

RESOLUTION NO. R-2011-0789

RESOLUTION APPROVING ZONING APPLICATION EAC-2011-00402  
(CONTROL NO. 1979-00106)

an Expedited Application Consideration  
APPLICATION OF Boca Pier Assoc Ltd  
BY H & L Planning & Development, AGENT  
(Lyons Glades Center)

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; and

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

WHEREAS, Zoning Application EAC-2011-00402 was presented to the Board of County Commissioners at a public hearing conducted on May 26, 2011; 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, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a an Expedited Application Consideration.

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application EAC-2011-00402, the petition of Boca Pier Assoc Ltd, by H & L Planning & Development, agent, for an Expedited Application Consideration to delete a Condition of Approval (Engineering) in the General Commercial/Special Exception (CG/SE) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on May 26, 2011, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

Commissioner Karen T. Marcus, Chair	-	Absent
Commissioner Shelley Vana, Vice Chair	-	Aye
Commissioner Paulette Burdick	-	
Commissioner Steven L. Abrams	-	Aye
Commissioner Burt Aaronson	-	Aye
Commissioner Jess R. Santamaria	-	Absent
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 26, 2011.

Filed with the Clerk of the Board of County Commissioners on May 31, 2011.

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

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK



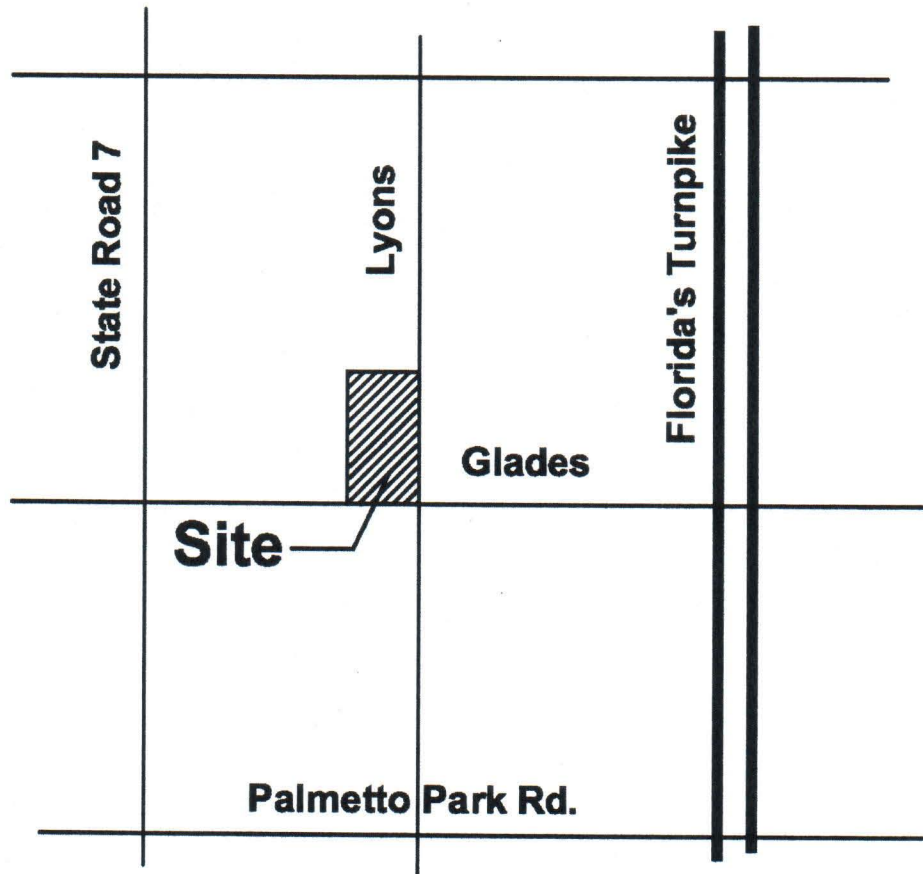
EXHIBIT A

LEGAL DESCRIPTION

Tract 96, Block 77, PALM BEACH FARMS COMPANY PLAT NO.3, according to the plat thereof, recorded in Plat Book 2, Pages 45 through 54, Public Records of Palm Beach County, Florida, LESS AND EXCEPT the east 29 feet and the south 65 feet thereof, ALSO LESS AND EXCEPT the property described in Official Records Book 6515, Page 281, of the Public Records of Palm Beach County, Florida.

Said lands situate in Palm Beach County, Florida and containing 176,001 square feet (4.0404 acres) more or less.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Condition 1 of Resolution R-1989-946, Control 1979-106 which currently states:

The developer shall comply with all previous conditions of approval, unless expressly modified herein.

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-1979-701 and R-1989-946 (Control 1979-106), 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 or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. The preliminary site plan is dated April 18, 2011. Modifications to the Development Order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO, as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

#### ARCHITECTURAL REVIEW

1. The rear of the center shall be architectural treatment consistent with the front. (ONGOING: ARCH - Zoning) (Previous Condition 6 of Resolution R-1989-946, Control 1979-106)

2. All mechanical and air conditioning equipment shall be screened. (ONGOING: ARCH - Zoning) (Previous Condition 7 of Resolution R-1989-946, Control 1979-106)

#### ENGINEERING

1. Within ninety (90) days of the Special Exception approval, petitioner shall convey to Palm Beach County eighty (80) feet from the centerline of S.R. 808 for its ultimate right-of-way. (ONGOING: ENGINEERING Eng) (Previous Condition 1 of Resolution R-1979-701, Control No. 1979-106)  
[Note: COMPLETED]

2. Previous Condition 3 of Resolution R-1979-701, Control No. 1979-106, which currently states:

Petitioner shall construct a left turn lane, west approach, on S.R. 808 at the project's entrance.

Is hereby deleted. [Reason: Intersection geometry prevents construction of the turn lane]

3. Petitioner shall construct a left turn lane, south approach, on Lyons Road at the project's northerly entrance. (ONGOING: ENGINEERING Eng) (Previous Condition 4 of Resolution R-1979-701, Control No. 1979-106) [Note: COMPLETED]

4. Petitioner shall construct a non-access barrier with barrier buttons in the median area at the southerly entrance on Lyons Road. (ONGOING: ENGINEERING Eng) (Previous Condition 5 of Resolution R-1979-701, Control No. 1979-106) [Note: COMPLETED  
Concrete separator on Lyons Road acts as a barrier]

5.Previous Condition 8 of Resolution R-1989-946, Control No. 1979-106, which currently states:

The developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is no adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board of enforcement.

Is hereby deleted. [Reason: Drainage is a code requirement]

6.Within 90 days of approval of this project, the property owner shall reserve road right of way for Lyons Road 76 feet from centerline as defined in Palm Beach County's Special Intersections, free of all encumbrances and encroachments. This right-of-way shall be dedicated to Palm Beach County at no cost when requested. Petitioner shall provide Palm Beach County with sufficient documentation acceptable to the Land Acquisition Division to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyance shall also include safe sign corners" where appropriate at intersections as determined by the County Engineer. (ONGOING: ENGINEERING- Eng) (Previous Condition 8 of Resolution R-1989-946, Control No. 1979-106) [Note: COMPLETED]

7.Previous Condition 10 of Resolution R-1989-946, Control No. 1979-106, which currently states:

The Property owner shall construct:

- a. Separate right turn lane, east approach on Glades Road at the project's entrance road.
- b. Separate right turn lane, north approach or Lyons Road at the project's north entrance road.

All concurrent with onsite paving and drainage improvements with construction complete prior to the issuance of a Certificate of Occupancy.

Is hereby amended to read:

The Property owner shall construct a separate right turn lane, north approach or Lyons Road at the project's north entrance road.

All concurrent with onsite paving and drainage improvements with construction complete prior to the issuance of a Certificate of Occupancy. (CO: ENGINEERING Eng) [Note: COMPLETED]

8.The property owner shall pay a Fair Share Fee in the amount and manner required by the Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$12,243.00 for the office and Pier 1 addition (457 trips x \$26.79 per trip). ONGOING: ENGINEERING - Eng) (Previous Condition 11 of Resolution R-1989-946, Control No. 1979-106) [Note: COMPLETED]

9.Previous Condition 12 of Resolution R-1989-946, Control No. 1979-106, which currently states:

In order to comply with the mandatory traffic performance standards the property owner shall be restricted to the following phasing schedule:

- a. Building Permits for no more than 14,540 gross leasable floor area shall be issued, of which a maximum of 9,100 shall be specialty store as defined in the ITE Trip Generation Publication. The office shall be minimum of 5,440 gross leasable floor area and shall contain no medical offices, or equivalent traffic of a similar mix approved by the County Engineer.

Is hereby deleted. [Reason: Revised traffic study no longer requires this condition.]

## HEALTH

1.Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents. (ONGOING: HEALTH - Health) (Previous Condition 13 of Resolution R-1989-946, Control 1979-106)

2.Sewer service is available to the property. Therefore, no septic tank shall be permitted on site. (ONGOING: HEALTH - Health) (Previous Condition 14 of Resolution R-1989-946, Control 1979-106)

3.Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (ONGOING: HEALTH - Health) (Previous Condition 15 of Resolution R-1989-946, Control 1979-106)

## LANDSCAPE – GENERAL

1.Prior to certification the site plan shall be amended to reflect the following:

- a. An alternative hedge material for the north and west perimeter buffers to replace the existing Australian Pines.
- b. The alternative landscape buffer along the north and west property lines may be Alternative No.3 of Section 500.35 (Landscape Perimeter) of the Zoning Code. (DRO: LANDSCAPE - ZONING) (Previous Condition 2 of Resolution R-1989-946, Control 1979-106) [NOTE: Completed]

2.The petitioner shall redesign to provide a primary access route north, south, east and west on site. If the construction of this accessway requires the removal of the four (4) cypress trees located along the eastern boundary of the property, the petitioner shall provide a landscape island to equal nine-hundred (900) square feet in area, and plant eight (8) native canopy trees a minimum of twelve (12) to fifteen (15) feet in height upon planting. (DRO: LANDSCAPE - Zoning) (Previous Condition 5 of Resolution R-1989-946, Control 1979-106) [NOTE: Complete]

3.Prior to May 25, 2012, the property owner shall replace all dead and missing plant materials on the entire subject property. (DATE: LANDSCAPE - Zoning)

## LIGHTING

1.The site lighting shall be low intensity, shielded, and directed away from the residences and right-of-ways. (ONGOING: CODE ENF - Zoning) (Previous Condition 3 of Resolution R-1989-946, Control 1979-106)

## SIGNS

1.No off-premise signs shall be permitted on the site. (ONGOING/BLDG PERMIT: CODE ENF/BLDG - Zoning) (Previous Condition 16 of Resolution R-1989-946, Control 1979-106)

## SITE DESIGN

1.Petitioner shall construct a bypass lane at the drive- up teller windows. (BLDG PERMIT: BLDG - Zoning) (Previous Condition 2 of Resolution R-1979-701, Control 1979-106)

2.No stock loading or dumpster pick-up will be permitted between the hours of 9:00 pm and 7:00 am. (ONGOING: CODE ENF - Zoning) (Previous Condition 4 of Resolution R-1989-946, Control 1979-106)

## COMPLIANCE

1. Condition 17 of Resolution R-1989-946, Control 1979-106 which currently states:

Failure to comply with the conditions herein may result in the denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lease, or user of the subject property. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provide in the Palm Beach County Zoning Code. Violations of the conditions herein shall constitute violations of the Palm Beach County Zoning Code.

Is hereby deleted. [REASON: superseded by new Compliance Condition]

2. 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)

3. 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 (CO); 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 Unified Land Development Code (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. (ONGOING: MONITORING - Zoning)