

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:

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

Section 2. 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.

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

Section 4. This Resolution shall become effective upon execution.

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

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u>/</u>	<u> </u>
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u> </u>	<u> </u>
COMMISSIONER ERIN FLAHERTY	<u>/</u>	<u> </u>
COMMISSIONER ANNE LYNCH	<u>/</u>	<u> </u>
COMMISSIONER ROGER MICHAUD	<u>/</u>	<u> </u>

The Town Commission thereupon declared the foregoing Resolution NO. 87-10-17 duly passed and adopted this 18 day of October, 2017.

TOWN OF LAKE PARK, FLORIDA


BY: 
MICHAEL O'ROURKE
MAYOR

ATTEST:


VIVIAN MENDEZ
TOWN CLERK



Approved as to form and legal sufficiency:

BY: 
THOMAS J. BAIRD
TOWN ATTORNEY

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 that on October 18, 2017:

(a) A measure came or will come before my agency which (check one)

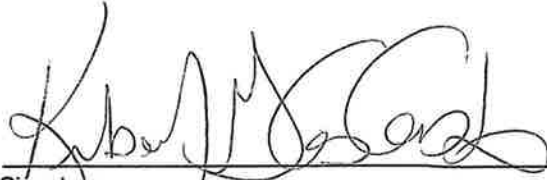
- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, Dodi Glas, my sister-in-law, and/or her firm Gentile, Glas, Holloway & Omahoney;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest 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.

10-18-17
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.