

RESOLUTION NO. R-2019- 1696

RESOLUTION APPROVING ZONING APPLICATION DOA/W-2019-01125
(CONTROL NO. 2004-00459)
a Type 2 Waiver
APPLICATION OF Glades 95th Owner, LLC
BY Dunay, Miskel and Backman, LLP, AGENT
(Johns Glades West MXPD)

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 pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 25, have been satisfied;

WHEREAS, Zoning Application DOA/W-2019-01125 was presented to the Board of County Commissioners at a public hearing conducted on October 24, 2019;

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 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Type 2 Waiver ;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC 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 Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC 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/W-2019-01125, the Application of Glades 95th Owner, LLC, by Dunay, Miskel and Backman, LLP, Agent, for a Type 2 Waiver to extend hours of operation for a Non-Residential Use located within 250 feet of a Residential Use or Future Land Use designation, on a parcel of land generally described as shown on the legal description 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 October 24, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kerner moved for the approval of the Resolution.

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

| | |
|--------------------------------------|----------|
| Commissioner Mack Bernard, Mayor | - Aye |
| Commissioner Dave Kerner, Vice Mayor | - Aye |
| Commissioner Hal R. Valeche | - Aye |
| Commissioner Gregg K. Weiss | - Aye |
| Commissioner Robert S. Weinroth | - Absent |
| Commissioner Mary Lou Berger | - Aye |
| Commissioner Melissa McKinlay | - Aye |

The Mayor thereupon declared that the resolution was duly passed and adopted on October 24, 2019.

Filed with the Clerk of the Board of County Commissioners on October 30th, 2019

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

DESCRIPTION:(OVERALL PROPERTY SURVEYED)

PARCEL A

TRACTS 105, 106, 107, 108, 117 AND 120, AND THE EAST 51 FEET OF TRACTS 109 AND 116, BLOCK 77 OF PALM BEACH FARMS COMPANY PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE LAND CONVEYED TO THE COUNTY OF PALM BEACH BY THE RIGHT-OF-WAY DEED RECORDED IN OFFICIAL RECORDS BOOK 57, PAGE 330 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THE LAND CONVEYED TO THE STATE OF FLORIDA, FOR THE USE AND BENEFIT OF THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, BY THE DEEDS RECORDED IN OFFICIAL RECORDS BOOK 6782, PAGE 1185 AND OFFICIAL RECORDS BOOK 6782, PAGE 1187, BOTH OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT ANY PORTION OF SAID LAND CONVEYED TO EZON INVESTMENT COMPANY BY THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 6912, PAGE 863 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THE LAND VESTED IN PALM BEACH COUNTY BY THE ORDER OF TAKING ON PLAINTIFF'S PETITION RECORDED IN OFFICIAL RECORDS BOOK 9830, PAGE 702 AND THE AMENDED ORDER OF TAKING ON PLAINTIFF'S PETITION RECORDED IN OFFICIAL RECORDS BOOK 9840, PAGE 984, BOTH OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL B

TRACTS 118 AND 119, BLOCK 77 OF PALM BEACH FARMS COMPANY PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL C

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF A PORTION OF PARCEL A DESCRIBED ABOVE, CREATED BY AND MORE PARTICULARLY DESCRIBED IN THE ACCESS EASEMENT BETWEEN EZON INVESTMENT COMPANY AND YOLAND ELIZABETH SPRATT RINGGER, ET AL., RECORDED IN OFFICIAL RECORDS BOOK 6919, PAGE 326 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCELS A AND B ALSO KNOWN AS

A PORTION OF TRACTS 105, 106, 107, 108, 109, 116, 117, 118, 119 AND 120, BLOCK 77, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTIONS 18 AND 19, TOWNSHIP 47 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF TRACT A-1, FESTIVAL SHOPPES OF BOCA RATON REPLAT ONE, AS RECORDED IN PLAT BOOK 120, PAGES 9

THROUGH 12 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.00°50'59"W. ALONG THE EAST LINE OF SAID FESTIVAL SHOPPES OF BOCA RATON REPLAT ONE, AND THE EAST LINE OF FESTIVAL SHOPPES OF BOCA RATON, AS RECORDED IN PLAT BOOK 69, PAGES 172 THROUGH 174 OF SAID PUBLIC RECORDS, A DISTANCE OF 1275.30 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 808 (GLADES ROAD), AS RECORDED IN OFFICIAL RECORD BOOK 6782, PAGE 1185 OF SAID PUBLIC RECORDS; THENCE N.89°37'59"E. ALONG SAID SOUTH RIGHT-OF-WAY LINE, AS RECORDED IN OFFICIAL RECORD BOOK 6782, PAGE 1185, AND OFFICIAL RECORD BOOK 6782, PAGE 1187 OF SAID PUBLIC RECORDS, A DISTANCE OF 1303.02 FEET TO A POINT OF INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF 95TH AVENUE SOUTH, AS RECORDED IN OFFICIAL RECORD BOOK 12092, PAGE 211 OF SAID PUBLIC RECORDS; THENCE S.00°22'01"E. ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 1275.25 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID TRACT 120; THENCE S.89°37'59"W. ALONG THE SOUTH LINE OF SAID TRACTS 116 THROUGH 120, A DISTANCE OF 1292.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,654,834 SQUARE FEET/37.9898 ACRES MORE OR LESS

EXHIBIT B
VICINITY SKETCH

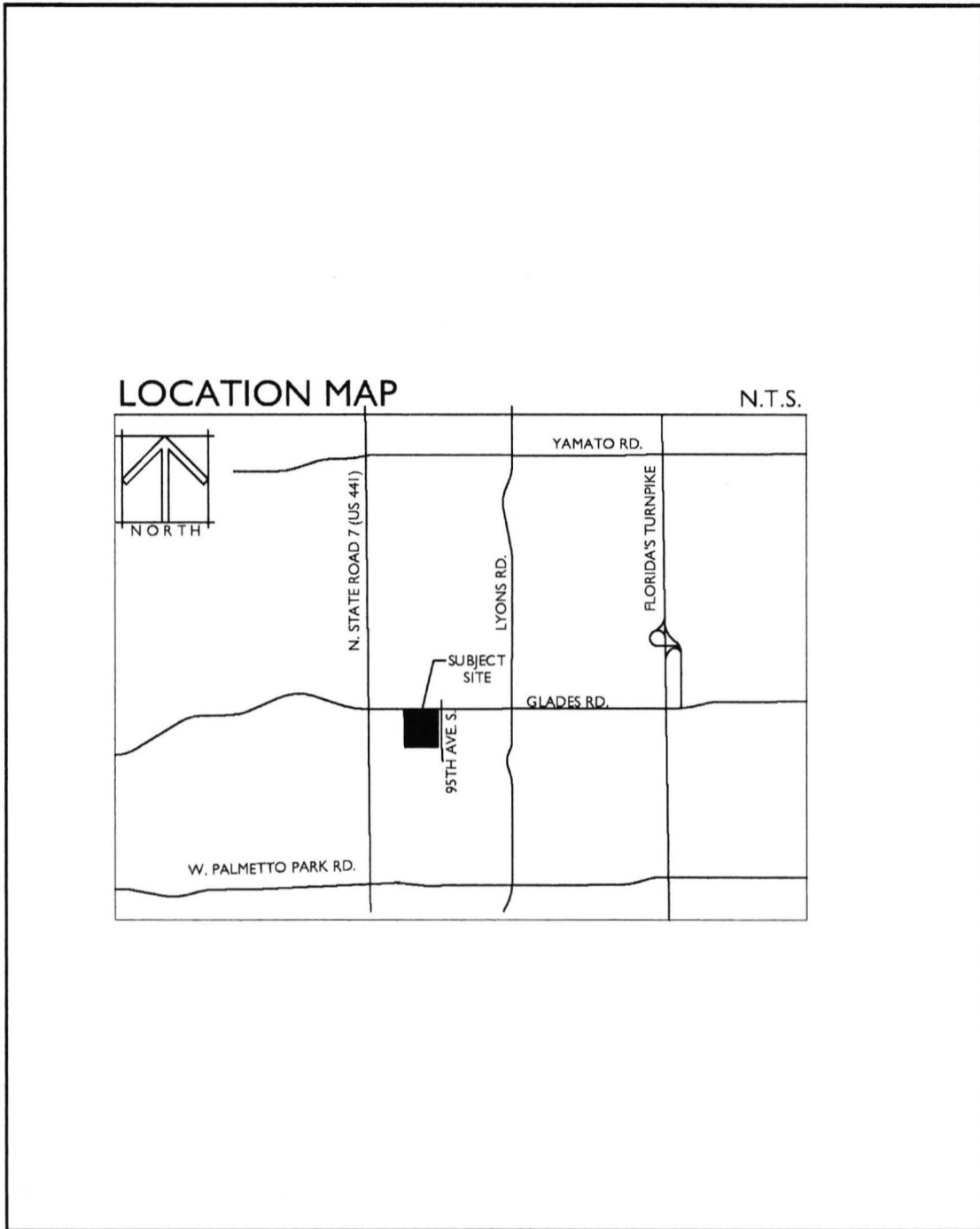


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Waiver

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 10, 2019. 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)

USE LIMITATIONS

1. This Waiver is approved for the Type 2 Restaurant located in outparcel Building C6. A change of Use shall require reconsideration of the Waiver by the Board of County Commissioners. (ONGOING: CODE ENF - Zoning)

2. No loading or delivery activities are permitted within the extended hours of operation. (ONGOING: CODE ENF - Zoning)

3. Public entries and location of any Outdoor Dining Areas shall be limited to the south facade of the building. (ONGOING: CODE ENF - Zoning)

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)

DISCLOSURE

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

EXHIBIT D

REQUEST

Type 2 Waiver Summary Table

| ULDC Article | Required | Proposed | Variance |
|---|--|---|----------|
| Art. 5.E.5.A Hours of Operation - Proximity to Residential | Hours of Operation between 6:00 a.m. to 11:00 p.m. for commercial uses within 250 feet of a Residential Use or FLU designation. | 6:00 a.m. to 1:00 a.m. for Building C6 | +2 hours |