

RESOLUTION NO. 46-08-08

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, APPROVING A SITE PLAN FOR THE CONSTRUCTION OF A 75,425 SQUARE FOOT GENERAL RETAIL SHOPPING CENTER WITH MIXED RETAIL AND GENERAL COMMERCIAL SPACE LOCATED ON A 20.76 ACRE PARCEL ON THE SOUTHWEST CORNER OF NORTHLAKE BOULEVARD AND US HIGHWAY 1 WITHIN THE TOWN C-3 PUD ZONING DISTRICT AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Twin Cities Investors, Inc. & Developers of Northlake, Inc. is the owner (“Owner”) of 20.76 acres of real property located on the southwest corner of Northlake Boulevard and US Highway 1 in the Town of Lake Park, Florida (the Subject “Property”).

WHEREAS, The Owner desires to develop the subject property as a General Shopping Center with mixed retail and general commercial space; and

WHEREAS, Jon E. Schmidt & Associates., as the agent for the Owner (“Agent”) has filed an application (“Application”) for a site plan for the construction of a new 75,425 general retail shopping center; and

WHEREAS, the Subject Property’s legal description is contained in **Exhibit “A”** and its general location is shown on **Exhibit “B”** both of which are attached hereto and incorporated herein; and

WHEREAS, the development of the Subject Property as a general retail shopping center would be consistent with the Town’s Comprehensive Plan; and

WHEREAS, the Site Plan application was considered by the Town’s Planning & Zoning Board on August 8, 2008 at which time the Planning & Zoning Board voted to recommend approval of the Site Plan with conditions of approval; and

WHEREAS, the Town Commission has determined that certain conditions as set forth herein, are necessary for the Application to be consistent with the Town's Comprehensive Plan and to meet the Town's Land Development Regulations; and

WHEREAS, the Owner, and its successors and assigns shall be subject to the conditions contained in Section 2.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1: The whereas clauses are incorporated herein as true and correct as the findings of fact and conclusions of law of the Town Commission.

Section 2: The Town Commission hereby approves the Site Plan for Twin Cities Investors, Inc. & Developers of Northlake, Inc's General Shopping Center subject to the following conditions:

1. Construction on the Subject Property is permitted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless otherwise approved in writing by the Community Development Director.
2. Any disturbance of the public right of way along Northlake Boulevard or Palmetto Road shall require review and written approval from both the Public Works and Community Development Departments prior to any construction.
3. Any disruption to any of the nearby entrance/exit and parking areas along Northlake Boulevard or Palmetto Road shall require prior written approval from the Community Development Director.
4. Any disruption beyond the boundaries of the Site shall require the contractor to employ commonly accepted practices that ensures the safety and well being of the general public.
5. All approved landscaping shall be properly maintained. Plant height at the time of plant installation shall be a minimum of 30 inches and plant maintenance height is set at 42 inches. The Owner shall provide a minimum three-month replacement warranty for all new landscape material, with the warranty to commence on the date of the issuance of the final Certificate of Occupancy. The Owner shall replace any and all dead or dying landscape material on the Subject Property and otherwise comply with the requirements of the Town Code pertaining to landscaping and property maintenance, failing which the Owner and/or any tenant(s) of the Property shall be subject to code enforcement action by the Town to ensure compliance with these conditions of approval and the requirements of the Town Code.
6. All landscaping on-site shall be installed in Phase I. In addition, refer to Condition 21.

7. Safe and adequate pedestrian passage in front of the construction site along Northlake Boulevard shall be maintained at all times.
8. The Owner shall ensure that any and all contractor(s) and their agents and employees working on the Subject Property use commonly accepted practices to reduce airborne dust and particulates during all construction phases.
9. All dumpsters shall be enclosed as noted on the Site Plan and the dumpster enclosure doors shall be kept shut at all times.
10. Prior to issuance of the Certificate of Occupancy, the Owner shall provide certification from the Landscape Architect of record that the plant installations on the Subject Property are in accordance with the plans approved by the Town Commission.
11. Prior to the issuance of any building permit, copies of all other required permits from other agencies including but not limited to Palm Beach County Health Department, Palm Beach County Land Development Division, South Florida Water Management Division and the State of Florida Department of Environmental Protection must be provided to the Town.
12. The Owner shall provide documentation from Palm Beach County that the proposed 75,425 square foot General Retail Center satisfies its Traffic Performance Standards (TPS) and meets its traffic concurrency requirements.
13. Prior to the issuance of development orders for any square footage in excess of 35,000 SF of General Retail the Owner shall install a traffic signal at the proposed middle access driveway along Northlake Boulevard,
14. The Owner shall provide for pedestrian connectivity throughout the Subject Property. Additional decorative pavers shall accommodate this connectivity. Final placement and design shall be subject to the approval by the Town's Community Development Director prior to any building permits being issued.
15. All wall signage is to be consistent with the box lettering signage found on the "Publix" and adjacent North Palm Beach retail center.
16. All phased elevations shall provide architectural variation. Blank walls are prohibited even though future extensions may hide any given wall.
17. The General Retail Center shall be constructed in compliance with the following plans on file with the Town's Community Development Department or authorized revisions as noted below:
 - a. Site Plan & Architectural Elevations referenced as sheet SP1, SP2 and A1.1 – A2.6 and Reduced Color Versions, dated 07-14-08 and 08-06-08 respectively, prepared by Jon E. Schmidt & Associates who is the Site Planner of record and Ocampo & Associates who is the Architect of record for the Project, received and dated by the Department of Community Development on 08-08-08.

- b. Engineering Plans, referenced as sheets 1 through 17 dated 08-08-08 prepared by Simmons & White received and dated by the Department of Community Development on 08-08-08.
 - c. Landscape plans referenced as sheets LP-1 through LP-10 of 10 dated 07-14-08, and prepared by Jon E. Schmidt & Associates who is the landscape architect of record received and dated by the Department of Community Development on 08-08-08. Irrigation plan referenced as sheet IR-1, IR-2 and IR-3 dated 02-09-06, prepared by Jon E. Schmidt & Associates, dated by the Department of Community Development on 08-08-08.
18. Any revisions to the site plan, landscape plan, architectural elevations, signs, statement of use, or other detail submitted as part of the Application, including, but not limited to, the location of the proposed improvements or additional, revised, or deleted colors, materials, or structures, shall be submitted to the Community Development Department and shall be subject to its review and approval, unless the Town Code or a condition of approval requires Town Commission approval.
19. The Owner or authorized agent shall initiate the bona fide and continuous development of the property within 18 months from the effective date of development approval. Such development shall be completed within 18 months from the effective date of initiation of development as defined herein; unless an extension of this build out date is obtained as provided for in Section 67-42 *Expiration of development approvals* of the Town of Lake Park Code.
20. Cost Recovery. All fees and costs incurred by the Town in reviewing the Project and billed to the Owner shall be paid to the Town within 10 days of receipt of an invoice from the Town. Failure by an Owner to reimburse the Town within 10 days may result in the revocation of all previously issued development orders for the project and/or the cessation of the review of the Application until the Town is fully reimbursed.
21. Within ninety (90) days of the effective date of the Resolution, the Applicant or Owner shall submit revised Development Plans to include the items as conditions. The Development Plans may be approved administratively by staff provided that: (1) all conditions are included on the Development Plans to the satisfaction of the Community Development Director, and (2) any exterior building modification(s) are architecturally consistent with the approved buildings. Should any of the aforesaid not be adequately satisfied, the revised Development Plans shall be reviewed and approved by the Town Commission as an amendment to the Site Plan. No building or land clearing permits shall be issued until the revised plans have been approved.
- 22.
- a) In the event the Owner fails, within the time frame noted below, to construct buildings noted as Retail D,E,G on the approved site plan, the Town of Lake Park (Town) shall require any vacant areas designated for future retail development to be properly landscaped.

- b) In order to guarantee appropriate landscaping for any undeveloped areas the applicant shall provide a cash bond, surety bond or other guarantee in the amount of \$60,000 which is determined to be satisfactory as to form by the town attorney.
 - c) Phase I Construction shall be completed within 18 months of the initiation of development as defined in Section 67-42 of the Town of Lake Park Code of Ordinances (Code). If, at the 18 month benchmark, construction on subsequent phases has not been initiated and the developer has failed to apply for and received an extension from the Town, the Owner shall first be given an opportunity to provide a landscape plan for Town approval and install such plan in a timely fashion. If the developer fails to provide and install such landscaping the Town shall utilize the surety guarantee to install landscaping where appropriate.
 - d) Upon completion (CO received) of retail areas D, E, G the bond shall be released.
23. Roof materials and style shall be made consistent throughout. The existing Publix and the proposed retail center will have a metal, angular roof.

Section 3: This Resolution shall become effective upon adoption.

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

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	—
VICE-MAYOR ED DALY	<u>/</u>	—
COMMISSIONER CHUCK BALIUS	<u>/</u>	—
COMMISSIONER JEFF CAREY	<u>/</u>	—
COMMISSIONER PATRICIA OSTERMAN	<u>/</u>	—

The Town Commission thereupon declared the foregoing Resolution NO. 46-08-08 duly passed and adopted this 20 day of August, 2008.

TOWN OF LAKE PARK, FLORIDA

BY: Desca Dubois
DESCA DUBOIS
MAYOR

ATTEST:

Vivian Mendez Lemley
VIVIAN MENDEZ LEMLEY
TOWN CLERK
TOWN OF LAKE PARK
SEAL
FLORIDA

Approved as to form and legal sufficiency:

BY: Thomas J. Baird
THOMAS J. BAIRD
TOWN ATTORNEY

Legal Description

ALL OF THE PLAT OF "NORTHLAKE PROMENADE SHOPPES, A PUD, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 102, PAGES 130 AND 131, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPTING THEREFROM THE FOLLOWING THREE PARCELS OF LAND:

(1) LESS AND EXCEPT THE PARCEL CONVEYED TO VILLAGE SHOPPES AT U.S. 1, LLC, A FLORIDA LIMITED LIABILITY COMPANY IN OFFICIAL RECORDS BOOK 21438, PAGE 1854, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS A PARCEL OF LAND BEING ALL OF PARCEL 1B AND A PORTION OF PARCEL 7, ACCORDING TO THE PLAT OF NORTHLAKE PROMENADE SHOPPES, A PUD, AS SHOWN IN PLAT BOOK 102, PAGES 130 AND 131, OF THE PALM BEACH COUNTY, FLORIDA PUBLIC RECORDS. SAID PLAT ALSO BEING A PART OF SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST, TOWN OF LAKE PARK AND VILLAGE OF NORTH PALM BEACH, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID PARCEL 1B; THENCE SOUTH 89°59'30" WEST ALONG THE SOUTH LINE OF SAID PARCEL 1B, WITH ALL BEARINGS CONTAINED WITHIN RELATIVE THERETO, A DISTANCE OF 637.68 FEET; THENCE SOUTH 00°00'25" EAST ALONG THE EAST LINE OF SAID PLAT, A DISTANCE OF 119.95 FEET TO THE INTERSECTION WITH THE NORTH FACE OF A BUILDING WALL DESCRIBED IN OFFICIAL RECORDS BOOK 3343, PAGE 1787; THENCE SOUTH 89°59'35" WEST, A DISTANCE OF 41.00 FEET; THENCE SOUTH 00°00'25" EAST, A DISTANCE OF 44.63 FEET; THENCE SOUTH 89°59'35" WEST, A DISTANCE OF 4.47 FEET; TO A CURVE HAVING A RADIAL BEARING OF NORTH 87°51'05" WEST, A RADIUS OF 52.20, AND A CENTRAL ANGLE OF 62°17'47"; THENCE PROCEED NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 56.75 FEET TO THE END OF SAID CURVE; THENCE NORTH 00°09'32" EAST, A DISTANCE OF 426.59 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF PARCEL R-1 OF SAID PLAT; THENCE NORTH 90°00'00" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 175.42 FEET; THENCE NORTH 00°00'00" EAST ALONG THE EAST LINE OF PARCEL R-1, A DISTANCE OF 155.65 FEET TO THE NORTHEAST CORNER OF SAID PARCEL R-1; THENCE NORTH 90°00'00" EAST ALONG A LINE 35.50 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF PARCEL 5 OF SAID PLAT, A DISTANCE OF 117.60 FEET TO A CURVE TO THE RIGHT HAVING A RADIAL BEARING OF SOUTH 00°00'00" EAST, A RADIUS OF 80.00 FEET, AND A CENTRAL ANGLE OF 34°25'35"; THENCE PROCEED ALONG THE ARC OF SAID CURVE, A DISTANCE OF 48.07 FEET TO THE END OF SAID CURVE; THENCE SOUTH 55°34'25" EAST, A DISTANCE OF 100.26 FEET TO A CURVE TO THE RIGHT HAVING A RADIAL BEARING OF SOUTH 34°25'35" WEST, A RADIUS OF 80.00 FEET, AND A CENTRAL ANGLE OF 46°43'50"; THENCE PROCEED ALONG THE ARC OF SAID CURVE, A DISTANCE OF 62.25 FEET TO THE END OF SAID CURVE; THENCE

SOUTH 08°50'35" EA) ALONG A LINE 35.50 FEET WEST) AND PARALLEL WITH THE WEST LINE OF PARCEL 6 OF SAID PLAT, A DISTANCE OF 249.82 FEET TO A POINT ON THE PROLONGATION OF THE NORTH LINE OF AFORESAID PARCEL 1-B; THENCE NORTH 84°09'54" EAST ALONG SAID PROLONGATION, A DISTANCE OF 30.18 FEET TO A NORTHWEST CORNER OF PARCEL 1-B; THENCE CONTINUE NORTH 84°09'54" EAST ALONG THE NORTH LINE OF PARCEL 1-B, A DISTANCE OF 167.65 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID PLAT, SAID POINT ALSO LYING ON THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID PARCEL 1-B, SAID POINT ALSO BEING THE BEGINNING OF A CURVE HAVING A RADIAL BEARING OF SOUTH 80°22'21" WEST, A RADIUS OF 11394.22 FEET, AND A CENTRAL ANGLE OF 00°34'45"; THENCE PROCEED SOUTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 115.19 FEET TO THE END OF SAID CURVE AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL.

(2) LESS AND EXCEPT THE PARCEL CONVEYED TO WENDY'S OF N.E. FLORIDA, INC., IN OFFICIAL RECORDS BOOK 13545, PAGE 264, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS A PORTION OF SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS

FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 5, BLOCK 140, ADDITION NO. 3, LAKE PARK, FLORIDA, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 27, PAGE 76 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE OF NORTHLAKE BOULEVARD (STATE ROAD NO. 809) AS SHOWN ON SAID PLAT; THENCE NORTH 88°50'25" EAST ALONG SAID RIGHT-OF-WAY 669.71 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 88°50'25" EAST ALONG SAID RIGHT-OF-WAY LINE, 200.62 FEET; THENCE DUE SOUTH 169.08 FEET; THENCE SOUTH 45°00'00" WEST, 35.36 FEET; THENCE DUE WEST 175.58 FEET; THENCE DUE NORTH 190.02 FEET TO THE POINT OF BEGINNING. SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA.

(3) LESS AND EXCEPT THE PARCEL CONVEYED TO PALM BEACH COUNTY BANK IN OFFICIAL RECORDS BOOK 17344, PAGE 1332, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS PARCEL 5, "NORTHLAKE PROMENADE SHOPPES, A PUD", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 102, PAGE 130 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS LYING IN THE TOWN OF LAKE PARK AND THE VILLAGE OF NORTH PALM BEACH, PALM BEACH COUNTY, FLORIDA, CONTAINING 1,087,384 SQUARE FEET (24.963 ACRES), MORE OR LESS.

