

RESOLUTION NO. R-20111843

RESOLUTION APPROVING ZONING APPLICATION EAC/ABN-2011-01745
(CONTROL NO. 1977-00079)
an Expedited Application Consideration
APPLICATION OF David Pollow
BY Land Design South, Inc., AGENT
(Sears Plaza)

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/ABN-2011-01745 was presented to the Board of County Commissioners at a public hearing conducted on December 1, 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/ABN-2011-01745, the petition of David Pollow, by Land Design South, Inc., agent, for an Expedited Application Consideration to modify conditions in the Urban Center (UC) 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 December 1, 2011, 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 Aaronson and, upon being put to a vote, the vote was as follows:

Commissioner Shelley Vana, Chair	- Aye
Commissioner Steven L. Abrams, Vice Chairman	- Aye
Commissioner Karen T. Marcus	- Aye
Commissioner Paulette Burdick	- 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 December 1, 2011.

Filed with the Clerk of the Board of County Commissioners on December 14th, 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

LEGAL DESCRIPTION:

A certain Parcel of Land in the Southeast One Quarter (S.E. 1/4) of the Southwest One Quarter (S.W. 1/4) of Section 12, Township 44 South, Range 42 East, Palm Beach County, Florida, more Particularly Described as follows:

*Beginning at a Point in a line parallel with and 53 feet South of, measured at right angle to, the centerline of of Forest Hill Boulevard as same is shown on plat recorded in Road Plat Book 2, Page 148, Public Records of Palm Beach County, Florida, and distant thereon 150.14 feet Westerly from the Westerly Right of Way line of Military Trail (S.R. No. 809) as same is shown on plat recorded in Road Plat Book 3, Page 74, Public Records of Palm Beach County, Florida; thence run Westerly, along said parallel line, a distance of 640.00 feet; thence Southerly at right angles to the last preceding course, a distance of 683.00 feet; thence Easterly at right angles to the last preceding course a distance of 647.45 feet more or less, to a point 175.00 feet Westerly from said Westerly Right of Way of Military trail; thence Southerly along a line parallel with the East line of the Southwest Quarter of said Section 12, a distance of 97.18 feet, more or less, to a point on the South line of the North Quarter of Lot 4 in Block 3 of Model Land Company's Subdivision of Section 12, as recorded in Plat Book 10, at Page 20, Public Records of Palm Beach County, Florida; thence Easterly along said South line of the North Quarter of Lot 4, a distance of 174.79 feet, more or less to the Westerly Right of Way line of Military Trail, said Right of Way line being the arc of a curve concave to the West, having a Radius of 21,432 feet; thence Northerly along the said Westerly Right of Way line of Military Trail and along the arc of said curve a distance of 95.65 feet, to the end of said curve; thence continue Northerly along the said Westerly Right of Way line of Military Trail, a distance of 535.12 feet, more or less, to a line parallel with and 203.00 feet Southerly from, measured at right angle to, the said centerline of Forest Hill Boulevard; thence Westerly, along last said parallel line, a distance of 157.23 feet; thence Northerly, at right angles to the last preceding course, a distance of 150.00 feet, more or less, to the Point of Beginning.
LESS the North 7.00 feet thereof.*

Containing 540,117 square feet± / 12.3994± acres, more or less.

The above described parcel is a portion is a portion of the Boundary Plat as recorded in Plat book 28, Pages 227-228, of the public records of Palm Beach County, Florida

EXHIBIT B
VICINITY SKETCH

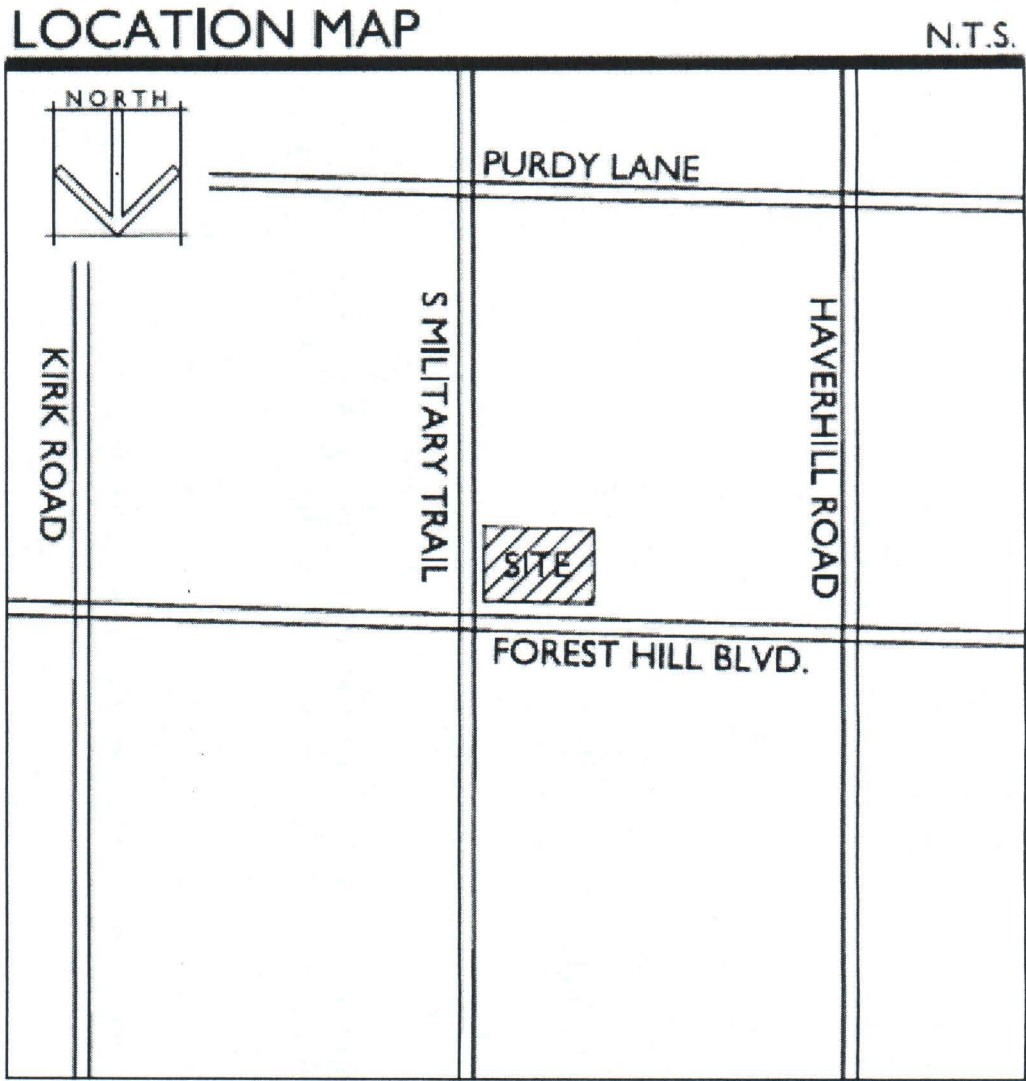


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Condition Site design 1 of Resolution R-1989-1631, Control number 1977-79 which currently states:

Prior to certification, the site plan shall be amended to indicate:

- a. Required number of trees pursuant to Section 500.35.6.7 for the 12.89 acre site;
- b. Required fifteen (15) foot wide landscape strip for the subject .39 acre auto service parcel. This fifteen (15) foot strip shall be exclusive of the ultimate Right-of-way for Military Trail;
- c. Ultimate Right-of-way for Military Trail;
- d. Revised landscape tabular information for the entire 12.89 acre site;
- e. Frontage dimension for Parcel D;
- f. Square footage for the Garden Shop; and,
- g. Required transfer of specialized vehicular use area landscape requirements to the perimeter of the site.

Is hereby amended to read:

The approved Preliminary Site plan is dated October 17, 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 Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

1. Previous Condition 12 of Resolution R-1989-1631, Control No. 1977-079, 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. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.

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

2. The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site. (ONGOING: ENGINEERING - Eng) (Previous Condition 13 of Resolution R-1989-1631, Control No. 1977-079)

3. Within 90 days of notice by the County Engineer, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed when requested for the expanded intersection construction at Military Trail:

a. Military Trail, 60.5 feet from centerline adjacent to the auto lube site. (ONGOING: ENGINEERING - Eng) (Previous Condition 14 of Resolution R-1989-1631, Control No. 1977-079)

4. The petitioner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinances" as it presently exists or as it may from time to time be amended. The Fair Share Fee for the Jiffy Lube presently is \$2,733.00

(102 trips X \$26.79 per trip). (ONGOING: ENGINEERING -Eng) (Previous Condition 15 of Resolution R-1989-1631, Control No. 1977-079)
[Note: COMPLETED]

HEALTH

1.Previous condition Health 8 of Resolution R-1989-1631; Control 1977-079 which reads:

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 (DFER) and agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents.

Is hereby amended to read:

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

2.Previous condition Health 9. of Resolution r-1989-1631; Control 1977-079 which reads:

Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.

Is Hereby Deleted: Reason-- Code Requirement

3.previous condition Health 10. of Resolution R-1989-1631; Control 1977-079 which reads:

Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

Is Hereby Deleted: Reason--Code Requirement

4.The owner, occupant, or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil.
(ONGOING:HEALTH-Health) (Previous condition Health 11 of Resolution R-1989-1631; Control 1977-079)

LANDSCAPE - GENERAL

1.Prior to issuance of a building permit, the petitioner shall submit to the Zoning Division, an overall landscape plan for the entire 12.89 planned commercial development which indicates:

- a. The location of all required plant materials for the .39 acre lease parcel in accordance with Section 500.35 of the Zoning Code; and,
- b. The location of the 196 trees within the overall 12.89 acre development as prescribed in Section 500.35.G.7 and E.1.a(2) of the Zoning Code. (DRO OR BLDG PERMIT: LANDSCAPE - Zoning)(Previous Condition Landscape 5 Resolution R-1989-1631, Control number 1977-79) [COMPLETED]

2.Prior to issuance of a certificate of occupancy for the auto service facility located in the southeast corner of the site, the petitioner shall install 225 trees as required in Section 500.35.G.7 and E.1.a.(2) of the Zoning Code.(BLDG PERMIT: LANDSCAPE - Zoning) (Previous condition Landscape 7 of Resolution R-89-1631, Control No 1977-79) [COMPLETED].

SIGNS

1.No off-premise signs shall be permitted on the site. (BLDG PERMIT: BLDG - Zoning)
(Previous condition Signs 6 of Resolution R-89-1631, Control No 1977-79)

SITE DESIGN

1.Vehicle parking shall be limited to the parking spaces designated on the approved site plan. No parking of vehicles is to be allowed in landscaped areas, Rights-of-way or interior drives. (ONGOING: ZONING - Zoning)(Previous Condition Site Design 4 Resolution R-1989-1631, Control number 1977-79)

USE LIMITATIONS

1.No outside storage of disassembled vehicles or parts thereof shall be permitted on site. (Previous Condition Use 3 Resolution R-1989-1631, Control number 1977-79)

2.Condition Use Limitation 2 of Resolution R-1989-1631, Control number 1977-79 which currently states:

Use of the subject 0.39 acre parcel shall be limited to a 2,170 square foot quick oil change facility.

Is hereby deleted. [REASON: No longer applicable]

COMPLIANCE

1.Condition Unity of Control 16 of Resolution R-1989-1631, Control 1977-79, which currently states:

Prior to site plan certification the property owner shall record a Unity of Control on the subject property subject to approval by the County Attorney.

Is hereby amended to say:

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.In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the 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 voluntary commitments of this approval. (ONGOING: MONITORING - Zoning)