

RESOLUTION NO. R-2012- 0782

RESOLUTION APPROVING ZONING APPLICATION CA-2011-02908
(CONTROL NO. 1978-00204)
a Class A Conditional Use

APPLICATION OF Florida Buddhist Centers Inc - Moc Thuy K Nguyen
BY Giao Chi Cao, Jon E Schmidt & Associates, AGENT
(Florida Buddhist Centers, Inc - Lotus Monastery)

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; and

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; and

WHEREAS, Zoning Application CA-2011-02908 was presented to the Board of County Commissioners at a public hearing conducted on May 24, 2012; 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, 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; and

WHEREAS, the conditions of approval contained in this resolution have been mutually agreed to by the applicant, Florida Buddhist Centers, Inc., the West Gun Club Road Property Owner's Association, Inc., the Milestone West Homeowners Protective Association, Inc. and surrounding residents; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a a Class A Conditional Use .

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 CA-2011-02908, the petition of Florida Buddhist Centers Inc - Moc Thuy K Nguyen, by Giao Chi Cao, Jon E Schmidt & Associates, agent, for a Class A Conditional Use to allow a Place of Worship. in the RT 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 May 24, 2012, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

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

Commissioner Shelley Vana, Chair	-	Aye
Commissioner Steven L. Abrams, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Burt Aaronson	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Nay

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 24, 2012.

Filed with the Clerk of the Board of County Commissioners on June 8, 2012.

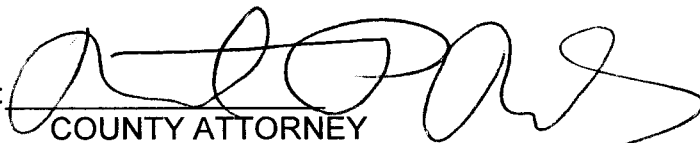
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

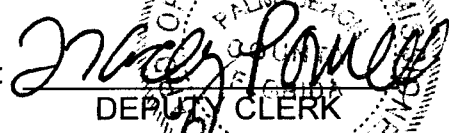
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK




EXHIBIT A
LEGAL DESCRIPTION

Legal Description
Florida Buddhist Centers, Inc. - Lotus Monastery - Ni Viên Liên Hoa
Palm Beach County (PBC) Development Review Officer (DRO) Submittal
Original Submittal: November 16, 2011

The South 250 feet of Tract 16, MODEL LAND CO. SUBDIVISION OF NORTHWEST QUARTER AND SOUTHEAST QUARTER OF NORTHEAST QUARTER; WEST HALF AND SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 44 SOUTH, RANGE 42 EAST, according to the Plat thereof, as recorded in Plat Book 5, Page 80, of the Public Records of Palm Beach County, Florida,

EXHIBIT B
VICINITY SKETCH

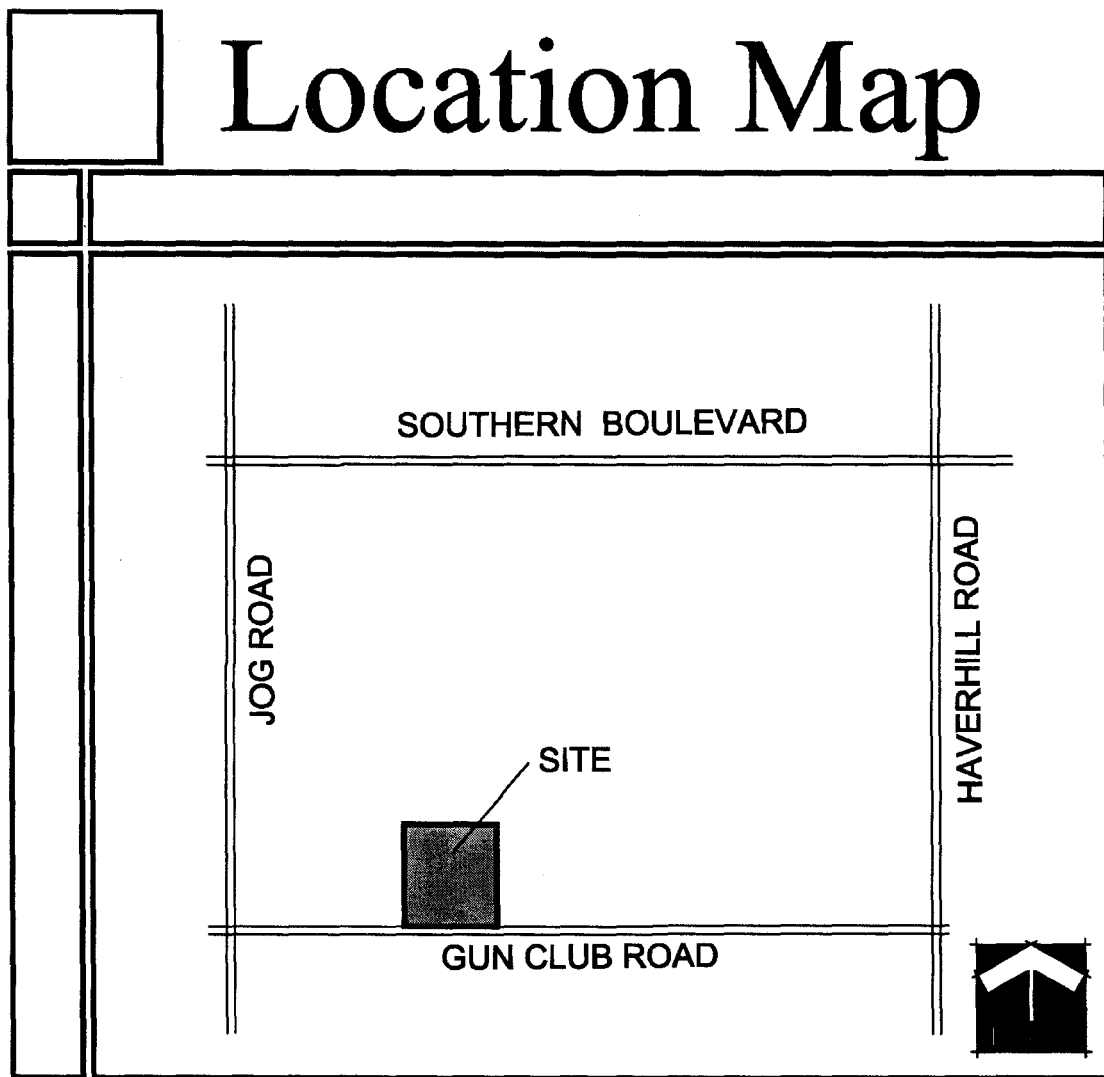


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.The approved Preliminary Site Plan is dated February 9, 2012. 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)

ARCHITECTURAL REVIEW

1.At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for the place of worship shall be submitted for final architectural review and approval. Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC). Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. Any future modifications and/or new building design shall be consistent with the architectural styles and types of construction as found in the surrounding neighborhoods. Tool or storage sheds shall be exempt from these requirements. (DRO: ZONING - Zoning)

2.The maximum building height for all buildings shall not exceed twenty-five (25) feet. All heights shall be measured from the finish grade to the highest point. (DRO: ZONING: BUILDING-Zoning)

ENGINEERING

1.The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for 40 feet from the centerline of Gun Club Road including a corner clip at the intersection of Cypress Avenue. All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Grantor must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the property owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT/ONGOING: MONITORING-Eng)

2.Prior to April 26, 2013 or prior to operation of religious facility, whichever shall occur first, the property owner shall submit an acceptable application for a Right of Way permit to construct improvements to the existing the driveway connection to Gun Club Road, receive permit approval, construct improvements and receive a satisfactory final inspection on such improvements. (DATE/ONGOING: MONITORING - Eng)

3.The property owner shall provide an acceptable drainage study identifying any

historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The property owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING-Eng)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (PLAT/BLDG PERMIT: MONITORING-Eng)

LANDSCAPE - GENERAL

1. All landscape buffers shall be updated to include a minimum seventy five (75) percent native plant materials. (BLDG PERMIT: LANDSCAPE-Zoning)

2. Fencing on the property shall not be solid or opaque. This condition shall not preclude the installation of a hedge as the continuous, opaque landscape barrier required within an incompatibility buffer. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER-SOUTH AND WEST RIGHT OF WAY BUFFER

1. The Right-of-Way Buffers along the south and west property lines shall be upgraded to include:

a. a continuous landscape barrier a minimum of four (4) feet in height. (BLDG PERMIT: LANDSCAPE-Zoning)

LIGHTING

1. All outdoor, freestanding and building mounted lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

2. All outdoor lighting shall be extinguished no later than 10 p.m. or no more than one (1) hour after active use of the place of worship, which ever is latest. This shall not apply to security lighting. (ONGOING: CODE ENF - Zoning)

3. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, minimum necessary to satisfy the Palm Beach County Security Code, shielded and directed down and away from adjacent properties and streets. (ONGOING: CODE ENF - Zoning)

4. The lighting conditions above shall not apply to low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

SIGNS

1. Ground mounted freestanding signs fronting on Gun Club Road shall be limited as follows:

a. maximum sign height, measured from finished grade to highest point: three (3) feet;

b. maximum sign face area per side: fifteen (15) square feet;

c. maximum number of signs: one (1);

d. orientation: parallel with Gun Club Road;

e. style: monument style only and architecturally compatible with the existing structure; and,

f. internal or neon lighting shall not be allowed.

(BLDG PERMIT: BLDG - Zoning)

2. No other types of ground mounted signs (freestanding, entrance, outparcel identification) shall be allowed. (ONGOING: CODE ENF -Zoning)

SITE DESIGN

1. Prior to final approval by the Development Review Officer (DRO), the property owner shall revise the site plan and any supplemental documents to indicate the locations and use approvals of 400 square foot and 36 square foot accessory

structures, subject to the accessory use requirements of Article 5.A. If the applicant does not include these structures they shall be removed from the site and/or withdrawn from the Building Permit Review Process. (DRO/BLDG PERMIT: ZONING-Building)

2. No vehicular or pedestrian access shall be allowed from Cypress Avenue. (ONGOING: CODE ENF - Zoning)

3. Any sculptures/statues located on the subject property shall be screened from view by landscaping and not visible from any property line. (ONGOING: CODE ENF - Zoning)

USE LIMITATIONS

1. Prior to September 1, 2012 or the commencement of activities associated with the place of worship use, whichever occurs first, the property owner shall apply for a change of occupancy classification and all necessary alterations required to convert the existing Single Family dwelling into a Place of Worship. (DATE/BLDG PERMIT: MONITORING/BLDG -Building)

2. Outdoor speaker or public address systems shall not be permitted on the property including covered, unenclosed areas of the structure. (ONGOING: CODE ENF - Zoning)

3. No revivals, carnivals, bingo or temporary amusements shall be permitted. (ONGOING: CODE ENF - Zoning)

4. No accessory outdoor uses such as temporary sales events shall be permitted. (ONGOING: CODE ENF - Zoning)

5. If off-site parking is required for a special event, it shall be located on property with accommodations for such parking. No parking shall occur in a public right-of-way or a private roadway. (ONGOING: CODE ENF - Zoning)

6. The Place of Worship shall only be utilized by the property owner and shall not be shared, leased, rented or otherwise used by other religious or civic groups. (ONGOING: CODE ENF - Zoning)

7. The property owner shall not provide and/or distribute foods, hard goods or refuge to the general public from the subject property. (ONGOING: CODE ENF - Zoning)

8. The following uses shall be prohibited on the subject property:

- a. Day Care, General; and,
- b. Day Care, Limited. (DRO: ZONING - 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 (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

historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The property owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING-Eng)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (PLAT/BLDG PERMIT: MONITORING-Eng)

LANDSCAPE - GENERAL

1. All landscape buffers shall be updated to include a minimum seventy five (75) percent native plant materials. (BLDG PERMIT: LANDSCAPE-Zoning)

2. Fencing on the property shall not be solid or opaque. This condition shall not preclude the installation of a hedge as the continuous, opaque landscape barrier required within an incompatibility buffer. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER-SOUTH AND WEST RIGHT OF WAY BUFFER

1. The Right-of-Way Buffers along the south and west property lines shall be upgraded to include:

a. a continuous landscape barrier a minimum of four (4) feet in height. (BLDG PERMIT: LANDSCAPE-Zoning)

LIGHTING

1. All outdoor, freestanding and building mounted lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

2. All outdoor lighting shall be extinguished no later than 10 p.m. or no more than one (1) hour after active use of the place of worship, which ever is latest. This shall not apply to security lighting. (ONGOING: CODE ENF - Zoning)

3. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, minimum necessary to satisfy the Palm Beach County Security Code, shielded and directed down and away from adjacent properties and streets. (ONGOING: CODE ENF - Zoning)

4. The lighting conditions above shall not apply to low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

SIGNS

1. Ground mounted freestanding signs fronting on Gun Club Road shall be limited as follows:

a. maximum sign height, measured from finished grade to highest point: three (3) feet;

b. maximum sign face area per side: fifteen (15) square feet;

c. maximum number of signs: one (1);

d. orientation: parallel with Gun Club Road;

e. style: monument style only and architecturally compatible with the existing structure; and,

f. internal or neon lighting shall not be allowed.

(BLDG PERMIT: BLDG - Zoning)

2. No other types of ground mounted signs (freestanding, entrance, outparcel identification) shall be allowed. (ONGOING: CODE ENF -Zoning)

SITE DESIGN

1. Prior to final approval by the Development Review Officer (DRO), the property owner shall revise the site plan and any supplemental documents to indicate the locations and use approvals of 400 square foot and 36 square foot accessory

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)