

RESOLUTION NO. R-2005- 1789

RESOLUTION APPROVING ZONING APPLICATION DOA2005-594
(CONTROL NUMBER 1975-072)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF AUTO NATION IMPORTS OF PALM BEACH INC.
BY RUDEN MCCLOSKY, AGENT
(LEXUS OF 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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Application DOA2005-594 was presented to the Board of County Commissioners at a public hearing conducted on September 22, 2005; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 2.E (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.

9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2.K.3.b 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 DOA2005-594, the petition of Auto Nation Imports of Palm Beach Inc., by Ruden McClosky, agent, for a Development Order Amendment to reconfigure the site plan and modify conditions of approval on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on September 22, 2005, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

| | |
|-----------------------------------|-------|
| Tony Masilotti, Chair | - Aye |
| Addie L. Greene, Vice Chairperson | - Aye |
| Karen T. Marcus | - Aye |
| Jeff Koons | - Aye |
| Warren H. Newell | - Aye |
| Mary McCarty | - Aye |
| Burt Aaronson | - Aye |

The Chair thereupon declared that the resolution was duly passed and adopted on September 22, 2005.

Filed with the Clerk of the Board of County Commissioners on 22nd day of September, 2005

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

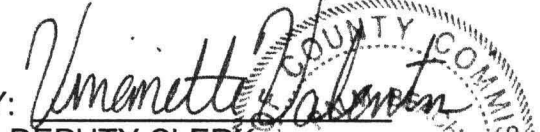
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK




EXHIBIT A
LEGAL DESCRIPTION

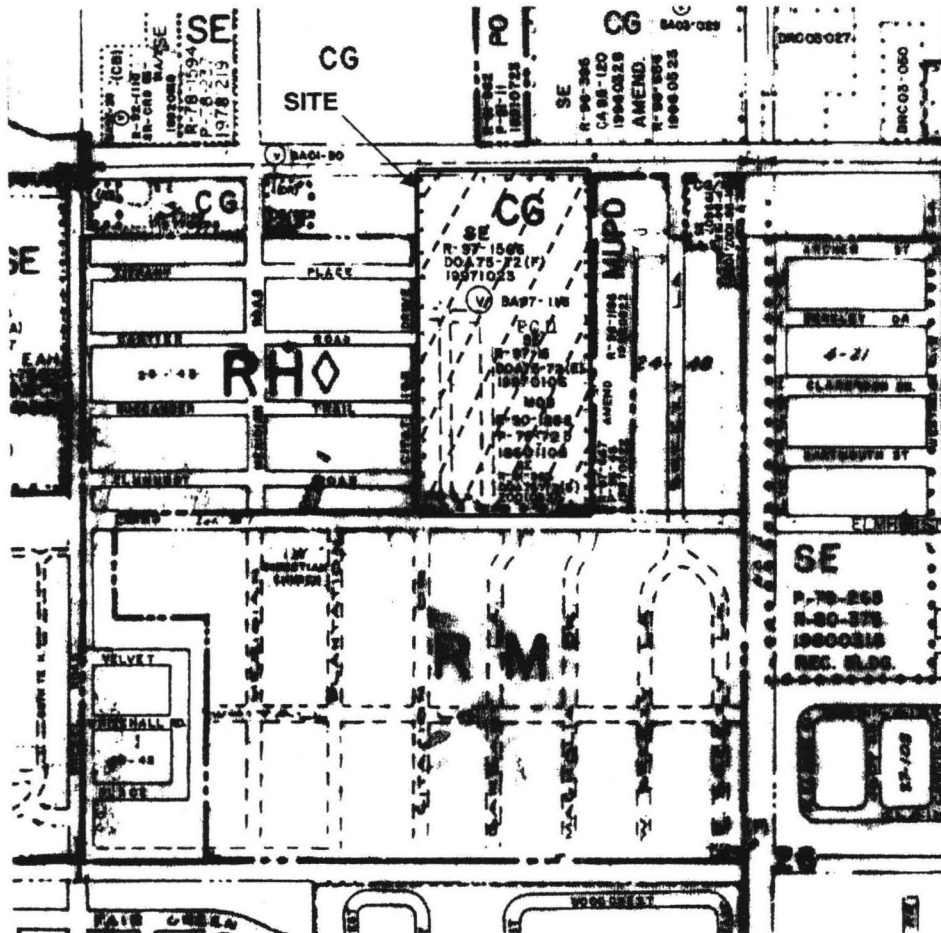
The West ½ of the Northeast ¼ of the Northwest ¼ of Section 26, Township 43 South, Range 42 East, PALM BEACH COUNTY, FLORIDA, together with an easement for underground utilities over and across that certain property set forth in an easement agreement recorded in Official Records Book 5695, Page 1191, Public Records of Palm Beach County, Florida and together with an easement for underground utilities over the property set forth in that certain easement agreement recorded in Official Records Book 5695, Page 1195, of the Public Records of Palm Beach County, Florida, less right-of-way of the North 39 feet for Okeechobee Boulevard (S.R. 704) and the South 35 feet to the Lake Worth Drainage District and less and except that property set forth in that certain right-of-way warranty deed from Marvin M. Rosenberg, trustee in favor of Palm Beach County as recorded in Official Records Book 5385, Page 800, Public Records of Palm Beach County, Florida.

Containing: 18.22 acres, more or less.

Subject to easements and rights-or-way as shown hereon.

EXHIBIT B
VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2005-594
Zoning Quad 31
Date September 1, 2005

↑
NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

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

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2001-0963, Petition DOA75-072(G) have been revoked unless otherwise contained herein. (ONGOING:ZONING-Zoning)
2. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated July 15, 2005. 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. (DRO:ZONING-Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all buildings 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 and shall be generally consistent in form, materials and colors with adjoining properties. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO:ARCH REVIEW-Zoning)
2. Prior to final approval by the Development Review Officer (DRO), the site plan shall be amended to indicate a focal point at the terminus of the access drive from Okeechobee Boulevard. The focal point shall be in the form of a plaza, fountain, arcade, or any other site element or similar pedestrian oriented public area that is acceptable to the Zoning Division. The design and location of this element shall be subject to review and approval by the Architectural Review Section. (DRO:ARCH REVIEW- Zoning)
3. 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. (BLDG PERMIT:ARCH REVIEW- Zoning)

ENGINEERING

1. LANDSCAPE WITHIN THE MEDIAN OF OKEECHOBEE BOULEVARD

The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Okeechobee 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 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 Paragraph d below.

- a) 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)

- b) All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)
- c) 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. (ONGOING-ENGINEERING)
- d) Also, prior to the issuance of a Building Permit, and at the option of the petitioner, 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 Okeechobee 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. (ONGONG-ENGINEERING)

HEALTH

1. Property owners and operators of facilities generating industrial, hazardous or toxic waste shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: HEALTH/CODE ENF)

ZONING - LANDSCAPING-STANDARD

1. All new and replacement trees shall be native and meet the following minimum standards at installation:
 - a. tree height: Fourteen (14) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG. PERMIT:LANDSCAPE- Zoning)
2. All new and replacement palms required to be planted on the property by this approval shall be native and 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. (BLDG. PERMIT:BLDG. - Zoning)
3. Prior to September 22, 2006, the property owner shall replace all dead and missing plant materials on the entire subject property. (DATE:MONITORING- Landscape)

4. The landscape program on site including buffers and interior planting shall be pursuant to an Alternative Landscape Plan (ALP). This plan shall be submitted for review and approval by the Landscape Section prior to final plan approval by the Development Review Officer (DRO), and shall be generally consistent with the Landscape Plan dated July 15, 2005 by the Witkin Design Group. (DRO:Landscape-Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty (20) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
2. All outdoor lighting shall be extinguished no later than one-half (1/2) hour after operating hours, excluding security lighting only. (ONGOING:CODE ENF - Zoning)
3. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING:CODE ENF - Zoning)

MASS TRANSIT

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Preliminary Development Plan and/or final plan prior to final approval of the DRO. The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)
2. Prior to Plat Recordation or issuance of the first Building Permit, whichever shall first occur, the property owner shall convey and or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (PLAT/BLDG PERMIT: MONITORING-Eng)

SIGNS

1. No additional new signs shall be permitted on Okeechobee Boulevard and Citation Drive. Replacement or relocation of the two (2) existing freestanding point of purchase signs on Okeechobee Boulevard shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point: one (1) at 10-feet high and one (1) at 6.5-feet high.
 - b. maximum sign face area per side - one hundred (100) square feet;
 - c. maximum number of signs for the overall site two (2) fronting Okeechobee Boulevard only;
 - d. style - monument style only; and,
 - e. signs shall be limited to identification of the tenant only. No advertising or changeable copies shall be permitted. (BLDG PERMIT:BLDG- Zoning)
2. No advertising flags, foreign flags, pennants, banners, streamers, balloons, objects, gimmicks or similar signs designed to attract the attention of the general public shall be permitted outdoors on any building, vehicle or wall. (ONGOING:CODE ENF-Zoning)

USE LIMITATIONS

1. No dumpster pickup shall be permitted between the hours of 6:00 p.m. and 8 a.m. (ONGOING:CODE ENF- Zoning)

2. Test driving of vehicles is prohibited on local streets. (ONGOING:CODE ENF - Zoning)
3. Hours of construction activity during all stages of site development shall be limited to 7:00a.m. to 5:00p.m. Monday through Saturday. Construction shall be prohibited on Sunday, and statutory holidays. (ONGOING: CODE ENF - Zoning)
4. Vehicle sales activity shall not be allowed on the property prior to 7:00 a.m. nor continue later than 10:00 p.m. daily. (ONGOING: CODE ENF - Zoning)
5. Loading, repair and service activity shall not be allowed on the property prior to 7:00 a.m. nor continue later than 6:00 p.m. daily.

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING:PBCWUD-PBCWUD)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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; 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 ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a 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 Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

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