

RESOLUTION NO. R-2013-1761

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2013-01330
(CONTROL NO. 2007-00018)
a Development Order Amendment
APPLICATION OF Garrison West Palm Retail LLC
BY Gentile Glas Holloway O'Mahoney & Assoc Inc., AGENT
(Shoppes at Southern Palms)

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-2013-01330 was presented to the Board of County Commissioners at a public hearing conducted on December 5, 2013;

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 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 DOA/R-2013-01330, the petition of Garrison West Palm Retail LLC, by Gentile Glas Holloway O'Mahoney & Assoc Inc., agent, for a Development Order Amendment to reconfigure the Site Plan and add square footage and uses 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 December 5, 2013, 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 Berger 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 Chairperson thereupon declared that the resolution was duly passed and adopted on December 5, 2013.

Filed with the Clerk of the Board of County Commissioners on December 9, 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:

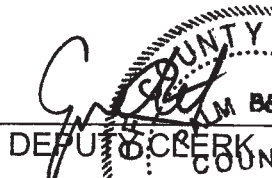

DEPUTY CLERK
BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
FLORIDA

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

**SOUTHERN/SANSBURY'S MUPD, ACCORDING TO THE PLAT THEREOF, AS
RECORDED IN PLAT BOOK 111, PAGES 66 AND 67 OF THE PUBLIC RECORDS OF
PALM BEACH COUNTY, FLORIDA.
LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 24.35 ACRES, MORE OR LESS**

EXHIBIT B
VICINITY SKETCH

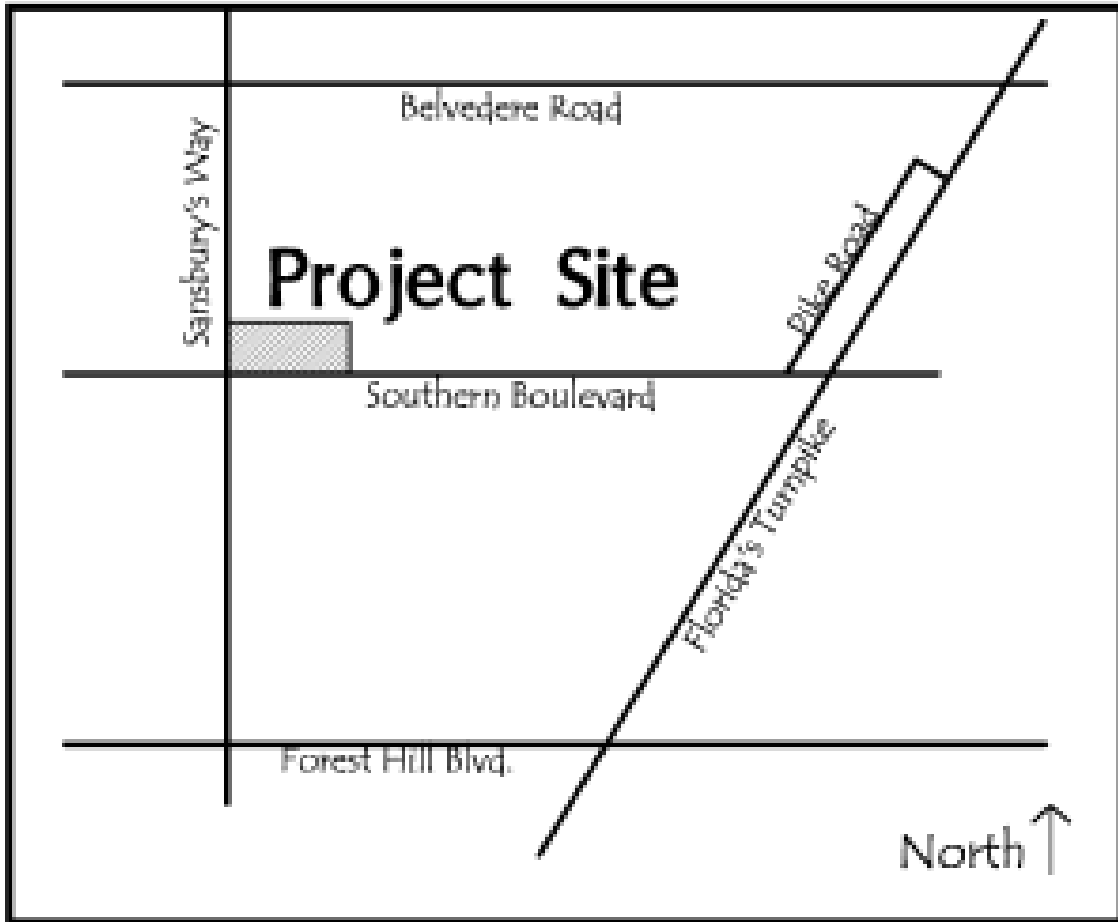


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2007-1879 (Control 2007-00018), 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 07/29/2013. 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 development shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ZONING - Zoning) (Previous Condition Architectural Review 1 of Resolution R-2007-1879, Control 2007-00018)

2. Design of gutters and downspouts shall be integrated into the architectural design of each building. Painting of the gutters and downspouts shall not constitute architectural integration. (Previous Condition Architectural Review 2 of Resolution R-2007-00018, Control Number 2007-00018) (DRO: ZONING - Zoning)

3. Buildings F shall be designed to be generally consistent with the elevations dated June 24, 2013. Modifications to the Elevations inconsistent with the Conditions of Approval, or changes 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)

ENGINEERING

1. Previous Condition E.1 of Resolution R-2007-1879, Control No. 2007-00018, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

- a. No Building Permits for the site may be issued after January 1, 2012. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)
- b. Building Permits for more than 6,800 square feet of gross leasable General Commercial floor area shall not be issued until the contract has been awarded for the following intersection improvements:
 - i. construction of dual left turn lanes north approach on Lyons Road at Forest Hill Blvd. plus the appropriate paved tapers and receiving lanes.
 - ii. construction of a right turn lane north approach on Sansbury's Way at Southern Blvd. plus the appropriate paved tapers and receiving lanes. (BLDG PERMIT: MONITORING-Eng)

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a.No Building Permits for the site may be issued after December 31, 2017. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

b.Building Permits for more than 6,800 square feet of gross leasable General Commercial floor area shall not be issued until the contract has been awarded for the following intersection improvements:

i. construction of dual left turn lanes north approach on Lyons Road at Forest Hill Blvd. plus the appropriate paved tapers and receiving lanes.

ii. construction of a right turn lane north approach on Sansbury's Way at Southern Blvd. plus the appropriate paved tapers and receiving lanes. (BLDG PERMIT: MONITORING-Eng) [Note: COMPLETED]

c.No Building Permits for the site shall be issued until the Property Owner makes a proportionate share payment in the amount of 7.54% of the total cost of the following improvements at the intersection of Southern Blvd and Sansbury's Way:

i. modify the north approach to make a total of two (2) left turn lanes, two (2) through lanes, and one (1) right turn lane,

ii. modify the south approach to make a total of two (2) left turn lanes, two (2) through lanes, and two (2) right turn lanes,

iii. modify the west approach to make a total of two (2) left turn lanes, four (4) through lanes, and one (1) right turn lane, and

iv. modify the east approach to make a total of two (2) left turn lanes, four (4) through lanes, and one (1) right turn lane.

These modifications will also require widening of the Lyons Road bridge on the south approach to accommodate the receiving lanes as well as all necessary tapers. This proportionate share amount may be applied toward construction of this improvement or one or more other improvements that will benefit the mobility in the area impacted by the project, as determined by the County Engineer and/or the Florida Department of Transportation. The value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the County Engineer or other method approved by the County Engineer at the time of payment. (BLDG PERMIT: MONITORING - Eng)

2.Acceptable surety required for the offsite intersection improvements as outlined in Engineering condition number 1.b above shall be posted with the Office of the Land Development Division on or before February 23, 2008. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Property owner's Engineer. (TPS - Maximum 6 month time extension) (DATE:MONITORING-Eng) (Previous Condition E.2 of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

3.CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY

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:

- Sansbury's Way 60 feet from centerline

- Expanded Intersection Detail along Sansbury's Way at Southern Boulevard, 64 feet from centerline plus the appropriate taper.

All right of way deed(s) and associated documents shall be provided and approved prior to January 1, 2008 or prior to the issuance of a Building Permit whichever shall first occur.

Right of way conveyance shall be along the entire frontage and shall be free 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. The Property Owner further warrants 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 Property Owner, the Property Owner 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 "Corner Clips." The Property Owner shall not record these required deeds or related documents. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (DATE/BLDG. PERMIT: MONITORING-Eng) (Previous Condition E.3 of Resolution R-2007-1879, Control No. 2007-00018)

[Note: COMPLETED]

4. Prior to issuance of the first building permit, the Property Owner shall provide a temporary roadway construction easement along Sansbury's Way to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this Property Owner's entrance road right of way. Construction within this easement shall conform to Palm Beach County Standards. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches, and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT: MONITORING-Eng) (Previous Condition E.4 of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

5. Prior to the issuance of a building permit, the Property Owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on:

- Sansbury's Way at the project's south entrance road.
- Southern Boulevard at the project's east entrance road.
- Southern Boulevard at the project's west entrance road.

This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate as determined by the County Engineer. 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. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches, and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDG PERMIT: MONITORING-Eng) (Previous Condition E.5 of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

6. The Property Owner shall construct:

- i. a right turn lane east approach on Southern Boulevard at both the projects east and west entrance road
- ii. a right turn lane south approach on Sansbury's Way at the projects south entrance road
- iii. left turn lane north approach on Sansbury's Way at both the projects north and south entrance road
- iv. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of

any additional required right-of-way.

a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng) (Previous Condition E.6.e of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng) (Previous Condition E.6.f of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

7. On or before January 1, 2009, the Property Owner shall provide to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Sansbury's Way along the property frontage; and a maximum 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, compensating storage within this project's retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer, the Property Owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches, and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (DATE: MONITORING-Eng) (Previous Condition E.7 of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

8. Landscape Within the Median of Southern Boulevard

a. The Property Owner shall design, install, and perpetually maintain the median landscaping within the median of all abutting right of way of Southern Boulevard. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph d below. (ONGOING: ENG-Eng) (Previous Condition E.8.a of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng) (Previous Condition E.8.b of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng) (Previous Condition E.8.c of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

d. At Property Owner's option, when and if the County is ready to install OTIS on the

surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENG-Eng) (Previous Condition E.8.d of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Southern Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: ENG-Eng) (Previous Condition E.8.e of Resolution R-2007-1879, Control No. 2007-00018) [Note: COMPLETED]

9. The Property Owner shall restripe the north approach of the intersection of Southern Blvd and Benoist Farms Rd to include one left turn lane and one shared left/through/right lane consistent with Palm Beach County standards within sixty (60) days notice from the County Engineer. Any and all costs associated with this work shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. (ONGOING:ENGINEERING-Eng)

PLANNING

1. Per LGA 2004-007, Ordinance 2004-029, Development shall be limited to a 0.22 Floor Area Ratio (FAR) for a maximum 321,037 gross buildable square footage for this 33.52 acre site. (ONGOING:PLANNING-Planning)

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.