

RESOLUTION NO. R-2022-0147

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/CA-2021-01043
(CONTROL NO. 1999-00028)
a Development Order Amendment (Overall MUPD)
APPLICATION OF Basm Global Real Estate Fund LLC, HSC West Palm Beach, LLC
BY Schmidt Nichols, AGENT
(HSC West Palm Beach)

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, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application ZV/DOA/CA-2021-01043 was presented to the Board of County Commissioners at a public hearing conducted on February 24, 2022;

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 Development Order Amendment;

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 ZV/DOA/CA-2021-01043, the Application of Basm Global Real Estate Fund LLC, HSC West Palm Beach, LLC, by Schmidt Nichols, Agent, for a Development Order Amendment to modify the site plan and uses; add square footage; and, to add and delete Conditions of Approval, 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 February 24, 2022, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marino 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 Robert S. Weinroth, Mayor	- Aye
Commissioner Gregg K. Weiss, Vice Mayor	- Aye
Commissioner Maria G. Marino	- Aye
Commissioner Dave Kerner	- Aye
Commissioner Maria Sachs	- Aye
Commissioner Melissa McKinlay	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on February 24, 2022.

Filed with the Clerk of the Board of County Commissioners on February 28th, 2022.

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

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 

COUNTY ATTORNEY

BY: 

DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

PARCELS 1 AND 2, AND THE WATER MANAGEMENT TRACT, BELVEDERE COMMERCE CENTER M.U.P.D., ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 106, PAGE(S) 127, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTINING 8.127 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

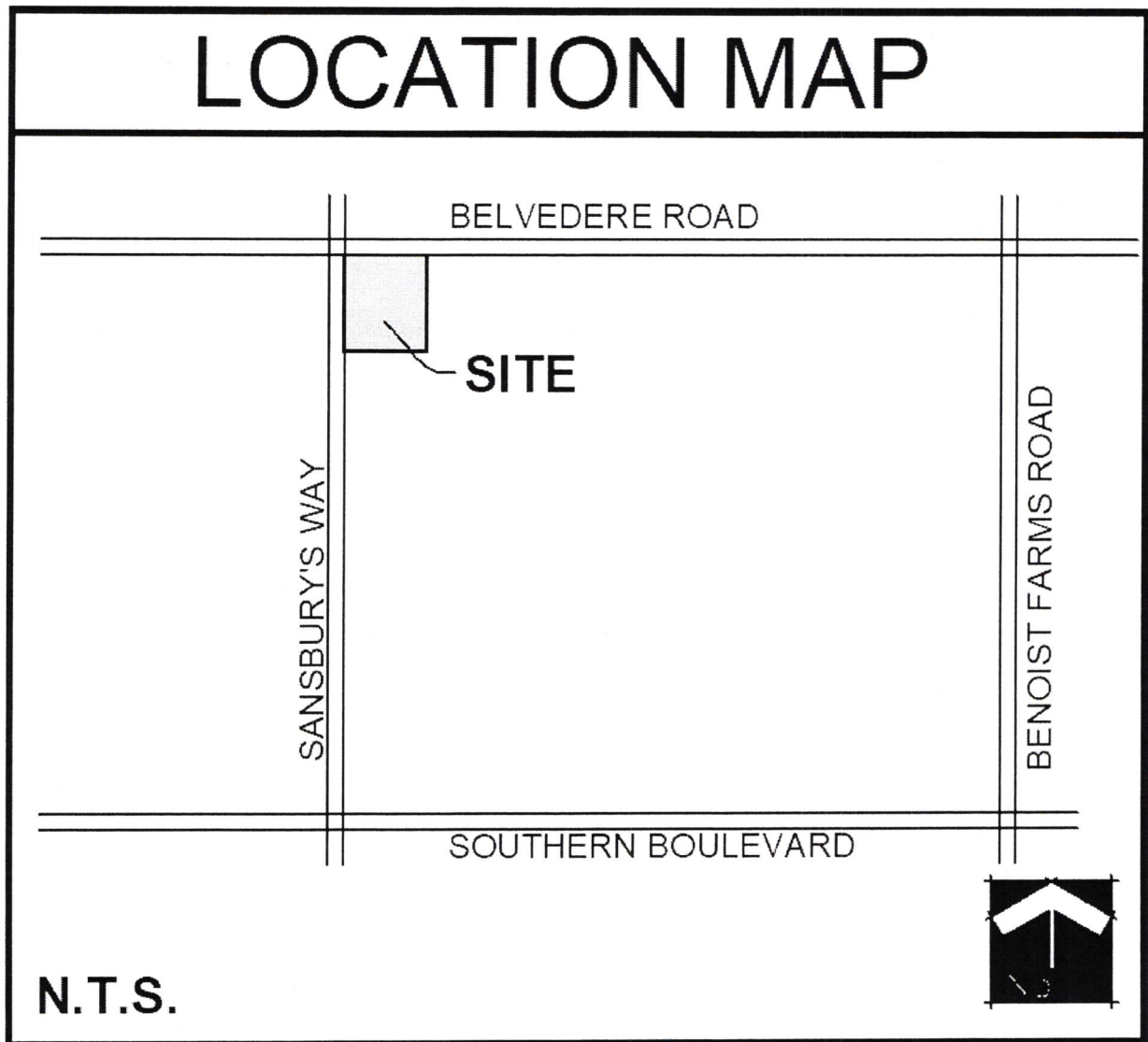


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment (Overall DOA)

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2001-0820 (Petition 1999-028A) have been consolidated as contained 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.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2003-1397 (Control No. DOA 1999-00028), 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: ZONING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated June 24, 2003. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

Is hereby amended to read:

Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated December 13, 2021. All modifications to the Development Order must be approved by the Board of County Commissioners, unless the proposed changes are required to meet Conditions of Approval. (ONGOING: ZONING - Zoning)

3. The petitioner shall have three (3) years from the adoption of the resolution approving Petition 1999-028(B) to commence development on this site. Only one (1) administrative time extension for a maximum of twelve (12) months may be granted. [Note: COMPLETED] (Previous ALL PETITIONS Condition 3 of Resolution R-2003-1397, Control No.1999-00028 (DATE: ZONING - Zoning)

ARCHITECTURAL REVIEW-ARCHITECTURAL CONTROL

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

At time of submittal for final DRC approval of the site plan, the architectural elevations for Buildings A, B and C shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Section 6.6.E. of the ULDC. Development shall be consistent with the approved architectural elevations and DRC approved site plan. (DRC: ZONING - Zoning)

Is hereby deleted. [REASON: No longer applicable.]

ARCHITECTURAL REVIEW-BUILDING & SITE DESIGN

1. Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

All roof or ground air conditioning and mechanical equipment including satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material.(CO: BLDG - Zoning)

Is hereby deleted. [REASON: No longer applicable]

ARCHITECTURAL REVIEW- BUILDING & SITE DESIGN

2. Previous BUILDING AND SITE DESIGN Condition 2 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Prior to final DRC approval of the site plan, the petitioner shall locate the bay doors on Buildings A and B, and shall provide foundation planting in areas pursuant to Foundation Condition K.1.(DRC: ZONING - Zoning)

Is hereby deleted. [REASON: No longer applicable]

ENGINEERING

1. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Lyons Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2003-1397, Control No.1999-00028)

2. The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for:

a. Lyons Road 60 feet from centerline; (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

b. an Expanded Intersection at Lyons Road and Belvedere Road which will provide for 64 feet from centerline for Belvedere Road and 76 feet from centerline for Lyons Road plus the appropriate tapers in accordance with Palm Beach County's typical expanded intersection detail. All right of way shall be conveyed prior to the issuance of the first Building Permit or prior to January 1,2002 whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer 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. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2003-1397, Control No.1999-00028)

3. Previous ENGINEERING Condition 3 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

The Property owner shall construct: i - Non mountable concrete traffic separator within Lyons Road from Belvedere Road south to a point 100 feet south of the projects north entrance; ii - A Left turn lane north approach on Lyons Road at the project's south entrance.

a. All 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.

b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (Previous Condition E.3 of R-2001-0820, Petition PDD1999-028(A))

c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (Previous Condition E.3.C of R-2001-0820, Petition PDD1999-028(A))

Is hereby amended to read:

The Property owner shall construct: i) Non mountable concrete traffic separator within Sansbury's Way from Belvedere Road south to the project's south entrance or as approved by the County Engineer ii) A Left turn lane north approach on Sansbury's Way at the project's south entrance.

a. All 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.

b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)

c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

4. a) The petitioner shall design, install and perpetually maintain the median landscaping within the median of the abutting right of way of Belvedere Road. 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 petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in sub paragraph d below.

b) The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

c) All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

d) At petitioner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner 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 petitioner. The petitioner 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 Petitioner.

e) Alternately, at the option of the petitioner, and prior to the issuance of a Building Permit, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification 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 Belvedere Road. 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. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 4 of Resolution R-2003-1397, Control No.1999-00028)

5. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF BELVEDERE ROAD AND SANBURY'S WAY

a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to provide landscape cutouts within the concrete median of Belvedere and Sansbury's Way right-of-way contiguous to the frontage. As part of this permit process, the property owner shall enter into a Right of Way, concrete median cut out, Landscape Installation and Maintenance, Removal, and Indemnification Agreements. All new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation,

and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Standards. Alternative plant and paver block material other than those listed in the County standards may be permitted subject to approval by the County Engineer. (BLDGPMPT: MONITORING - Engineering)

b. All required median landscaping, including an irrigation system, the cost of the removal or cutting out the existing concrete median as well as the installation of all landscape material, paver block or similar materials shall be funded at the property owners expense. When landscape cutouts are permitted the landscaping shall consist of Landscape Material approved by the County Engineer. All new and existing landscaping, paver blocks or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association. The maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, and the irrigation system. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (BLDGPMPT/CO: MONITORING - Engineering)

c. If the Developer does not enter into an agreement with Palm Beach County to assume the maintenance responsibility, then appropriate property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDGPMPT: MONITORING - Engineering) (Previous ENGINEERING Condition 5 of Resolution R-2003-1397, Control No.1999-00028)

6. Previous ENGINEERING Condition 6 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

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

No Building Permits for the site may be issued after January 1, 2007. A time extension for this condition may be approved by the County Engineer only if 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 Section 5.8 of the Unified Land Development Code. (DATE: MONITORING-Eng) (DATE: MONITORING - Engineering)

Is hereby deleted. [REASON: Superseded by a new buildout condition later.]

7. Previous ENGINEERING Condition 7 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Belvedere Road at both of the project's entrance road. This right-of-way shall be a minimum of twelve feet in width. 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. (BLDGPMPT: MONITORING - Engineering)

Is hereby deleted. [REASON: Superseded by a new buildout condition later.]

8. Previous ENGINEERING Condition 8 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

8. The Property owner shall construct a right turn lane east approach on Belvedere Road at the both project entrances onto Belvedere Road.

a. This construction shall be concurrent with the paving and drainage improvements for the

site. Any and all costs associated with this 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.

b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit.

c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy.

Is hereby amended to read:

The Property owner shall construct right turn lanes west approach on Belvedere Road at both project entrances, as approved by the County Engineer.

a. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.

b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)

c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

9. Previous ENGINEERING Condition 9 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

The concurrency approval is subject to the project aggregation rule set forthin the Traffic Performance Standards Ordinance. (ONGOING: MONITORING - Engineering)

Is hereby deleted. [REASON: No longer required]

10. 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, 2024, or as amended. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

11. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPMT: MONITORING - Engineering)

ENVIRONMENTAL

1. Prior to final approval by the Development Review Officer, the applicant shall provide a rain garden detail and maintenance plan to the Department of Environmental Resources Management. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

2. Prior to final approval by the Development Review Officer, the applicant shall provide a mitigation area management plan to the Department of Environmental Resources Management for review and approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

3. Prior to final approval by the Development Review Officer, the Plans shall be revised to identify the mitigation area surrounding the water management tract, or as approved by the Department of Environmental Resources Management. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

HEALTH

1. Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (Previous HEALTH Condition 1 of Resolution R-2003-1397, Control No.1999-00028)
2. Any toxic or hazardous waste which may be generated at this site shall be handled and disposed of in accordance with Rule 62-730 FAC. (Previous HEALTH Condition 2 of Resolution R-2003-1397, Control No.1999-00028)
3. The owner, occupant or tenant of this facility shall participate in an oil recycling program, which ensures proper re-use or disposal of any waste oil. (Previous HEALTH Condition 3 of Resolution R-2003-1397, Control No.1999-00028)

LANDSCAPE - GENERAL-LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINES (BELVEDERE ROAD AND SANSBURYS WAY FRONTAGES)

1. Previous I Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Landscaping and buffering along the north and west property lines shall be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction of the buffer shall be permitted;
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb; Field adjustment of the berm may be permitted to accommodate existing vegetation;
- c. one (1) canopy tree planted for each twenty-five (25) linear feet of the property line;
- d. one (1) Booted Sabal palm for each twenty (20) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
- f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- g. one (1) large shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation.

Is hereby amended to read:

In addition to the requirements for a right of way buffer along a right of way greater than 100 feet in width, the width of the buffer along the north and west property lines shall be upgraded to be a minimum 25 foot in width. No width reduction of the buffer shall be permitted. (BLDGPMTO/ONGOING: ZONING – Zoning)

LANDSCAPE - GENERAL-LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (ABUTTING INDUSTRIAL USES)

1. Previous J Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Landscaping and buffering along the south and east property lines shall be upgraded to include:

- a. a minimum ten (10) foot wide landscape buffer strip except for the west 220 feet of the south property line which may be reduced to five (5) feet in width;
- b. one (1) canopy tree for each twenty (20) linear feet of the property line;
- c. one (1) palm or pine tree for each twenty (20) linear feet of property line with a maximum spacing of sixty (60) feet between clusters; and,
- d. twenty-four (24) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches;
- e. prior to final DRC approval of the site plan, the petitioner is required to provide an Alternative Landscape plan in areas where existing vegetation/preserve may affect the

proposed landscaping under Conditions J.1.a through J.1.d.

Is hereby amended to read:

In addition to the requirements for a Compatibility buffer, Landscaping and buffering along the south and east property lines shall be upgraded to include a minimum ten (10) foot wide landscape buffer strip except for the west 220 feet of the south property line which may be reduced to 8 feet in width. (BLDGPM/ONGOING: ZONING – Zoning)

LANDSCAPE - INTERIOR

1. Previous LANDSCAPE - INTERIOR Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Fifty percent (50%) of the canopy trees required to be planted in the perimeter buffer shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet;
- b. Trunk diameter: 3.5 measured 4.5 feet above grade;
- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements.

Is hereby deleted. [REASON: deleted to meet ULDC requirements]

2. Previous LANDSCAPE - INTERIOR Condition 2 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Special planting treatment shall be provided on both sides of the access points on Belvedere Road and Sansbury's Way. Planting for each side of the access point (except for the south side of the south access point on Sansbury's way) shall consist of the following: a. a minimum of three (3) Royal Palms. A minimum of one (1) Royal Palm on south side of the south access point on Sansbury's way ; b. a minimum of three (3) flowering trees along the access drive; and c. shrub or hedge materials.

Is hereby deleted. [REASON: deleted to meet code requirements]

LANDSCAPE - INTERIOR

3. Previous LANDSCAPE - INTERIOR Condition 3 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Landscaping for terminal islands in the parking area shall consist of the following: a. one (1) canopy tree for each island. A canopy tree may be replaced by an existing or relocated canopy tree/pine provided it meet current ULDC requirements. b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. Field adjustment of shrub materials shall be permitted in areas where existing or relocated canopy trees/pines are located. (CO:LANDSCAPE - Zoning) 4. Decorative pavers or special paving treatment shall be provided along each access points on Belvedere Road and Sansbury's Way as shown on the site plan dated June 24,2003. Special paving treatment shall also be provided at the intersection of the convenience store and Retail Building B.

Is hereby deleted. [REASON: Deleted to meet ULDC requirements]

ZONING - LANDSCAPING-LANDSCAPING-STANDARD

1. Previous ZONING - LANDSCAPING Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Fifty percent (50%) of the canopy trees required to be planted in the perimeter buffer shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet;
- b. Trunk diameter: 3.5 measured 4.5 feet above grade;

- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements.(ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: Deleted to meet current ULDC standards]

ZONING - LANDSCAPING-LANDSCAPING STANDARD

2. Previous ZONING - LANDSCAPING Condition 2 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

All palms required to be planted on site by this approval shall meet the following minimum standards at installation:

- a. Palm heights: twelve (12) feet clear trunk;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: Deleted to meet current ULDC standards]

3. Previous ZONING - LANDSCAPING Condition 3 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:

- a. eighteen (18) to twenty-four (24) inches - groundcover and small shrub;
- b. twenty-four (24) to thirty-six (36) inches - medium shrub;
- c. forty-eight (48) to seventy-two (72) inches - large shrub; and,
- d. this condition does not apply to the five (5) foot wide compatibility buffer or where a single row of hedge is required on one or both sides of the wall/fence.

Is hereby deleted. [REASON: Deleted to meet current ULDC standards]

4. Previous ZONING - LANDSCAPING Condition 4 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

All trees and palms shall be planted in a meandering and naturalistic pattern.

Is hereby deleted. [REASON: Deleted to meet current ULDC standards]

5. Previous ZONING - LANDSCAPING Condition 5 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein.

Is hereby deleted. [REASON: Deleted to meet current ULDC standards]

6. Previous ZONING - LANDSCAPING Condition 6 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the A Plant the Right Tree in the Right Place guidelines and pursuant to Section 7.3.E.12.a of the ULDC.

Is hereby deleted. [REASON: Deleted to meet current ULDC standards]

7. Previous ZONING - LANDSCAPING Condition 7 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings.

Is hereby deleted. [REASON: Deleted to meet current ULDC standards]

8. Previous ZONING - LANDSCAPING Condition 8 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Prior to final DRC approval of the site plan, the petitioner shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation, specifically specimen trees, is incorporated into the final site design. The petitioner shall complete the following:

- a. the parking spaces/interior islands shall be revised to incorporate Trees T-2, T-3, T-4; T-14; T-22, T-23; and in any other areas where parking spaces could be altered to save existing trees;
- b. all trees to be saved shall be located and identified on the approved site plan; and
- c. a Landscape Plan or an Alternate Landscape Plan (whichever is more appropriate), showing all the proposed plant materials and trees/understory to remain shall be submitted to the Landscape Section for review and approval. Landscape implementation/development of the site shall be consistent with the approved Landscape/Alternate Landscape Plan.

Is hereby deleted. [REASON: Deleted to comply with current ULDC standards]

9. Previous ZONING - LANDSCAPING Condition 9 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Prior to final DRC approval of the site plan, the petitioner shall obtain variance approval from the Board of Adjustment, if necessary, on the maximum separation between interior landscape islands pursuant to Section 7.3.G.3.a.(2) and/or seek parking reduction for the proposed uses.

Is hereby deleted. [REASON: No longer applicable]

LIGHTING

1. Previous LIGHTING Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

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.

Is hereby deleted. [REASON: No longer applicable]

2. Previous LIGHTING Condition 2 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade, as defined by the ULDC, to highest point.

Is hereby deleted. [REASON: No longer applicable]

3. Previous LIGHTING Condition 3 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material.

Is hereby deleted. [REASON: No longer applicable]

MULTIPLE USE PLANNED DEVELOPMENT

1. Prior to final site plan approval by the Development Review Committee (DRC), the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. [Note: COMPLETED] (Previous MULTIPLE USE PLANNED DEVELOPMENT Condition 1 of Resolution R-2003-1397, Control No.1999-00028)

2. Prior to final site approval by the Development Review Committee (DRC), the property owner shall record the following:

a. a covenant/unity of control in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership for the entire subject property; and

b. the covenant/unity of control shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant/unity of control shall not be removed, altered, changed or amended without written approval from the Zoning Director. [Note: COMPLETED] (Previous MULTIPLE USE PLANNED DEVELOPMENT Condition 2 of Resolution R-2003-1397, Control No.1999-00028)

PALM TRAN

1. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. [Note: COMPLETED] (Previous MASS TRANSIT Condition 1 of Resolution R-2003-1397, Control No.1999-00028)

2. Prior to the issuance of the first building permit, the property owner shall convey to Palm Beach County an easement for a Bus Stop, Boarding and Alighting Area, subject to the approval of Palm Tran. The location sketch, legal description, and dedication documents of this easement shall be approved by Palm Tran prior to the recordation of the documents. (BLDGPMT: MONITORING - Engineering) (Previous MASS TRANSIT Condition 2 of Resolution R-2003-1397, Control No.1999-00028)

SIGNS

1. Previous SIGNS Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Freestanding point of purchase signs fronting on Belvedere Road and Sansbury's Way shall be limited as follows :

- a. maximum sign height, measured from finished grade to highest point -ten (10) feet;
- b. maximum sign face area per side -100 square feet;
- c. maximum number of signs - three (3) for the entire site; and d. style - monument style only.

Is hereby deleted. [REASON: Deleted to meet current ULDC standards]

2. Previous SIGNS Condition 2 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Wall signs shall be limited to the following:

- a. north facade of Building A;
- b. west facade of Building B;
- c. north and west facades of convenience store with gas sales;
- d. lettering size shall be limited to twenty-four (24) inches high;
- e. wall signs shall be limited to only identification of tenants only. (CO:BLDG - Zoning)

Is hereby deleted. [REASON: No longer applicable]

3. A "do not enter" sign shall be added at the entrance of the drive isle at the east of building B.

SITE DESIGN

1. Prior to final Development Review Officer approval, the Applicant shall modify the Site Plan to add all outdoor retail areas to concurrency and parking calculations (ONGOING: ZONING - Zoning)

2. Prior to final Development Review Officer approval, the Applicant shall modify the Site Plan to reconfigure the two (2) parking spaces to the east of the fuel canopy to be at a ninety (90) degree angle.

3. Prior to final Development Review Officer approval, the Applicant shall modify the Site Plan to a pedestrian pathway shall be added between building C and the nine (9) parking spaces to the east.

4. Prior to final Development Review Officer approval, the Applicant shall modify the Site Plan to provide a focal point between the daycare and the convenience store to the north.

USE LIMITATIONS

1. Previous USE LIMITATIONS Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility.

Is hereby deleted. [REASON: No longer applicable]

2. Previous USE LIMITATIONS Condition 2 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Repair or maintenance of vehicles shall not be permitted on site except inside the tire store. Repair and maintenance services shall be limited to tire maintenance/service only.

Is hereby deleted. [REASON: No longer applicable]

3. Previous USE LIMITATIONS Condition 3 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site except at the designated loading areas.

Is hereby deleted. [REASON: No longer applicable]

4. Previous USE LIMITATIONS Condition 4 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

The overnight parking of rental trucks/trailers or outside vendors shall not be permitted on the property

Is hereby deleted. [REASON: No longer applicable]

5. Previous USE LIMITATIONS Condition 5 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Outdoor speaker or public address systems which are audible from any property line shall not be permitted on site.

Is hereby deleted. [REASON: No longer applicable]

6. Previous USE LIMITATIONS Condition 6 of Resolution R-2003-1397, Control No.1999-

00028, which currently states:

Outdoor storage of disassembled vehicles or parts shall not be permitted on site.

Is hereby deleted. [REASON: No longer applicable]

7. Previous USE LIMITATIONS Condition 8 of Resolution R-2003-1397, Control No. 1999-00028, which currently states:

Prior to final site plan approval by the DRC, the plan shall be revised to relocate the dumpster for Retail Buildings A and B to a less conspicuous area or adjacent to the loading area.

Is hereby deleted. [REASON: No longer applicable]

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)

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.

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/CA-2021-01043
(CONTROL NO. 1999-00028)
a Development Order Amendment (Retail Gas and Fuel with Convenience Store)
APPLICATION OF Basm Global Real Estate Fund LLC, HSC West Palm Beach, LLC
BY Schmidt Nichols, AGENT
(HSC West Palm Beach)

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, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application ZV/DOA/CA-2021-01043 was presented to the Board of County Commissioners at a public hearing conducted on February 24, 2022;

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 Development Order Amendment;

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 ZV/DOA/CA-2021-01043, the Application of Basm Global Real Estate Fund LLC, HSC West Palm Beach, LLC, by Schmidt Nichols, Agent, for a Development Order Amendment to modify the site plan and uses, add square footage, add pumps and to add and delete Conditions of Approval, 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 February 24, 2022, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marino 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 Robert S. Weinroth, Mayor	- Aye
Commissioner Gregg K. Weiss, Vice Mayor	- Aye
Commissioner Maria G. Marino	- Aye
Commissioner Dave Kerner	- Aye
Commissioner Maria Sachs	- Aye
Commissioner Melissa McKinlay	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on February 24, 2022.

Filed with the Clerk of the Board of County Commissioners on February 28th, 2022.

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

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:

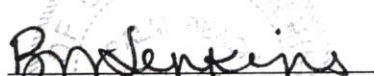

DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

PARCELS 1 AND 2, AND THE WATER MANAGEMENT TRACT, BELVEDERE COMMERCE CENTER M.U.P.D., ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 106, PAGE(S) 127, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTINING 8.127 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

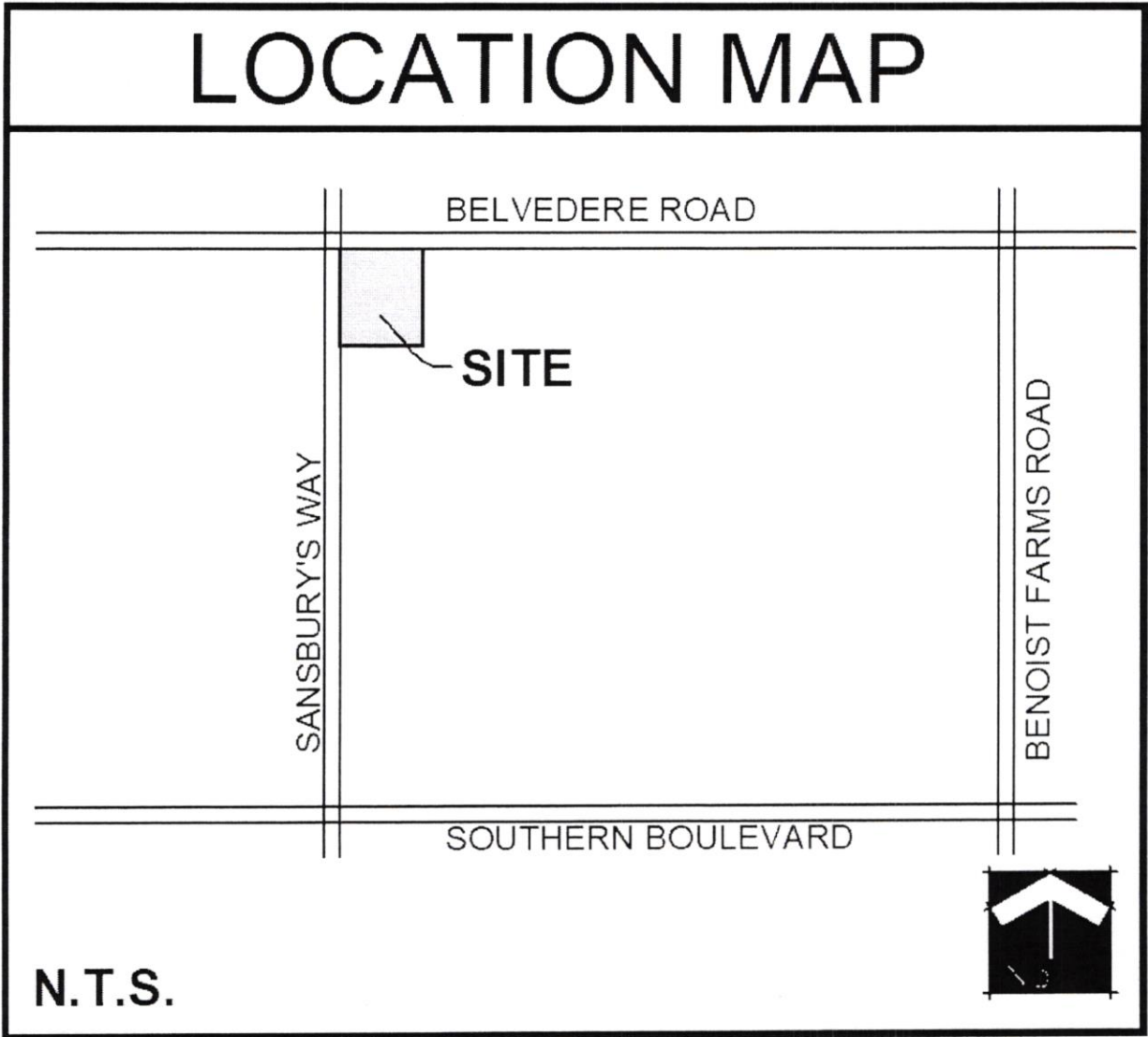


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment (Overall DOA)

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2001-0820 (Petition 1999-028A) have been consolidated as contained 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.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2003-1397 (Control No. DOA 1999-00028), 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: ZONING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated June 24, 2003. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

Is hereby amended to read:

Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated December 13, 2021. All modifications to the Development Order must be approved by the Board of County Commissioners, unless the proposed changes are required to meet Conditions of Approval. (ONGOING: ZONING - Zoning)

3. The petitioner shall have three (3) years from the adoption of the resolution approving Petition 1999-028(B) to commence development on this site. Only one (1) administrative time extension for a maximum of twelve (12) months may be granted. [Note: COMPLETED] (Previous ALL PETITIONS Condition 3 of Resolution R-2003-1397, Control No.1999-00028 (DATE: ZONING - Zoning)

CONVENIENCE STORE WITH GAS SALES-CONVENIENCE STORE WITH GAS SALES

1. Previous CONVENIENCE STORE WITH GAS SALES Condition 1 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Total gross floor area for the convenience store with gas sales shall be limited to a maximum of 3,000 square feet with six (6) pumps and a 660sq. ft. accessory car wash. (Previous ConditionD.1 of R-2001-0820, Petition PDD1999-028(A))

Is hereby deleted. [REASON: No longer applicable]

2. Previous CONVENIENCE STORE WITH GAS SALES Condition 2 of Resolution R-2003-1397, Control No.1999-00028, which currently states:

Gas station canopies shall be designed consistent with the following standards:

a. twenty-five (25) feet maximum height if a pitched roof, with a minimum slope of 5:12, is

used;

- b. the clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy;
- c. lighting for the gas station canopy shall be flush mounted or recessed; and,
- d. canopy signage shall be limited to a maximum of one (1) sign per right-of-way frontage with a maximum height of eighteen (18) inches. All canopy heights shall include air conditioning and mechanical equipment and satellite dishes and be measured from finished grade to the highest point.

Is hereby deleted. [REASON: No longer applicable]

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.