RESOLUTION NO. 87-10-17

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, APPROVING A SITE PLAN FOR A 4,638 SQUARE FOOT FAST FOOD RESTAURANT (CULVERS) TO BE DEVELOPED WITHIN THE CONGRESS BUSINESS PARK PLANNED UNIT DEVELOPMENT; PROVIDING FOR CONDITIONS ASSOCIATED WITH THE APPROVAL OF THE SITE PLAN AND USE; AND PROVIDING FOR AN EFFECTIVE DATE.

- WHEREAS, on behalf of Custard Queens LLC (the Owner), Gentile Glas Holloway O'Mahoney & Associates, Inc., (the Applicant) has submitted an application to develop a 4,638 square foot "Culvers" restaurant on Tract A2A of the Congress Business Park Planned Unit Development; and
- WHEREAS, the property proposed for development (the Site) has a future land use designation of "Commercial/Light Industrial"; and
- **WHEREAS**, the Site is within the previously approved Congress Business Park Planned Unit Development (PUD); and
- **WHEREAS**, the zoning of the Site is PUD with its underlying zoning designation being Commercial-2 Business District (C-2);
- **WHEREAS**, the uses permitted in the PUD include those uses permitted in the C-2 Zoning District and additional uses by special exception if approved by the Commission; and
- WHEREAS, the Community Development Department has determined that the use of a "Restaurant" is a permitted use in the C-2 Zoning District; and
- WHEREAS, the Town's Planning and Zoning Board has reviewed the Application and has recommended to the Town Commission that it approve the Application with certain conditions; and
- **WHEREAS**, the Town Commission has conducted a quasi-judicial hearing to consider the Application; and
- WHEREAS, at these hearings, the Town Commission considered the evidence presented by the Town Staff, the Applicant, and other interested parties and members of the public, regarding the Application.

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

- <u>Section 1</u>: The whereas clauses are incorporated herein as the findings of fact and conclusions of law of the Town Commission.
 - <u>Section 2</u>. The Town Commission hereby approves a Site Plan for the use of a "Restaurant" subject to the following conditions:

- (1) The Applicant shall develop the Site consistent with the following Plans:
 - a. Site Plan, Architectural Plan, Landscape Plan, Irrigation Plans, Civil Plans and Photometric Plan referenced as Sheets SP1, LP-1, LP-2, DP-1, GP-1, GP-2, TM-1, IR-1, IR-2, IR-3, IR-4, A-2, A-3,A-3A, A-4, A-13, C1, C2, C3, C4, C5, C6, C7, C8, C9, C10 PH1 received and dated by the Department of Community Development on 8/8/17 and signed and sealed on 7/27/17 and 8/8/17.
 - b. Survey prepared by Lidberg Land Surveying, Inc. that is signed and sealed dated 10/24/16 and received by the Department of Community Development on 8/08/17.
- (2) The Site Plan includes the following waivers pursuant to Town Code Section 78-77(i):

Waiver Request #	Waiver Description	Code Section	Requirement	Proposed
1	Min. shade tree spacing in parking lots	78-253(c)	"The minimum shade tree spacing for interior parking areas shall be such that no parking space is more than 40' from the center of a shade tree"	Plant the palm tree substitutions at 20' on center instead of the 40' required for a shade tree.
2	Palm tree substitution for a shade tree in parking lots	78-253(c)	"A single shade tree may be substituted by a minimum of 3 clustered palms to create shade as long as the affected parking bays are more than 50 feet from a public street"	Substitute the required shade trees for Montgomery Palm trees.
3	Accessory structure in front yard setback	78- 72(6)(a)	Front yard of not less than 25 feet measured from the street or highway or highway right-of-way line to the front wall of the Building or structure.	An accessory structure ("pedestrian tower") with a 0' setback in the front yard.

- (3) The Owner, the Applicant and their successors and assigns shall be subject to the Development Order and all conditions.
- (4) Construction on the Site is permitted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, except holidays, unless otherwise approved in writing by the Community Development Director. Any proposed disruption to the normal flow of traffic within the right of way of North Congress Avenue, Park Avenue West, Watertower Road or surrounding street and parking areas as part of the construction of the Site, shall also be subject to the review and approval of the Community Development Director and Public Works Director.
- (5) All landscaping shown on the Site Plan and the Landscaping Plan shall be continuously maintained from the date of the issuance of the Certificate of Occupancy by the Town. The Owner shall replace any and all dead or dying landscape material so as to maintain the quantity and quality of the landscaping shown on the approved Site Plan and Landscaping Plan.
- (6) The hedge material proposed for the perimeter of the Site which serves to align the parking areas, shall be maintained at a height consistent with the entire PUD.

- (7) The Owner shall ensure that any and all contractors use commonly accepted practices to reduce airborne dust and particulates during construction on the Site.
- (8) The dumpster shall be screened as noted on the Site Plan and kept closed at all times. All dumpsters shall be acquired from the approved franchise supplier for the Town of Lake Park.
- (9) Prior to issuance of the Certificate of Occupancy, the Owner or Applicant shall provide certification from the Landscape Architect of record that the plant installations on the Site are in accordance with the approved Site and Landscaping Plans.
- (10) Prior to the issuance of any building permits, the Owner or Applicant shall submit copies of any other permits required by other agencies, including but not limited to the Palm Beach County Health Department, the Palm Beach County Land Development Division, the South Florida Water Management Division and the State of Florida Department of Environmental Protection.
- (11) Any revisions to the approved Site Plan, Landscape Plan, architectural elevations, signs, Statement of Use, photometric plan, or other details 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 as well as any applicable approval by the Town Commission pursuant to the Town Code.
- (12) The Owner or Applicant shall initiate bona fide and continuous development of the Site within 18 months from the effective date of this Development Order. Once initiated, the development of the Site shall be completed within 18 months. Failure to do so shall render the Development Order void.
- (13) Cost Recovery. All professional consulting fees and costs, including legal fees incurred by the Town in reviewing the Application and billed to the Owner shall be paid to the Town within 10 days of receipt of an invoice from the Town. The failure of the Applicant to reimburse the Town within the 10 days from the town's mailing of its invoice shall result in the suspension of any further review of plans or building activities, and may result in the revocation of the approved Development Order. A certificate of occupancy will not be issued if invoices are outstanding.
- (14) Architecture and Signage. The tower feature shall limit its "Culvers @ Lake Park" signage to the north and south sides of the structure at the 40% reduced size. The tower feature can include a time and temperature sign facing Congress Avenue that meets the Town Code requirements. The proposed internally illuminated (digital) monument sign is permitted with an advertised Flavor of Day that remains stagnant and only changes once daily. Rotating or flashing elements are prohibited for the monument sign. All signage is subject to the signage permit process.

<u>Section 3:</u> The Owner, Applicant and their successors and assigns shall be subject to the conditions of approval.

<u>Section 4.</u> This Resolution shall become effective upon execution.

The foregoing Resolution was offered by	Commissioner Il	aberty				
who moved its adoption. The motion was seconded by Commissioner Michael						
and upon being put to a roll call vote, the vote was as follows:						
	AVE	N1 A N7				
MAYOR MICHAEL O'ROURKE	AYE	NAY				
VICE-MAYOR KIMBERLY GLAS-CAST	RO Voting	Conflict				
COMMISSIONER ERIN FLAHERTY						
COMMISSIONER ANNE LYNCH		-				
COMMISSIONER ROGER MICHAUD						
The Town Commission thereupon declared the foregoing Resolution NO. 87-10-17 duly passed and adopted this						
	TOWN OF LAKE PARK,	FLORIDA				
	BY: MICHAEL O'RO MAYOR	DURKE				
ATTEST:						
VIVIAN MENDEZ TOWN CLERK OF LACK (TOWN SEXL)	Approved as to form and legal suff	ficiency:				
SEAT SEAD						

TORIDA

THOMAS L BAIRD TOWN ATTORNEY

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS T NAME—FIRST NAME—MIDDLE NAME NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE

LAST NAME—FIRST NAME—MIDDLE NA	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE				
Glas-Castro, Kimberly Kay	Lake Park Town Commission				
MAILING ADDRESS		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:			
230 E. Ilex Drive					
CITY	COUNTY	 ✓CITY	COUNTY	OTHER LOCAL AGENCY	
		NAME OF POLITICAL SUBDIVISION:			
Lake Park	Palm Beach	Town of Lake Park			
DATE ON WHICH VOTE OCCURRED					
10-18-17	MY POSITION IS:	✓ ELECTIVE	APPOINTIVE		

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

• You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- · A copy of the form must be provided immediately to the other members of the agency.
- · The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- · You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the
 meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the
 agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST						
I, Kimberly Glas-Castro , hereby disclose the	nation October 18, 20 17:					
(a) A measure came or will come before my agency which (check one)						
inured to my special private gain or loss;						
inured to the special gain or loss of my business associate,						
inured to the special gain or loss of my relative, Dodi Glas, my sister-in-law, and/or her firm Gentile, Glas, Holloway & Omahoney						
inured to the special gain or loss of, by						
whom I am retained; or						
inured to the special gain or loss of	, which					
is the parent organization or subsidiary of a principal which has re	etained me.					
(b) The measure before my agency and the nature of my conflicting inter	rest in the measure is as follows:					
Site Plan approval for Culver's restaurant, with waivers from strict application of code and planned development district development order requirements (Resolution 87-10-17)						
Dodi Glas, with the firm Gentile, Glas, Holloway & Omahoney, has applied for these Town Commission considerations as Agent for the applicant, and intends on representing the Applicant at the public hearing.						
3	T.					
/0-18+7 Date Filed	Signature					

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

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