

RESOLUTION NO. R-2013- 1073

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2012-00979
(CONTROL NO. 1980-00161)
a Development Order Amendment
APPLICATION OF SE Petro One LLC
BY Core States Group, AGENT
(Arvida Parkway Center)

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 ZV/DOA/R-2012-00979 was presented to the Board of County Commissioners at a public hearing conducted on August 22, 2013; 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, 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 Finds the application meets all standards contained in Article 2.B.2.B for a Development Order Amendment.

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 ZV/DOA/R-2012-00979, the petition of SE Petro One LLC, by Core States Group, agent, for a Development Order Amendment to reconfigure the Site Plan; add square footage and pumps; and, modify Condition of Approval (Site Design) in the General Commercial (CG) 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 August 22, 2013, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Berger moved for the approval of the Resolution.

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

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 22, 2013.

Filed with the Clerk of the Board of County Commissioners on August 29th, 2013.

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

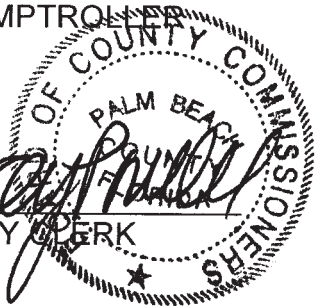


EXHIBIT A

LEGAL DESCRIPTION

RESOLUTION 80-161

LEGAL DESCRIPTION:

ARVIDIA PARKWAY

A PORTION OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 16, TOWNSHIP 47 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 16; THENCE NORTH 89° 19' 27" EAST, ALONG THE SOUTH LINE OF SAID SECTION 16, A DISTANCE OF 404.53 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE NORTH 89° 19' 27" EAST, ALONG SAID SOUTH LINE OF SECTION 16, A DISTANCE OF 937.31 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 16; THENCE NORTH 00° 57' 25" WEST, ALONG THE EAST LINE OF SAID SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER, A DISTANCE OF 1230.58 FEET TO AN INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD #808; THENCE WESTERLY, ALONG SAID SOUTH RIGHT-OF-WAY LINE, ALONG THE ARC OF A CIRCULAR CURVE TO THE LEFT, HAVING A RADIUS OF 1808.08 FEET, AND WHOSE RADIUS POINT BEARS SOUTH 12° 13' 24" EAST FROM THE LAST DESCRIBED POINT, WITH A CENTRAL ANGLE OF 07° 22' 23", AN ARC DISTANCE OF 232.67 FEET TO THE POINT OF TANGENCY; THENCE CONTINUING, ALONG SAID SOUTH RIGHT-OF-WAY, SOUTH 70° 24' 13" WEST, A DISTANCE OF 53.75 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE TO THE RIGHT; THENCE WESTERLY, CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY, HAVING A RADIUS OF 2369.53 FEET, WITH A CENTRAL ANGLE OF 10° 37' 26", AN ARC DISTANCE OF 439.36 FEET; THENCE SOUTH 00° 58' 01" EAST, A DISTANCE OF 283.73 FEET; THENCE SOUTH 89° 01' 59" WEST, A DISTANCE OF 235.00 FEET; THENCE SOUTH 00° 58' 01" EAST, A DISTANCE OF 763.90 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

SUBJECT TO ALL EASEMENTS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

CONTAINING 22.38 ACRES, MORE OR LESS.

7950 GLADES ROAD

PARCEL 1:

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING A PORTION OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 47 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 16; THENCE N 89 DEGREES 19'27" E, ALONG THE SOUTH LINE OF SAID SECTION 16, A DISTANCE OF 404.53 FEET; THENCE N 00 DEGREES 58'01" W, ALONG A LINE OF 404.53 FEET EAST OF AND PARALLEL WITH AS MEASURED AT RIGHT ANGLES TO THE WEST LINE OF SAID SECTION 16, A DISTANCE OF 763.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 00 DEGREES 58'01" W, ALONG THE LAST DESCRIBED COURSE, A DISTANCE OF 262.54 FEET TO A POINT ON THE ARC OF A CIRCULAR CURVE TO THE LEFT, SAID POINT ALSO BEING ON THE SOUTH RIGHT OF WAY LINE OF STATE ROAD NO. 808 (GLADES ROAD); THENCE EASTERLY

ALONG SAID SOUTH RIGHT OF WAY ALONG THE ARC OF SAID CIRCULAR CURVE TO THE LEFT, HAVING A RADIUS OF 2369.53 FEET, AND WHOSE RADIUS POINT BEARS N 3 DEGREES 15'53" W, FROM THE LAST DESCRIBED POINT, WITH A CENTRAL ANGLE OF 5 DEGREES 42'28", AN ARC DISTANCE OF 236.05 FEET; THENCE S 0 DEGREES 58'01" E, A DISTANCE OF 283.73 FEET; THENCE S 89 DEGREES 01'59" W, A DISTANCE OF 235.00 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR CREATED IN WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 5542, PAGE 814, FOR THE PURPOSE OF USING AND MAINTAINING A NON-EXCLUSIVE VEHICULAR AND PEDESTRIAN EASEMENT, RIGHT OF WAY AND PASSAGE OVER, UNDER AND ACROSS THE LANDS DESCRIBED THEREIN. SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

EXHIBIT B

VICINITY SKETCH

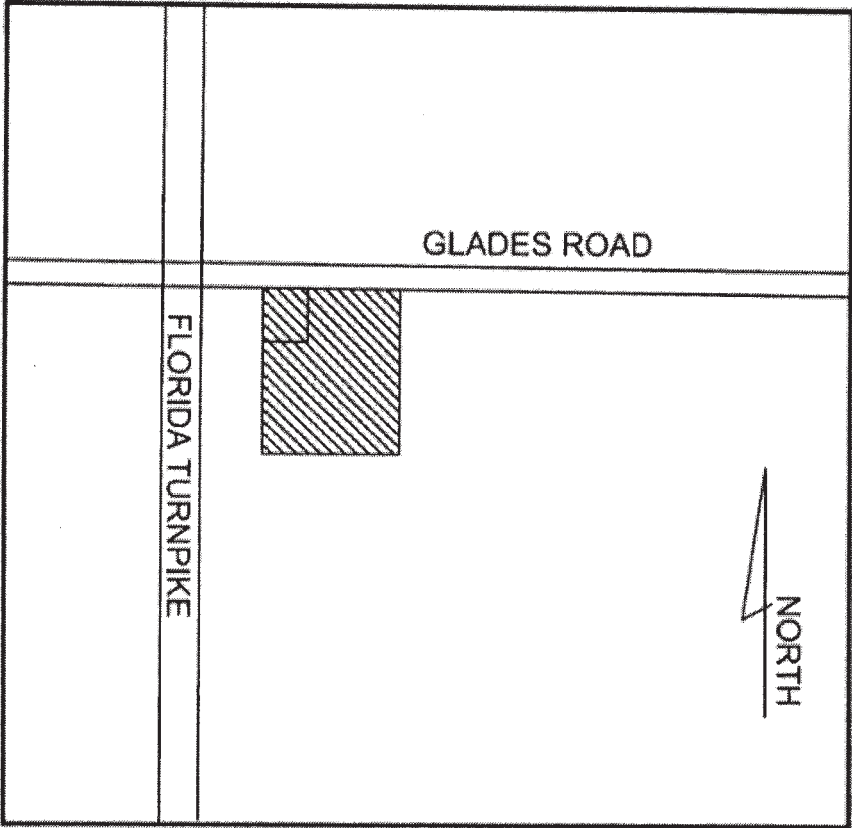


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolutions R-81-309 (No Conditions) R-81-310 and R-85-1077 (Control 1980-161), 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)

2. The approved Preliminary Site Plan is dated December 21, 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)

3. The petitioner shall present a notarized Affidavit of Disclosure at the Zoning Authority Meeting. (Previous Condition 11 of Resolution R-85-1077, Control No. 80-161) (DATE: May 23, 1985 ZONING - Zoning) [NOTE: COMPLETED.]

4. Exact copies of all graphics presented at the Planning Commission and Board of County Commissioners' public hearings shall be submitted to the Zoning Division for inclusion into the permanent file. (Previous Condition 12 of Resolution R-85-1077, Control No. 80-161) (DATE: May 23, 1985) [NOTE: COMPLETED.]

ARCHITECTURAL REVIEW

1. All mechanical and air conditioning equipment shall be roof mounted and screened with parapets or be contained within the enclosed loading and service area. (Previous Condition 2 of Resolution R-85-1077, Control No. 80-161) (ONGOING: ARCH REV - Zoning)

ENGINEERING

1. Previous Condition 1 of Resolution R-84-336, Control No. 80-161, which currently states:

This development shall retain onsite 100% of the storm water runoff generated by a three (3) year storm per requirements of the Permit Section, Land Development Division until such time as outfall into the Lake Worth Drainage District is available; at the time this requirement may be reduced to 85%.

Is hereby deleted. [REASON: Drainage is now a Code requirement]

2. The developer shall align the shopping center's east entrance on Glades Road with the Arvida Turnpike Plaza, as determined by the County Engineer. (Previous Condition 3 of Resolution R-84-336 and Condition 1 of Resolution R-81-310, Control No. 80-161) [NOTE: COMPLETED.]

3. Prior to the issuance of the first Certificate of Occupancy for the shopping center portion of the site, the developer shall construct at the shopping center's east entrance and Glades Road:

- a. left turn lane, east approach.
- b. right turn lane, west approach.
- c. two lanes entering and two lanes exiting
- d. signalization when warranted as determined by the County Engineer.

(Previous Condition 4 of Resolution R-84-336 and Condition 2 of Resolution R-81-310, Control No. 80-161) [NOTE: COMPLETED.]

4. This development shall be permitted only one median opening on Glades Road a minimum distance of 700 feet East of the centerline of the proposed Sunrise Boulevard. (ONGOING: ENGINEERING-Eng) (Previous Condition 5 of Resolution R-84-336 and Condition 3 of Resolution R-81-310, Control No. 80-161)

5. The Developer 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 is \$243,351.00. Credit in the amount of \$200,000.00 shall be given to this developer which has already expended this sum of (\$200,000.00) toward the 4-laning of Glades Road from Lyons Road to the Florida Turnpike. (Previous Condition 10 of Resolution R-85-1077, Control No. 80-161)

6. Within thirty (30) days of this approval, the applicant shall enter into an agreement with Palm Beach County for the design and construction of roadway improvements as specified by the Board of County Commissioners. This resolution will become invalid unless said agreement is executed as specified above. (DATE: MONITORING - Eng) (Previous Condition 7 of Resolution R-81-310, Control No. 80-161)

ENVIRONMENTAL

1. Prior to Site Plan Certification, a certified tree survey shall be submitted to the permanent file. (DRO: ERM-erm) (Previous Condition 16 of Resolution R-85-1077, Control No. 80-161)

2. The developer shall preserve existing vegetation wherever possible and shall incorporate said vegetation into the project design. Appropriate measures shall be taken to protect these preservation areas during site clearing and construction. (Ongoing:ERM-erm)(Previous Condition 17 of Resolution R-85-1077, Control No. 80-161)

HEALTH

1. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties. (Previous Condition 5 of Resolutions R-81-310 and R-85-1077, and Condition 7 of R-84-336, Control 1980-161) [NOTE: COMPLETED]

2. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. (Previous Condition 6 of Resolutions R-81-310 and R-85-1077, and Condition 8 of R-84-336, Control 1980-161) [NOTE: COMPLETED.]

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 7 of Resolution R-85-1077, Control 1980-161) [NOTE: COMPLETED.]

4. 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. (Previous Condition 8 of Resolution R-85-1077, Control 1980-161)[NOTE: COMPLETED.]

5. The owner of the facility will participate in an oil recycling program which insures proper reuse or disposal of waste oil. (ONGOING: HEALTH-Health) (Previous Condition 9 of Resolution R-85-1077; Control 1980-161)

LANDSCAPE - GENERAL

1. All landscaping shall be installed as shown on site plan submitted prior to the issuance of a Certificate of Occupancy. (CO: LANDSCAPE - Zoning) (Condition Landscape 4 of Resolution R-81-310 and Condition 6 of Resolution R-84-336, Control No. 80-161) [NOTE: COMPLETED.]

LANDSCAPE - PERIMETER

2. Prior to site plan certification, the site plan shall be amended to reflect the following:

- a.) Along the south property line abutting residential development, a minimum ten foot buffer with a six foot chain link security fence topped with a "Y" barbed wire anti-scaling device with landscape planting, shrubs, and vines, to create an aesthetic buffer, supplemented with ten to twelve foot high canopy trees planted equivalent to twenty feet on center.
- b.) Loading bays for each building as required by Section 500.19 (Off-street loading area).
- c.) A 28 foot wide landscaped buffer shall be maintained along the east property line.
- d.) Along the west property line abutting residential development a minimum, ten foot buffer with existing vegetation preserved where possible and adding to the existing six foot chain link security fence with a "Y" barbed wire anti-scaling device with landscape planting, shrubs, and vines, to create an aesthetic buffer.
- e.) Petitioner will install a six foot chain link fence, topped with a "Y" barbed wire anti-scaling structure that will connect petitioner's southern fence to the Estancia fence at the southwest corner of Estancia. This fence will be continued north approximately three feet away from Estancia's western wall. This westerly fence will then "T" east into the Estancia wall along Glades Road and west to Estancia's actual property line. Deterrent landscaping will also be provided by petitioner along the Glades portion of the new fence from this site's easterly projected entry. The fencing will be installed as soon as practical, and the landscaping will be installed at the time that petitioner's entry landscaping is installed. (DRO: ZONING - Zoning) (Previous Condition 1 of Resolution R-85-1077, Control No. 80-161) [NOTE: COMPLETED.]

SITE DESIGN

1. Any site plan modifications following this Board of County Commission approval shall locate all buildings no less than 150 feet from the east, south, and west property lines that abut residential development. (DRO: ZONING - Zoning) (Previous Condition 3 of Resolution R-85-1077, Control No. 80-161) [NOTE: COMPLETED.]
2. The proposed hotel shall not exceed ninety (90) feet in overall height. (ONGOING: ZONING - Zoning) (Previous Condition 13 of Resolution R-85-1077, Control No. 80-161)
3. A 24-hour security program shall be established for this site which includes monitoring of surrounding residential property lines. (ONGOING: CODE ENF - Code - Enf) (Previous Condition 15 of Resolution R-85-1077, Control No. 80-161)
4. Variance relief shall be obtained for the use of barbed wire in the fencing of the perimeter of this site. As applicable, variance relief shall also be obtained from the solid wall requirement, where this site abuts residentially zoned property and the developer proposes chain link security fence. (DRO: ZONING - Zoning)(Previous Condition 18 of Resolution R-85-1077, Control No. 80-161) [NOTE: COMPLETED. BA 85-74 approved July 18, 1985.]

USE LIMITATIONS

1. No loading or dumpster pickup will be permitted between the hours of 8:00 p.m. and 8:00 a.m. (ONGOING: CODE ENF - Code Enf) (Previous Condition 4 of Resolution R-85-1077, Control No. 80-161)
2. There shall be no bar or cocktail lounge seating, restaurant facility, nor convention facilities in the hotel structure. This condition shall not prohibit facilities to provide complimentary breakfasts or social functions for guests only. (ONGOING: CODE ENF - Code Enf) (Previous Condition 14 of Resolution R-85-1077, Control No. 80-161)
3. No retail sales by occasional occupants or transient vendors shall be permitted in the hotel. (ONGOING: CODE ENF - Code Enf) (Previous Condition 19 of Resolution R-85-1077, Control No. 80-161)

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)