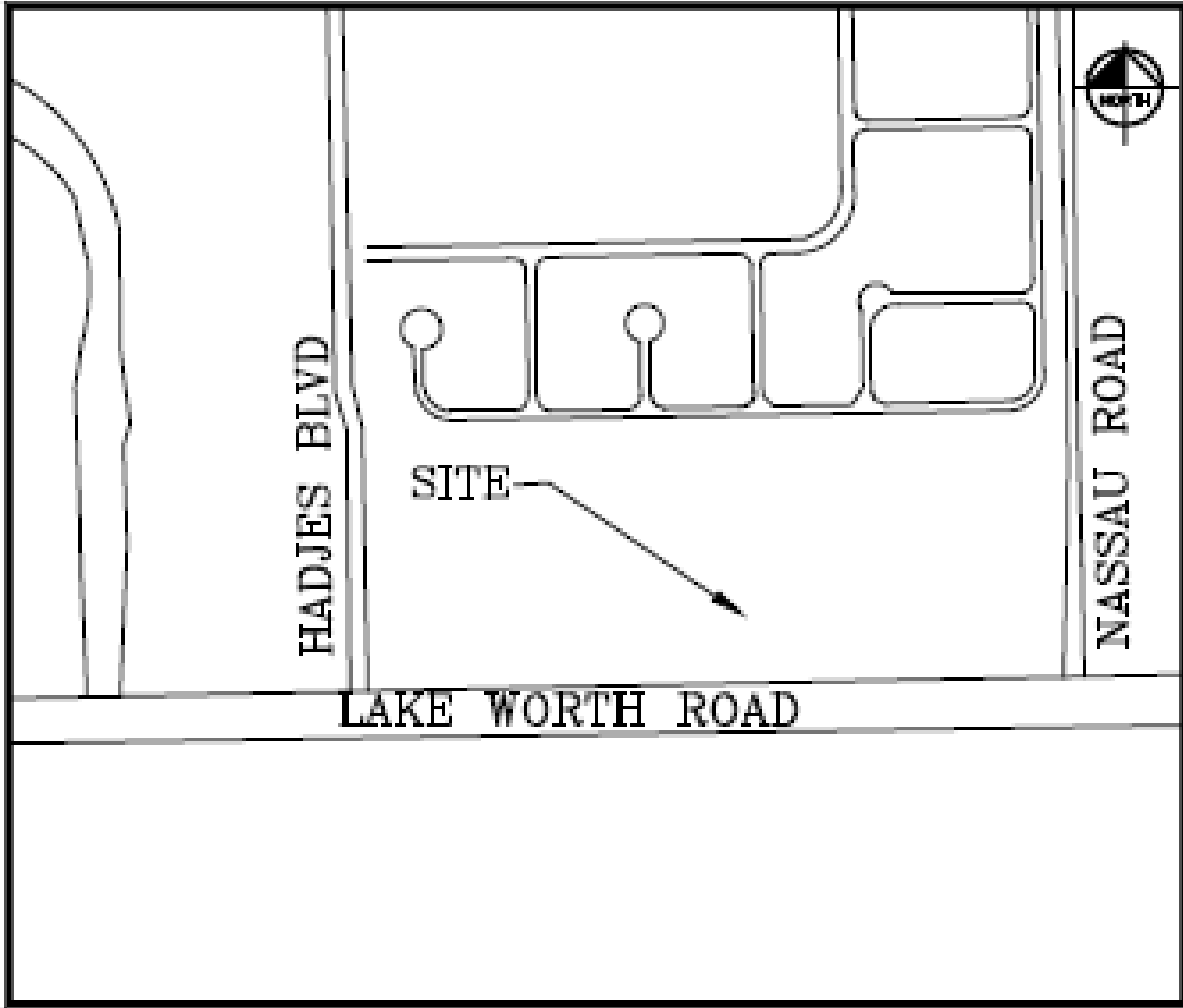


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. The approved Preliminary Site Plan is dated March 3, 2014. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-74-780 (Control 1973-00220), 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 and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Type I Restaurant shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated September 23, 2013. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

ENGINEERING

1. Developer shall dedicate to Palm Beach County forty (40) feet of right-of-way from the centerline of Hadjes Boulevard and one hundred (100) feet of right-of-way from the centerline of Lake Worth Road. (Previous condition 1 of Resolution R-1974-780, Control No.1973-00220) (BLDGPMT/CO: MONITORING - Engineering)

2. Previous condition 2 of Resolution R-1985-1428, Control No.1973-00220, which currently states:

The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division. (BLDGPMT: MONITORING - Engineering)

Is hereby deleted. [REASON: Stormwater management is a code requirement.]

3. Developer shall file a boundary plat. (Previous condition 2 of Resolution R-1974-780, Control No.1973-00220) (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

4. Previous condition 3 of Resolution R-1985-1428, Control No.1973-00220, 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 presently is \$23,120. (BLDGPMT: MONITORING - Engineering)

Is hereby deleted. [REASON: Impact fees are a code requirement.]

5. Developer shall construct at his expense, as required by the Traffic Impact Analysis:

- a) Hadjes Boulevard from the north property line to Lake Worth Road including turning lanes,
- b) Nassau Road - three (3) lanes from Lake Worth Road and right turn lane,
- c) Lake Worth Road - left and right turn lanes into development,
- d) Left and right turn lanes and signalization of the intersection of Lake Worth Road with Hadjes Boulevard and Nassau Road. (Previous condition 3 of Resolution R-1974-780, Control No.1973-00220) (ONGOING: MONITORING - Engineering)

6. The property owner shall be permitted only one direct access to this site from Lake Worth Road and Hadjes Boulevard. (Previous condition 4 of Resolution R-1985-1428, Control No.1973-00220) (ONGOING: MONITORING - Engineering)

7. The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department, Permit Section prior to the issuance of a Building Permit. (Previous condition 5 of Resolution R-1985-1428, Control No.1973-00220) (BLDGPM: MONITORING - Engineering)

HEALTH

1. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from the property do not become a nuisance to neighboring properties. (Previous condition 6 of Resolution R-1985-1428, Control No.1973-00220) (HEALTH: HEALTH - Health) [Note: COMPLETED]

2. Previous condition 7 of Resolution R-1985-1428, Control No.1973-00220, which currently states:

Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.

Is hereby deleted. [REASON: Code Requirement]

3. Any fuel or chemical storage tanks shall be installed with protection against leakage or spillage due to corrosion, breakage, structural failure or other means. The design and installation plans will be submitted to the Health Department for approval prior to installation. (Previous condition 8 of Resolution R-1985-1428, Control No.1973-00220) (HEALTH: HEALTH - Health) [Note: COMPLETED]

4. Previous condition 9 of Resolution R-1985-1428, Control No.1973-00220, which currently states:

Any toxic or hazardous waste generated at this site shall be properly handled and disposed of in accordance with Chapter 17-30, F.A.C.

Is hereby deleted. [REASON: Code Requirement]

5. Previous condition 10 of Resolution R-1985-1428, Control No.1973-00220, which currently states:

The owner of the facility will participate in an oil recycling program which insures proper reuse or disposal of waste oil.

Is hereby deleted. [REASON: Code Requirement]

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF LAKE WORTH ROAD)

1. In addition to Code requirements, landscaping and buffering along the affected area along the south property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip; and,
- b. one (1) native canopy tree for each twenty-five (25) linear feet of the affected area. (ONGOING: LANDSCAPE - Zoning)

PLANNED DEVELOPMENT

1. Cross-access agreements shall be presented for the approval of the County Attorney's Office prior to building permit application. (Previous condition 13 of Resolution R-1985-1428, Control No.1973-00220) (ONGOING/BLDG PMT: CTY ATTY - Zoning) [Note: COMPLETED]

SITE DESIGN

1. Prior to site plan certification the site plan shall be revised to reflect the following:

- a) Relocation of the sign away from the required safe corner area adjacent to the intersection of Hadjes Road and Lake Worth Road.
- b) Relocation of the car wash facility to a minimum of 15 feet from the north property line. (Previous condition 1 of Resolution R-1985-1428, Control No.1973-00220). (DRO/BLDG PERMIT: LANDSCAPE - Zoning)

UTILITIES

1. Utilities shall be provided by U.D.C. (Previous condition 4 of Resolution R-1974-780, Control No.1973-00220) (WUD: WUD-WUD)

2. The car wash facility shall utilize a water recycling system for it's operation. (Previous condition 11 of Resolution R-1985-1428, Control No.1973-00220) (WUD: WUD-WUD)

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; 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; the 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 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 of Approval; 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)

3. Previous condition 12 of Resolution R-1985-1428, Control No.1973-00220, which currently states:

The petitioner shall present a notarized Affidavit of Disclosure at the Zoning Authority meeting.

Is hereby deleted. [REASON: No longer applicable]

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.