

RESOLUTION NO. R-2008- 0914

RESOLUTION APPROVING ZONING APPLICATION DOA-2007-1428
(CONTROL NUMBER 1976-121)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF DAROSY INC
BY CORPORATE PROPERTY SERVICES, AGENT
(CHICK-FIL-A)

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, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA-2007-1428 was presented to the Board of County Commissioners at a public hearing conducted on May 22, 2008; and

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

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

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

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.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-2007-1428, the application of Darosy Inc, by Corporate Property Services, agent, for a Development Order Amendment to reconfigure the site plan and add square footage 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 May 22, 2008, 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 Jeff Koons and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	¥	Aye
Jeff Koons, Vice Chair	¥	Aye
Karen T. Marcus	¥	Aye
Robert J. Kanjian	¥	Aye
Mary McCarty	¥	Absent
Burt Aaronson	¥	
Jess R. Santamaria	¥	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 22, 2008.

Filed with the Clerk of the Board of County Commissioners on 10 day of June, 2008.

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 BOCK, CLERK &
COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

Drexel Plaza

Legal Description

A parcel of land lying in the Northeast Quarter of Section 27, Township 43 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

COMMENCING at the Northeast corner of said Section 27; thence Westerly along the North line of said Section 27, also being the centerline of Okeechobee Boulevard, 40.00 feet to the intersection with the Northerly extension of the West right-of-way line of Drexel Road, as presently laid out and in use; thence Southerly along the said extension line 275.0 feet to the POINT OF BEGINNING of the hereinafter described property; thence continue Southerly along the said West right-of-way line of Drexel Road 691.2 feet; thence Westerly along a line parallel with the South right-of-way line of Okeechobee Boulevard 600.0 feet; thence Northerly along a line parallel with the said West right-of-way line of Drexel Road 646.20 feet; thence Easterly along a line parallel to the South right-of-way line of Okeechobee Boulevard 193.00 feet; thence Northerly along a line parallel to the West right-of-way line of Drexel Road 245.00 feet to a point on the said South right-of-way line of Okeechobee Boulevard; thence Easterly along said right-of-way line 187.00 feet; thence Southerly along a line parallel to the West right-of-way line 187.00 feet; thence Southerly along a line parallel to the West right-of-way line of Drexel Road 200.00 feet; thence Easterly along a line parallel to the South right-of-way line of Okeechobee Boulevard 220.00 feet, more or less, to the POINT OF BEGINNING.

SUBJECT to rights-of-way, easements, and/or reservations of record, if any.

EXHIBIT B
VICINITY SKETCH

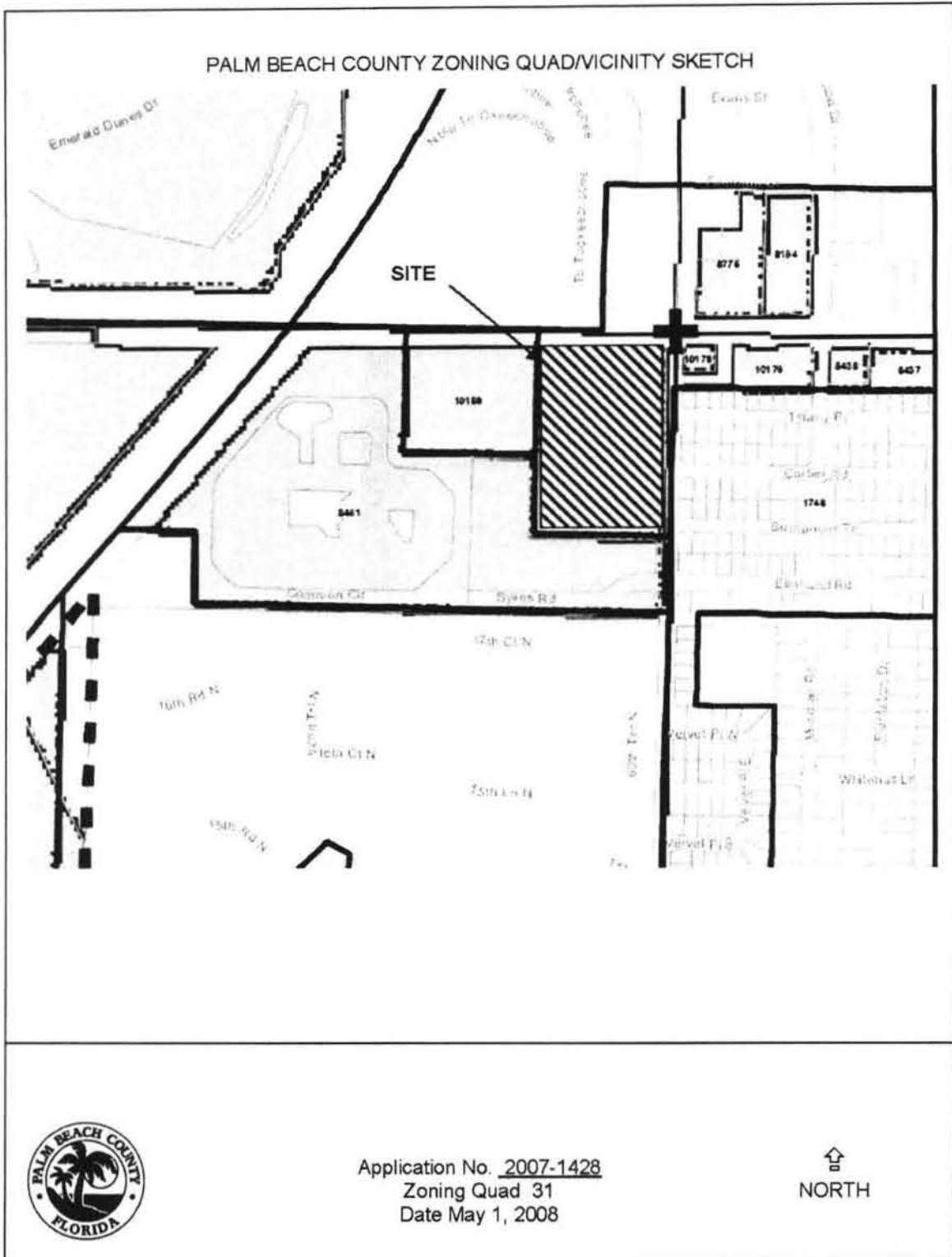


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-76-830 (Control 1976-121), Resolution R -1985-704 (Control 1976-121), 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 (ULDC) and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)
2. Development of the site is limited to the uses approved by the Board of County Commissioners. The approved Preliminary Site plan is dated February 15, 2008. 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. (ONGOING: ZONING - Zoning)
3. Condition 6 of Resolution No. 1985-704 (Control No. 76- 121) which currently states:

The developer shall comply with all previously imposed conditions of Petition #76-121A.

Is hereby deleted. [REASON: Conditions are now consolidated]

BUILDING AND SITE DESIGN-FINANCIAL INSTITUTION, OUTPARCEL 2

1. Condition 1 of Resolution No. 1985-704 (Control No. 76-121) which currently states:

Prior to site plan certification, the site plans shall be amended to reflect stacking and by-pass lanes.

Is hereby deleted. [REASON: Code requirement]
2. All mechanical and air conditioning equipment shall be roof mounted and screened with parapets. (BLDG PERMIT: BLDG - Arch Review) (Previous Condition 2 of Resolution No. 1985-704, Control No. 76- 121)

ENGINEERING

1. Developer shall construct third lane on Drexel Road for the length of the project and tapers. (ONGOING: ENG - Eng) (Previous Condition E1 of Zoning Resolution R-76-830, Control 76- 121) [Note: Complete]
2. Developer shall extend the left turn lane east approach, at the intersection of Okeechobee Boulevard and Drexel Road. (ONGOING: ENG - Eng) (Previous Condition E2 of Zoning Resolution R-76-830, Control 76- 121) [Note: Complete]
3. Developer shall construct left turn lane east approach, at the intersection of the entrance road and Okeechobee Boulevard. (ONGOING: ENG - Eng) (Previous Condition E3 of Zoning Resolution R-76-830, Control 76- 121) [Note: Complete]
4. Developer shall install a traffic signal at the intersection of the development's entrance road and Okeechobee Boulevard when warranted, as determined by the County Engineer. (ONGOING: ENG - Eng) (Previous Condition E4 of Zoning Resolution R-76-830, Control 76- 121) [Note: Complete]

5. Developer shall align the entrance road at Okeechobee Boulevard with the access road to Florida's Turnpike. (ONGOING: ENG - Eng) (Previous Condition E5 of Zoning Resolution R-76-830, Control 76- 121) [Note: Complete]
6. Developer shall provide an easement through his property, to provide access to the land to the west of the shopping center. (ONGOING: ENG - Eng) (Previous Condition E6 of Zoning Resolution R-76-830, Control 76- 121)
7. 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, 2010. 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)
8. Engineering Condition E4 of Zoning Resolution R -1985-704, Control 76- 121, which currently states:

The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division.

Is hereby deleted. [Reason: Drainage is now a code requirement]
9. The property owner shall convey for the ultimate right-of-way of the "safe corner" at the intersection of Drexel Road and Okeechobee Boulevard within 90 days of adoption of the Resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of first Building Permit. (ONGOING: ENG - Eng) (Previous Condition E5 of Zoning Resolution R -1985-704, Control 76- 121)
10. Engineering Condition E7 of Zoning Resolution R -1985-704, Control 76- 121, which currently states:

No direct access onto either Okeechobee Boulevard or Drexel Road will be permitted from this site.

Is hereby deleted. [Reason: Additional access requirements are now a code requirement]
11. Engineering Condition E9 of Zoning Resolution R -1985-704, Control 76- 121, which currently states:

The Developer shall pay a Fair Share Fee in the amount and manner required by tie "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. Presently The Fair Share Fee for this project is \$32,088.00.

Is hereby deleted. [Reason: Impact fees are now a code requirement]

HEALTH

1. Previous condition number Health 10 of Resolution R-76-830, Control 76- 121, which currently states:

Any fuel or chemical storage tanks shall be installed with protection against leakage or spillage due to corrosion, breakage, structural failure or other means. The design and installation plans will be submitted to the Heal Department for approval prior to installation.

Is hereby deleted. [Reason: code requirement]

2. Previous condition number Health 11 of Resolution R-76-830, Control 76- 121, which currently states:

Any toxic or hazardous waste generated at this site shall be properly handled and disposed of in accordance with Chapter 17-30, FAC.

Is hereby deleted. [Reason: Not applicable]

3. Previous condition number Health 12. of Resolution R-76-830, Control 76- 121, which currently states:

Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particle) from this property do not become a nuisance to neighboring properties.

Is hereby deleted. [Reason: Site has been built.]

4. Previous condition number Health 13. of Resolution R-76-830, Control 76- 121, which currently states:

Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.

Is hereby deleted. [Reason: site has been developed.]

5. Previous condition number Health 14. of Resolution R-76-830, Control 76- 121, which currently states:

The owner of the facility will participate in an oil recycling program which insures proper reuse or disposal of waste oil.

Is hereby deleted. [Reason Not applicable.]

LANDSCAPING FOR TYPE I RESTAURANT OUTPARCEL

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. A minimum of fifty (50) percent of all new and replacement trees to be planted in the right of way landscape buffer for the Type I Restaurant ouparcel shall 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)
3. All palms required to be planted on the Type I Restaurant outparcel 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. (BLDG PERMIT: LANDSCAPE Zoning)
 4. Field adjustment of plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)
 5. Prior to final approval by the Development Review Officer (DRO), three hundred seventy (370) linear feet of paving, twenty (20) feet in width, along the central and western portions of the south property line of the shopping center shall be removed and replaced with sod and canopy trees to be planted at twenty (20) feet on center. (DRO: LANDSCAPE - Zoning)
 6. Special planting treatment shall be provided in the northwest area of the Type I Restaurant outparcel. Planting shall consist of the following:
 - a. a minimum of three (3) specimen palm (Bismarck, Canary, Royal, Phoenix, or other species that is acceptable to the Landscape Section);
 - b. a minimum of five (5) flowering trees; and,
 - c. appropriate shrub or hedge materials and ground cover. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPING ALONG THE NORTH PROPERTY LINE, FRONTAGE OF OKEECHOBEE BOULEVARD (TYPE I RESTAURANT OUTPARCEL)

7. In addition to code requirements, landscaping along the north property line of the subject outparcel shall be upgraded to include:
 - a. existing Sabal Palms shall be preserved in place;
 - b. one (1) palm for each for each thirty (30) linear feet of the outparcel property line with a maximum spacing of forty (40) feet between clusters; and,
 - c. Saw Palmetto may replace the ULDC requirement for medium shrubs. (BLDG PERMIT: LANDSCAPE - Zoning)

SIGNS

1. All new and replacement signs shall meet the ULDC requirements in effect at the time of building permit. (BLDG PERMIT: BLDG – Zoning)

USE LIMITATIONS-FINANCIAL INSTITUTION, OUTPARCEL 2

1. Security lighting shall be directed away from nearby residences. (ONGOING: Code ENF - Zoning) (Previous Condition 3 of Resolution No. 1985-704, Control No. 76-121)
2. A minimum of 6,450 square feet of this proposed structure shall remain as office use. (Previous Condition 8 of Resolution No. 1985-704, Control No. 76-121) (ONGOING: CODE ENF - Zoning)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; 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 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.

Departmental administrative actions made pursuant to this condition may be appealed as 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 Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)

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