

RESOLUTION NO. R-2013-0006

RESOLUTION APPROVING ZONING APPLICATION ZV/CA-2012-01258
(CONTROL NO. 1985-00027)
a Class A Conditional Use
APPLICATION OF Rocker Real Estate Inc
BY Land Design South, Inc., AGENT
(South Gardens Donuts)

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 ZV/CA-2012-01258 was presented to the Board of County Commissioners at a public hearing conducted on January 3, 2013; 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 Class A Conditional Use.

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby finds that the Class A Conditional use for a Type 1 Restaurant with a drive through within the Northlake Boulevard Overlay Zoning District is appropriately located.

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 ZV/CA-2012-01258, the petition of Rocker Real Estate Inc, by Land Design South, Inc., agent, for a Class A Conditional Use to allow a Type I Restaurant in the CG 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 January 3, 2013, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Vana 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 Steven L. Abrams, Chairman	- Aye
Commissioner Priscilla A. Taylor, Vice Chair	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Paulette Burdick	- Aye
Commissioner Shelley Vana	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Jess R. Santamaria	- Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 3, 2013.

Filed with the Clerk of the Board of County Commissioners on January 3, 2013.

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:


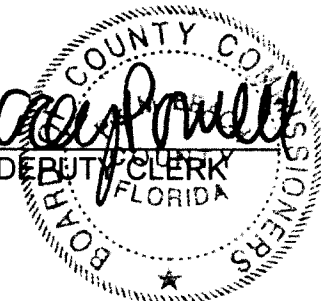

DEPUTY CLERK
FLORIDA


EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

A tract of land in Section 17, Township 42 South, Page 43 East, Palm Beach County, Florida, more particularly described as follows:

Begin at a point in the South line of Section 17, at a distance 208.71 feet East of the Southwest corner thereof;
thence Northerly parallel with the West line of said Section, a distance 218.71 feet to a point;
thence Easterly parallel with the South line of said Section 17, a distance of 165.00 feet to a point;
thence Southerly, parallel with the West line of said Section 17, a distance of 218.71 feet to a point in the South line of said Section 17;
thence Westerly along a said South Section line, a distance of 165 feet to the POINT OF BEGINNING.

LESS; that part of the above described parcel conveyed to the State of Florida, in Official Record Book 2284, Page 1032, Public Records of Palm Beach County, Florida and LESS any part of the above described parcel of land lying South of the North line of State Road 809.

EXHIBIT B
VICINITY SKETCH

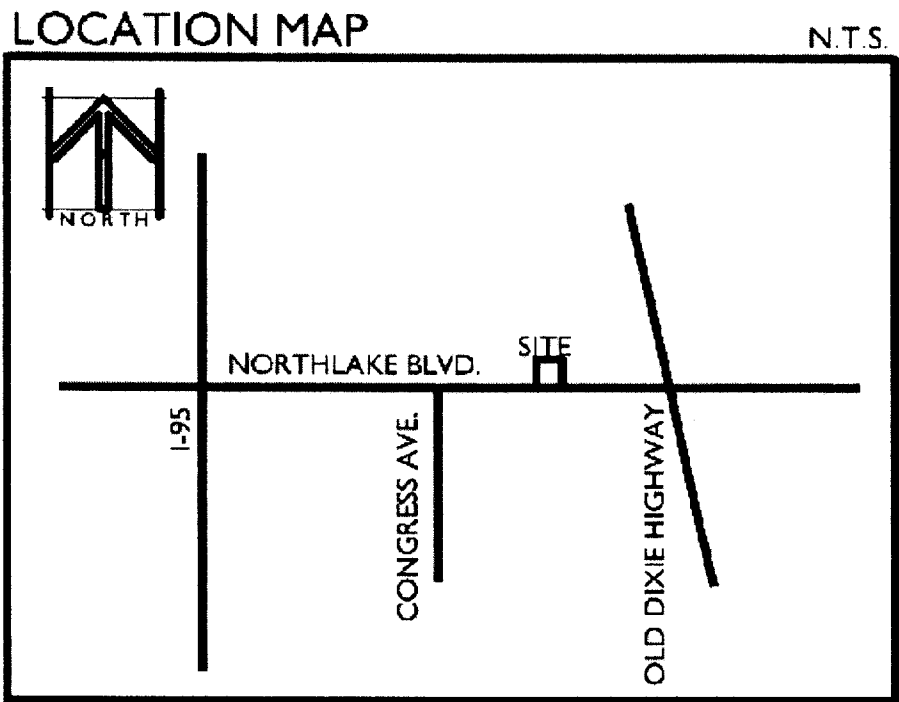


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. The approved Preliminary Site Plan is dated November 13, 2012 and the approved Preliminary Regulating Plan is dated July 23, 2012. 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)

2. Prior to May 1, 2014, the Property Owner shall comply with the landscaping and signage requirements of the Northlake Boulevard Overlay Zone (NBOZ). This condition shall not prohibit the Property Owner from obtaining a Variance or a Waiver to deviate from the NBOZ requirements. (DATE: MONITORING - Zoning)

ENGINEERING

1. The property owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The property owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING-Eng)

b. Any required drainage easements shall be dedicated in conjunction with any required legal lot creation or recorded prior to issuance of the first building permit, whichever shall occur first. (PLAT/BLDG PERMIT: MONITORING-Eng)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE NORTH PROPERTY LINE

1. If the existing concrete slat wall is replaced, a concrete panel wall with a minimum height of six (6) feet must be provided to ensure continued buffering of the loading zone and the menu board activities from the residential area. The wall shall be:

- a. subject to Architectural Review approval to ensure compatibility with the surrounding area and enhance the appearance of the local community;
- b. setback a minimum of five (5) feet from the property line to protect the existing six (6) mahogany trees and reduce the non-conformity of the wall setback;
- c. installed simultaneously with the installation of a root barrier system for the existing mahogany trees to prevent root damage to the adjacent public sidewalk; and,
- d. a hedge a minimum height of two (2) feet shall be planted on both sides of the wall. (BLDG PERMIT: LANDSCAPE - Zoning)

USE LIMITATIONS

1. Deliveries and the drive-through lane hours shall be limited to 6:00 AM to 9:00 PM daily. (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; the 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 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 of Approval; 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)