

RESOLUTION NO. R-2008-2256

RESOLUTION APPROVING RECOMMENDATION OF  
STATUS REPORT NO. SR 1999-029.3  
TO APPROVE A DEVELOPMENT ORDER AMENDMENT  
FOR PROPERTY PREVIOUSLY GRANTED A CONDITIONAL USE "A" BY  
RESOLUTION NO. R-2000-0120  
APPROVING THE APPLICATION OF Monadylina Properties, Inc.  
CONTROL NO. 1999-029

WHEREAS, the Board of County Commissioners (BCC), as the governing body, 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 petitions relating to zoning; and

WHEREAS, systematic monitoring and review of approved zoning actions help implement the goals and objectives of the Comprehensive Plan; and

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

WHEREAS, pursuant to Article 2.E., Status Report SR 1999-029.3 was presented to the Board of County Commissioners of Palm Beach County at a public hearing conducted on December 4, 2008; and

WHEREAS, the Board of County Commissioners has reviewed Status Report SR 1999-029.3 and considered testimony, and the recommendations of the various county review agencies; and

WHEREAS, Article 2.E. authorizes the Board of County Commissioners to approve Development Order Amendments; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. A development order must be consistent with the Unified Land Development Code (ULDC) for a time extension to be approved.
2. To be consistent with the ULDC, the project must meet the Countywide Traffic Performance Standards (TPS).
3. The amendment of conditions of approval will cause the development order to meet TPS, and therefore be consistent with the ULDC.
4. The amendment of conditions of approval is consistent with the Palm Beach County Comprehensive Plan and Unified Land Development Code.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that the recommendation of Status Report No. SR 1999-029.3, to approve a Development Order Amendment to amend conditions of approval of Resolution No. R-2006-1536, amending the development order previously granted by the approval of the application of Monadylina Properties, Inc., Control No. 1999-029, confirmed by the adoption of Resolution R-2000-0120, which approved a Conditional Use "A" to allow a convenience store with gas sales and expansion of indoor entertainment and office use, on THE NORTH 420.00 FEET OF THE WEST 477.80 FEET OF TRACT 1 BLOCK 67, PALM BEACH FARMS COMPANY PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54 INCLUSIVE, PALM BEACH COUNTY RECORDS.

TOGETHER WITH:

A PORTION OF TRACT 1 BLOCK 67, PALM BEACH FARMS COMPANY PLAT NO. 3 ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 24, TOWNSHIP 46 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND PALM BEACH COUNTY BRASS CAP MARKING THE NORTHWEST CORNER OF SECTION 19, TOWNSHIP 46 SOUTH, RANGE 41 EAST; THENCE SOUTH 88°44'06" WEST ALONG THE NORTH LINE OF SAID SECTION 24, A DISTANCE OF 6.77 FEET TO A POINT ON THE BASELINE OF SURVEY FOR STATE ROAD 7 (U.S. 441) AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 93210-2515; THENCE SOUTH 00°18'44" EAST ALONG SAID BASELINE OF SURVEY A DISTANCE OF 2.58 FEET; THENCE SOUTH 00°39'54" EAST CONTINUING ALONG SAID BASELINE OF SURVEY, A DISTANCE OF 57.24 FEET; THENCE SOUTH 89°20'06" WEST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 235.08 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE FOR SAID STATE ROAD 7 (US 441): AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 93210-2515 AND THE POINT OF BEGINNING; THENCE SOUTH 00°34'56" EAST ALONG SAID WESTERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 420.01 FEET; THENCE SOUTH 89°06'45" WEST, A DISTANCE OF 51.42 FEET; THENCE NORTH 00°47'54" WEST, A DISTANCE OF 420.01 FEET; THENCE NORTH 89°06'45" EAST ALONG THE NORTH LINE OF SAID TRACT 1, A DISTANCE OF 53.00 FEET TO THE POINT OF BEGINNING

CONTAINING 2.0680 HECTARES (5.1103 ACRES) MORE OR LESS, being located on the southwest corner of SR7/US 441 and West Atlantic Avenue in the AGR - Agricultural Reserve Zoning District, is approved subject to the following conditions:

1. All previously approved conditions of approval continue to apply unless expressly modified herein. (ONGOING)
2. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
  - a. Building permits resulting in a maximum of 70 PM peak hour trips may be issued prior to the commencement of construction to widen West Atlantic Ave to four lanes from Lyons Road to Starkey Road. This equates to a maximum of 5 fueling positions for the proposed gas station or 1,335 sf of convenience store. (BLDG Permit: Monitoring - Eng)
  - b. Building permits resulting in a maximum of 73 PM peak hour trips may be issued prior to the commencement of construction for the construction of a third northbound and southbound add/drop through lanes, and a second westbound right turn lane at the intersection of of SR-7 and Atlantic Avenue. This equates to a maximum of 5 fueling positions for the gas station or 1,393 sf of convenience store. (BLDG Permit: Monitoring - Eng)
  - c. Building permits resulting in a maximum of 46 PM peak hour trips may be issued prior to the commencement of construction for a second eastbound and westbound through lane, a northbound left and right turn lane, an eastbound left and right turn lane, a westbound left and right turn lane, and a southbound left and right turn lane at the intersection of Atlantic Avenue and Lyons Road. This equates to a maximum of 3 fueling positions or 877 sf of convenience store. (BLDG Permit: Monitoring - Eng)
  - d. Acceptable surety required for the offsite road improvements as outlined in #1 through #3 above shall be posted with the Office of the Land Development Division on or before December 31, 2006. Surety shall be in the amount of 110% of a Certified

Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. This surety may be required to be adjusted within 30 days notification from the County Engineer. This revision shall be based upon an updated cost estimate prepared by the Roadway Production Division at the time the final construction plans are completed. (TPS - Maximum 6 month time extension) (DATE:MONITORING-Eng)

- e. Construction commences is defined as awarding the contract for the construction of the required improvements, the acquisition of all right of way and construction easements and the acquisition of all required permits. (ONGOING-ENG-Eng)
- f. No building permits for the site shall be issued after January 1, 2009. A time extension for this condition may be approved by the County Engineer based on an approved Traffic Study which complies with the mandatory Traffic Performance Standards in place at the time of the request. (DATE: MONITORING - Eng)

Is hereby amended to read:

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

- a. Building permits for no more than 3,000 sf of C-Store and a Gas Station with 9 FP (the equivalent of 73 AM peak hour trips shall be issued until construction commences on Atlantic Avenue from Lyons Road to Florida Trunpike as a 4-lane section. (BLDG Permit: Monitoring - Eng)
- b. No building permits for the site shall be issued after December 31, 2011. A time extension for this condition may be approved by the County Engineer based on an approved Traffic Study which complies with the 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.E of the Unified Development Code. (DATE: MONITORING - Eng)

The foregoing Resolution was offered by Commissioner Marcus who moved its adoption. The motion was seconded by Commissioner Greene and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	<u>  </u> Absent
Commissioner Burt Aaronson, Vice Chairman	<u>  </u> Aye
Commissioner Karen T. Marcus	<u>  </u> Aye
Commissioner Shelley Vana	<u>  </u> Aye
Commissioner Mary McCarty	<u>  </u> Aye
Commissioner Jess R. Santamaria	<u>  </u> Aye
Commissioner Addie L. Greene	<u>  </u> Aye

The Chair thereupon declared the resolution duly passed and adopted this 4th day of December, 2008.


Filed with the Clerk of the Board of County Commissioners on the 8th day of December, 2008.

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA,  
BY ITS BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK AND COMPTROLLER

By:   
County Attorney

By:   
Deputy Clerk

