

RESOLUTION NO. R-95- 1016

RESOLUTION APPROVING ZONING PETITION DOA/EAC78-261(D)
DEVELOPMENT ORDER AMENDMENT/EXPEDITED APPLICATION CONSIDERATION
PETITION OF L.K.C. ASSOCIATES INC.

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, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA/EAC78-261(D) was presented to the Board of County Commissioners at a public hearing conducted on July 27, 1995; 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 5, Section 5.8 (Compliance with Time Limitations), 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 made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. 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.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency reservation/exemption and therefore complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. 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.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 Petition DOA78-261(D), the petition of L.K.C. Associates Inc., for a Development Order Amendment/Expedited Application Consideration (EAC) to amend Condition 22 (use limitations) of Resolution R-83-976, previously approved 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 July 27, 1995, 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 McCarty and, upon being put to a vote, the vote was as follows:

Ken Foster, Chair	--	Aye
Burt Aaronson	--	Aye
Maude Ford Lee	--	Absent
Karen T. Marcus	--	Aye
Mary McCarty	--	Aye
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted this 27th day of July, 1995.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

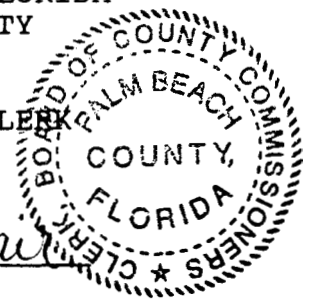


EXHIBIT A

LEGAL DESCRIPTION

Parcel "A"

The North 183.1 feet of the South 789.84 feet of the Southeast quarter of the Southwest Quarter lying West of U. S. Highway 81, less the West 140 feet thereof, situate, lying and being in Section 33, Township 41 South, Range 43 East, Palm Beach County, Florida.

Parcel "B"

Part of the Southeast quarter of the Southwest quarter lying West of U. S. Highway No. 1, Section 33, Township 41 South, Range 43 East, Palm Beach County, Florida, described as follows:

Beginning at a point in the West line of the Southeast quarter of the Southwest quarter of Section 33, said point being 30 feet Northerly, measured at right angles, from the South line of said Section 33; thence Northerly along the West line of said Southeast quarter of the Southwest quarter of Section 33, a distance of 634.72 feet to a point in the South line of land heretofore conveyed to Jack I. Weissman and Minnie Weissman, his wife, thence Easterly, parallel to the South line of said Section 33, and along the South line of said Weisman's land, 669.00 feet, more or less to a point in the centerline of U. S. Highway No. 1; thence Southwesterly along the centerline of said U. S. Highway No. 1, a distance of 658.65 feet, more or less to a point in said line parallel to and 30 feet North of the South line of said Section 33; thence Westerly along said parallel line 516.4 feet, more or less, to the Point of Beginning; excepting the West 30 feet thereof and subject to the Right-of-way of U. S. Highway No. 1, as now laid out and in use.

ALSO LESS AND EXCEPTING from the above described property, property sold by James J. Reddy to Blondell Hospital House, Inc., described as follows:

The North 58 feet of the South 664.74 feet of the Southeast quarter of the Southwest quarter, lying West of U. S. Highway No. 1, Section 33, Township 41 South, Range 43 East, Palm Beach County, Florida, being the North 58 feet of property purchased by James J. Reddy from Suburban Palm Beach, Inc.

ALSO LESS that part of the Southeast quarter of the Southwest quarter lying West of U. S. Highway No. 1, Section 33, Township 41 South, Range 43 East, Palm Beach County, Florida, described as follows:

Commencing at a point in the West line of the Southeast quarter of the Southwest quarter of Section 33, said point being 30 feet Northerly, measured at right angles, from the South line of said Section 33; thence Easterly, parallel with the South line of said Section 33, a distance of 213.53 feet to the Point of Beginning of the hereinafter described parcel; thence continue Easterly along said parallel line a distance of 259.59 feet to a point in the Westerly Right-of-way line of U. S. Highway No. 1 (State Road No. 5); thence Northerly along said Westerly Right-of-way line a distance of 200.0 feet to a point; thence Westerly parallel to the South line of said Section 33, a distance of 259.59 feet to a point; thence Southerly, parallel to said Westerly Right-of-way line of U. S. Highway No. 1, a distance of 200.0 feet to the Point of Beginning.

EXHIBIT A
LEGAL DESCRIPTION

Parcel "C"

The East 110 feet of the West 140 feet of the North 183 feet of the South 789.84 feet of the Southeast quarter of the Southwest quarter of Section 33, Township 41 South, Range 43 East, Palm Beach County, Florida.

Parcel "D"

Beginning, at a point on the West line of the Southeast 1/4 of the Southwest 1/4 of Section 33, Township 41 South, Range 43 East, said point, being 990.0 feet, measured along the West line of said Southeast 1/4 of the Southwest 1/4; North of the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of said Section 33; thence Easterly, parallel to the South line of said Section 33: 747.0 feet more or less to the centerline of U. S. Highway No. 1, as now laid out and in use: thence Southwesterly along the centerline of said U. S. Highway No. 1, 207.7 feet more or less, to a point in a line parallel to and 200.0 feet measured at right angles, South of the first described course; thence Westerly along said parallel line, 699.0 feet more or less, to the West line of the Southeast 1/4 of the Southwest 1/4 of said Section 33: thence Northerly along the West line of the Southeast 1/4 of the Southwest 1/4 of said Section 33, 200.16 feet, more or less, to the point of beginning. EXCEPTING from the above described property the West 30.0 feet thereof.

Less and except the following from Parcels "A", "B", "C" and "D":

A parcel of land in the Southwest 1/4 of Section 33, Township 41 South, Range 43 East, Palm Beach County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of said Section 33; thence North 90'00'00" East, along the South line of said Southwest 1/4 (the South line of said Southwest 1/4 is assumed to bear, North 90'00'00" East and all other bearings are relative thereto), a distance of 206.00 feet to a point: thence North 15'37'48" East a distance of 231.15 feet to the Point of Beginning of the hereinafter described parcel: thence North 25'30'00" East a distance of 199.57 feet to a point; thence North 90'00'00" East a distance of 224.07 feet to a point in the West right-of-way line of U.S. Highway No. 1 as now laid out and in use; thence South 15'37'48" West, along said west right-of-way line, a distance of 187.04 feet to a point: thence South 90'00'00" West, departing from said West right-of-way line, a distance of 259.59 feet to the Point of Beginning.

Subject to a utility easement, as recorded in Official Record Book 3119, page 1489, Public Records of Palm Beach County, Florida. Also subject to rights-of-way and easements of record.

Containing in all 1.00 acre, more or less.

EXHIBIT B
VICINITY SKETCH



EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-79-L02 (Petition 78-261) and R-83-976 (Petition 78-261 A) have been consolidated 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, (MONITORING-Zoning)

B. ARCHITECTURAL CONTROL

1. The north and west facades of the shopping center shall be given architectural treatment consistent with the front of the center to avoid an incompatible industrial appearance impact upon nearby residential development. (BUILDING-Zoning) (Previously Condition No. 16 of Resolution No. R-83-976, Petition No. 78-261(A)).

C. BUILDING AND SITE DESIGN

2. All mechanical and air conditioning equipment shall be roof-mounted and screened with parapets. (BUILDING-Zoning) (Previously Condition No. 15 of Resolution No. R-83-976, Petition No. 78-261(A)).

D. HEALTH

1. Reasonable precautions shall be exercised during the site development to insure that dust particles from this property do not become a nuisance to neighboring properties. (HEALTH) (Previously Condition No. 10 of Resolution No. R-83-976, Petition No. 78-261(A)).
2. Reasonable measures shall be employed during site development to insure that no pollutants from this property will enter adjacent or nearby surface waters. (HEALTH) (Previously Condition No. 11 of Resolution No. R-83-976, Petition No. 78-261(A)).

E. ENGINEERING

1. Developer shall construct on U.S. Highway #1:
 - a. Right turn lanes, north approach, at each of the project's entrances.
 - b. Right turn lane, north approach, at Juno Road. (ENGINEERING) (Previously Condition No. 1 of Resolution No. R-79-102, Petition No. 78-261).
2. Developer shall reconstruct left turn lane, north approach, Juno Road intersection as directed by County Engineer. (ENGINEERING) (Previously Condition No. 2 of Resolution No. R-79-102, Petition No. 78-261).
3. Developer shall construct a nonmountable curbed median on U.S.#1 in front of project to eliminate left turns from south approach where no median openings exist. (ENGINEERING) (Previously Condition No. 3 of Resolution No. R-79-102, Petition No. 78-261).

4. This project shall be limited to two (2) curb cuts on U.S. Highway #1. (ENGINEERING) (Previously Condition No. 3 of Resolution No. R-79-102, Petition No. 78-261).
5. Developer shall contribute Fifteen Thousand Nine Hundred Dollars (\$15,900.00) toward the cost of meeting this project's direct and identifiable traffic impact, to be paid at the time of issuance of building permits, which may be apportioned in any manner acceptable to the County Engineer. However, if an Ordinance dealing with this subject matter is adopted, this condition will be superseded by that Ordinance; except that, regardless of the form or status of any Ordinance, this development shall be required to provide as a minimum the above Fifteen Thousand Nine Hundred Dollars (\$15,900.00) towards alleviating some of its traffic impacts. (IMPACT FEE COORDINATOR) (Previously Condition No. 5 of Resolution No. R-79-102, Petition No. 78-261).
6. Concurrent with on-site paving and drainage improvements and prior to the issuance of C of O, the developer shall construct on U.S. Highway #1:
 - a. Right turn lanes, north approach, at each of the project's entrances.
 - b. Left turn lane, south approach at the intersection of Juno Road and U.S. Highway #1 as directed by the County Engineer, along with nonmountable curbed and landscaped medians. (ENGINEERING) (Previously Condition No. 1 of Resolution No. R-83-976, Petition No. 78-261(A)).
7. Concurrent with on-site paving and drainage improvement and prior to issuance of the C of O the developer shall reconstruct left turn lane, south approach, at the intersection of Juno Road and U.S. Highway #1 as directed by the County Engineer. (ENGINEERING) (Previously Condition No. 2 of Resolution No. R-83-976, Petition No. 78-261(A)).
8. Concurrent with on-site paving and drainage improvements and prior to issuance of the C of O, the developer shall construct a nonmountable curbed median on U.S. #1 in front of the project to eliminate left turns from south approach where no median openings are proposed. (ENGINEERING) (Previously Condition No. 3 of Resolution No. R-83-976, Petition No. 78-261(A)).
9. This project shall be limited to two (2) curb cuts on U.S. Highway #1. (ENGINEERING) (Previously Condition No. 4 of Resolution No. R-83-976, Petition No. 78-261(A)).
10. The development shall retain onsite 85% of the storm water runoff generated by a three (3) year storm psr requirements of the Permit Section, Land Development Division; and shall be required to have positive outfall prior to the issuance of building permits. (ENGINEERING) (Previously Condition No. 5 of Resolution No. R-83-976, Petition No. 78-261(A)).
11. The developer shall contribute One Hundred and Eight Thousand and One Hundred Twenty-Five Dollars (\$108,125.00) toward the cost of meeting this project's direct and identifiable traffic impact, to be paid at the rate of \$.98 per square foot of general commercial, at the time of issuance of the building permit. Credit for the impact fee based upon a certified cost estimate per the County Engineer's approval shall be applied toward condition numbers 7c, 8a, and 8b below. (IMPACT FEE COORDINATOR) (Previously Condition No. 6 of Resolution No. R-83-976, Petition No. 78-261(A)).

12. The developer shall construct concurrent with a paving and drainage permit issued from the Office of the County Engineer:
 - a) right turn lane, east approach on Juno Road at Ellison Wilson Road;
 - b) left turn lane, west approach on Juno Road at U.S. #1;
 - c) Resurface Juno Road from U.S.1 west to Ellison Wilson Road to Palm Beach County standards per the County Engineer's approval;
 - d) Signalization when warranted at the intersection of Juno Road and U.S.1, however in no event later than 5 years after the final certificate of occupancy, at which time if no warrant has been issued this requirement shall be void. (ENGINEERING) (Previously Condition No. 7 of Resolution No. R-83-976, Petition No. 78-261(A)).

13. The developer shall construct concurrent with on-site paving and drainage improvements and prior to the issuance of a Certificate of Occupancy, however in any event no later than twenty-four (24) months after Special Exception approval at the intersection of PGA and U.S. 1:
 - a) Dual left turn lanes north and south approaches.
 - b) Extend the existing right turn lane north approach, per the County Engineer's approval.

This construction shall include, but not be limited to: plan design, curb and gutter, non-mountable traffic separator, drainage, sidewalk and signalization upgrading, all subject to approval by the Florida Department of Transportation and the County Engineer. (ENGINEERING) (Previously Condition No. 8 of Resolution No. R-83-976, Petition No. 78-261(A)).

14. The petitioner shall revise the site plan to provide for safe sight distance for the proposed median opening on U.S.1 at the project's entrance. This location shall be per the County Engineer's approval. (ENGINEERING) (Previously Condition No. 9 of Resolution No. R-83-976, Petition No. 78-261(A)).

F. LANDSCAPING

1. The developer shall construct a six-foot high stucco finish masonry wall along the property's north and west property lines supplemented by trees and vines along the Osceola Road frontage. Should this wall and landscaping be constructed in an easement it shall be the developer's responsibility to insure that the wall and landscaping are repaired or replaced within 30 days of any damage or removal done by the utility company. (BUILDING-Zoning) (Previously Condition No. 12 of Resolution No. R-83-976, Petition No. 78-261(A)).

2. Heavy landscaping shall be installed across from the intersections of local residential streets and Osceola Road. The north and west facades of the shopping center will be landscaped with foundation plantings and with canopy's tree within adjacent paved areas. (BUILDING-Zoning) (Previously Condition No. 14 of Resolution No. R-83-976, Petition No. 78-261(A)).

3. The developer shall install landscaping as shown on the colored plan displayed at the Board of County Commissioners Hearing which included trees planted at 20 feet on center and no structures closer than 65 feet to the property line, and a three foot high continuous hedge along U.S. Highway #1. All landscaping shall be served by an automatic sprinkler system, and shall be maintained in healthy and groomed condition by the developer. (Previously Condition No. 21 of Resolution No. R-83-576, Petition No. 78-261(A)).
4. The petitioner of Zoning Petition EAC78-261(D) shall install canopy trees thirty (30) feet on center along U.S. Highway 1 prior to January 31, 1996. (MONITORING/BUILDING-Zoning)

G. LIGHTING

1. Security lighting shall be directed away from nearby residences. (BUILDING-Zoning) (Previously Condition No. 17 of Resolution No. R-83-976, Petition No. 78-261(A)).

H. USE LIMITATIONS

1. Loading docks and dumpsters locations and their uses shall be subject to the following restrictions:
 - a. Loading docks and dumpsters shall be located adjacent to the shopping center building and shall be screened by wingwalls at least 10 feet in height.
 - b. No stock loading or dumpster pickup will be permitted between the hours of 8:00 p.m. and 8:00 a.m. (BUILDING/CODE ENFORCEMENT - Zoning) (Previously Condition No. 13 of Resolution No. R-83-976, Petition No. 78-261(A)).
2. No independently licensed alcohol-serving establishments will be permitted on this site. Only lounges accessory to a full service restaurant will be permitted. (CODE ENFORCEMENT (Previously Condition No. 18 of Resolution No. R-83-976, Petition No. 78-261(A))).
3. Any grocery store in this center must cease nighttime operation by 10:00 P.M. (CODE ENFORCEMENT) (Previously Condition No. 19 of Resolution No. R-83-976, Petition No. 78-261(A)).
4. There shall be no internal cross access to the main entrance drive from U.S. Highway #1 located closer than permitted by the site plan review committee. (ZONING) (Previously Condition No. 20 of Resolution No. R-83-976, Petition No. 78-261(A)).
5. Condition 22 of Resolution R-83-976, which currently states:

No movie theaters, game arcades or package liquor stores will be permitted in this center.

Is hereby amended to state:

Retail stores shall be restricted to disallow movie theaters or game arcades. In 1995 the Board of County Commissioners reviewed the conditions for movie theaters and game arcades to re-confirm that they are prohibited. (COUNTY ATTORNEY)

6. The approval granted by the Board of County Commissioners on July 27, 1995 (Zoning Petition EAC78-261D) is for a single gourmet food sales and upgraded package liquor sales store with a maximum of 3,400 square feet. The location of the store shall be limited to the area indicated on the site plan dated 5/25/95. (BUILDING/CODE ENFORCEMENT-County Attorney)
7. No advertisement of liquor sales, prices or stock shall be permitted on the front facade or windows of the package liquor store. (CODE ENFORCEMENT-Zoning)
8. The package liquor store shall close by 9:00 p.m. Monday-Saturday and only be open on Sunday from 2:00 p.m.-6:00 p.m. (CODE ENFORCEMENT-County Attorney)
9. The following uses for the package liquor store are prohibited:
 - a. On site consumption; and
 - b. Walk-up window or drive-through sales. (CCDE ENFORCEMENT-County Attorney)

I. COMPLIANCE

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; 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 condition;; 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 PZB or a majority vote of the Code Enforcement Board 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 5.8 of the ULDC, in response to any flagrant violation or continued violation of conditions of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)