

RESOLUTION NO. R-2010-0302

RESOLUTION APPROVING ZONING APPLICATION DOA-2009-04430
(CONTROL NO. 2000-00096)

Development Order Amendment
APPLICATION OF Shiraz Inc - Martin Pakideh
BY David Lawrence Architecture, AGENT
(Palm Beach Airport Hilton Expansion)

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 DOA-2009-04430 was presented to the Board of County Commissioners at a public hearing conducted on February 25, 2010; 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 a Development Order Amendment.

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 DOA-2009-04430, the petition of Shiraz Inc - Martin Pakideh, by David Lawrence Architecture, agent, for a Development Order Amendment to reconfigure the site plan and add square footage in the Public Ownership (PO) 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 February 25, 2010, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

The motion was seconded by Commissioner Vana and, upon being put to a vote, the vote was as follows:

Commissioner Burt Aaronson, Chair	-	Aye
Commissioner Karen T. Marcus, Vice Chair	-	Absent
Commissioner Jeff Koons	-	Absent
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on February 25, 2010.

Filed with the Clerk of the Board of County Commissioners on March 1, 2010.

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

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND IN SECTION 32, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

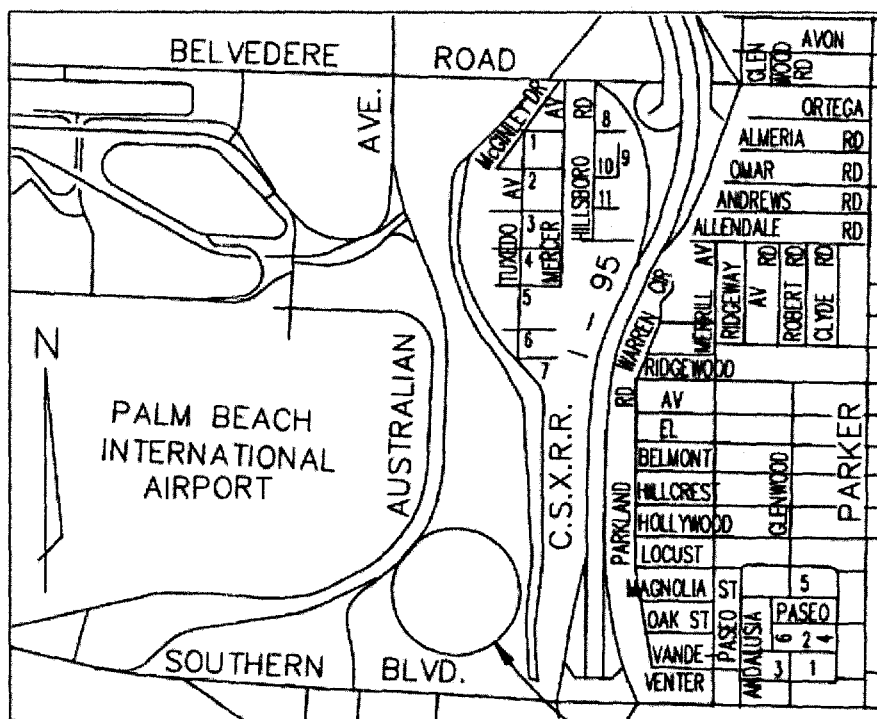
COMMENCE AT THE SOUTHEAST CORNER OF SECTION 32, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA:

THENCE NORTH 00° 05' 28" EAST, ALONG THE EAST LINE OF SAID SECTION 32 A DISTANCE OF 100.06 FEET:
THENCE NORTH 87° 53' 48" WEST, A DISTANCE OF 100.06 FEET:
THENCE NORTH 00° 05' 28" EAST, A DISTANCE OF 72.38 FEET TO A POINT ON THE LIMITED ACCESS RIGHT-OF-WAY LINE RECORDED IN OFFICIAL RECORD BOOK 2112, PAGE 1709 IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND THE POINT OF BEGINNING;
THENCE SOUTH 84° 53' 05" WEST, A DISTANCE OF 201.27 FEET:
THENCE NORTH 89° 40' 10" WEST, A DISTANCE OF 89.48 FEET:
THENCE NORTH 01° 19' 47" EAST, A DISTANCE OF 6.56 FEET:
THENCE NORTH 89° 40' 10" WEST, A DISTANCE OF 6.56 FEET:
THENCE SOUTH 01° 19' 47" WEST, A DISTANCE OF 6.56 FEET:
THENCE NORTH 89° 40' 10" WEST, A DISTANCE OF 226.62 FEET:
THENCE NORTH 88° 40' 13" WEST, A DISTANCE OF 86.60 FEET:
THENCE NORTH 75° 10' 29" WEST, A DISTANCE OF 50.61 FEET;
THENCE NORTH 88° 40' 13" WEST, A DISTANCE OF 321.94 FEET:
THENCE SOUTH 01° 19' 47" WEST, A DISTANCE OF 11.81 FEET;
THENCE NORTH 88° 40' 13" WEST, A DISTANCE OF 45.55 FEET:
THENCE NORTH 75° 10' 29" WEST, A DISTANCE OF 50.61 FEET:
THENCE NORTH 88° 40' 13" WEST, A DISTANCE OF 63.73 FEET:
THENCE NORTH 01° 19' 47" EAST, A DISTANCE OF 8.95 FEET:
THENCE NORTH 88° 40' 13" WEST, A DISTANCE OF 6.56 FEET:
THENCE SOUTH 01° 19' 47" WEST, A DISTANCE OF 8.95 FEET;
THENCE NORTH 88° 40' 13" WEST, A DISTANCE OF 19.58 FEET:
THENCE NORTH 87° 53' 48" WEST, A DISTANCE OF 211.66 FEET;
THENCE CONTINUE NORTH 87° 53' 48" WEST, A DISTANCE OF 138.23 FEET:
THENCE NORTH 49° 45' 57" WEST, A DISTANCE OF 58.99 FEET;
THENCE NORTH 87° 57' 00" WEST, A DISTANCE OF 57.90 FEET;
THENCE NORTH 02° 21' 13" EAST, A DISTANCE OF 129.25 FEET TO THE BEGINNING OF A CURVE WHOSE RADIUS POINT BEARS SOUTH 81° 38' 47" EAST, A DISTANCE OF 92.85 FEET:
THENCE NORTHEAST ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 56° 13' 47" A DISTANCE OF 91.12 FEET:
THENCE NORTH 58° 35' 00" EAST, A DISTANCE OF 44.20 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF AUSTRALIAN AVENUE RECORDED IN ROAD PLAT BOOK 5, PAGE 47, IN THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY, THE FOLLOWING COURSES FOLLOW SAID EAST RIGHT-OF-WAY LINE:
THENCE NORTH 12° 53' 48" WEST, A DISTANCE OF 143.61 FEET TO THE BEGINNING OF A CURVE WHOSE RADIUS POINT BEARS NORTH 77° 06' 12" EAST, A DISTANCE OF 240.00 FEET:
THENCE NORTHEAST ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 71° 44' 08" A DISTANCE OF 300.49 FEET TO THE POINT OF CURVATURE OF A REVERSE CURVE, WHOSE RADIUS POINT BEARS NORTH 31° 09' 40" WEST, A DISTANCE OF 1444.35 FEET;
THENCE NORTHEAST ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 44° 40' 41", A DISTANCE OF 1126.27 FEET:
THENCE SOUTH 78° 01' 17" EAST, DEPARTING FROM SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 80.00 FEET;

THENCE SOUTH 08° 00' 00" EAST, A DISTANCE OF 132.00 FEET;
THENCE SOUTH 68 0 00' 00" EAST, A DISTANCE OF 205.00 FEET;
THENCE SOUTH 480 05' 00" EAST, A DISTANCE OF 170.00 FEET;
THENCE SOUTH 780 17' 00" EAST, A DISTANCE OF 60.00 FEET;
THENCE SOUTH 07 0 30' 00" WEST, A DISTANCE OF 210.00 FEET;
THENCE SOUTH 67 0 00' 00" EAST, A DISTANCE OF 40.00 FEET;
THENCE SOUTH 140 00' 00" WEST, A DISTANCE OF 40.00 FEET:
THENCE SOUTH 400 00' 00" EAST, A DISTANCE OF 90.00 FEET;
THENCE SOUTH 35 0 00' 00" WEST, A DISTANCE OF 60.00 FEET;
THENCE SOUTH 000 00' 00" EAST, A DISTANCE OF 155.00 FEET;
THENCE NORTH 90 0 00' 00" EAST, A DISTANCE OF 155.00 FEET;
THENCE SOUTH 00 0 00' 00" EAST, A DISTANCE OF 235.00 FEET:
THENCE SOUTH 29° 54' 32" EAST, A DISTANCE OF 300.00 FEET;
THENCE SOUTH 00 0 05' 28" WEST, A DISTANCE OF 192.13 FEET TO THE POINT
OF BEGINNING.

CONTAINS: 35.812 ACRES (1,559,973 SQUARE FEET), MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



SITE

LOCATION MAP
NO SCALE
SEC. 32, TWP. 43, RNG. 43

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2001-1351 (Control 2000-096), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous All Petitions Condition 1 of Resolution R-2001-1351, Control 2000-096 which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated June 27, 2001. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING-Zoning)

Is hereby amended to read

Development of the site shall be generally consistent with the preliminary site plan dated December 14, 2009 and approved by the Board of County Commissioners. Modification of the site design may be allowed pursuant to conditions of approval or are in accordance with Article 2 of ULDC. Replacement of a use by another use listed as permitted by right or permitted subject to approval by the DRO may be allowed subject to approval by the DRO. All other modifications exceeding those thresholds established by conditions of approval or the ULDC must be approved by the Board of County Commissioners (ONGOING: ZONING-Zoning)

ARCHITECTURAL REVIEW

1. Condition B.1 of Resolution R-2001-1351, Control Number 2000-96 which currently states:

Prior to final DRC certification of the site plan, the petitioner shall submit architectural elevations to the Zoning Division for review and approval. The proposed architectural treatments shall be consistent with the Architectural Design Guidelines approved by the Board of County Commissioners on April 24, 2001. Development shall be consistent with the approved architectural elevations. (DRC: BLDG PERMIT- Zoning)

Is hereby amended to read:

At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for any structures exceeding the thresholds established in Article 5.C shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

ENGINEERING

1. No building permits for the 159,000 SF Office Building shall be issued until either:
a. A CRALLS designation is adopted for the Australian Avenue link from Belvedere Road to Southern Boulevard and for the Belvedere/Australian intersection; OR

b. Contracts have been let for the following intersection improvements:

i. At the Southern Blvd and Australian Avenue intersection:

Additional left turn lane, east approach and additional left turn lane, west approach [Note: COMPLETED]

ii. At the Belvedere Road and Australian Avenue intersection:

Additional left turn lane and through lane, south approach [Note: COMPLETED]

Additional through lane, north approach [Note: COMPLETED]

Additional left turn lane and through lane, east approach [Note: COMPLETED]

Additional through lane, west approach [Note: COMPLETED]

iii. The above mentioned intersection improvements shall include appropriate receiving lanes.

(BLDG PERMIT: MONITORING Eng) (Previous Condition 2 from SR-2000-096, Control No. 2000-096) [Note: COMPLETED]

LANDSCAPE - GENERAL-STANDARDS

1. Fifty percent (50%) of canopy trees required to be planted in the perimeter buffer shall meet the following minimum standards at installation:

a. Tree height: fourteen (14) feet;

b. Trunk diameter: 3.5 inches measured 4.5 feet above grade;

c. Canopy diameter: seven (7) feet. Diameters shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length;

d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE- Zoning) (Previous LANDSCAPING - STANDARDS Condition D.1 of Resolution R-2001-1351, Control 2000-096)

LANDSCAPE – GENERAL

2. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:

a. Palm heights: twelve (12) feet clear trunk;

b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,

c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous LANDSCAPING - STANDARDS Condition D.2 of Resolution R-2001-1351, Control 2000-096)

3. All shrub or hedge material shall be planted in a hierarchy of layers consisting of a minimum of two (2) varying heights as follows:

a. twenty-four (24) inches - small shrub;

b. twenty-four (24) to forty-eight (48) inches - medium shrub; and,

c. forty-eight (48) to sixty (60) inches - high shrub

These heights shall be continuously maintained to achieve the hierarchical effect. (CO: LANDSCAPE - Zoning) (Previous LANDSCAPING - STANDARDS Condition D.3 of Resolution R-2001-1351, Control 2000-096)

4. All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE- Zoning) (Previous LANDSCAPING - STANDARDS Condition D.4 of Resolution R-2001-1351, Control 2000-096)

5. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the "Plant the Right Tree in the Right Place" guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (CO: LANDSCAPE- Zoning) (Previous LANDSCAPING - STANDARDS Condition D.5 of Resolution R-2001-1351, Control 2000-096)

LANDSCAPE - GENERAL-ALONG RIGHT OF WAY FRONTAGES (ADJACENT TO SOUTHERN BOULEVARD AND AUSTRALIAN AVENUE)

6. Previous Landscaping Condition F.1 of Resolution R-2001-1351, Control 2000-096 which currently states:

Landscaping and buffering along the right of way frontages shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip.
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
- c. one (1) canopy tree planted every thirty (30) feet on center;
- d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- e. double row of shrub or hedge material to be installed in accordance with Condition C.3 to and maintained in the hierarchy of heights. (CO/ONGOING: LANDSCAPE/CODE ENF)

Is hereby amended to read

Landscaping and buffering along the right of way frontages shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip (subject to the Southern Boulevard Ultimate Right of Way/Eminent Domain where it varies from a minimum of 5 feet to a maximum of 20 feet).
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
- c. one (1) canopy tree planted every thirty (30) feet on center;
- d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- e. double row of shrub or hedge material to be installed in accordance with Condition C.3 to and maintained in the hierarchy of heights. (CO/ONGOING: LANDSCAPE/CODE ENF-Zoning)

LANDSCAPE – INTERIOR

7. Foundation planting or grade level planters shall be provided along the front and side facades of all structures to consist of the following:

- a. The minimum width of the required landscape areas shall be eight (8) feet;
- b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRO/ CO: ZONING- LANDSCAPE) (Previous LANDSCAPING - INTERIOR Condition G.1 of Resolution R-2001-1351, Control 2000-096)

PALM TRAN

1. Prior to final certification of the site plan by the Development Review Committee, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the County Engineer. (DRO: ZONING - Eng) (Previous MASS TRANSIT Condition H.1 of Resolution R-2001-1351, Control 2000-096)

2. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to Palm Tran and the County Engineer prior to issuance of the certificate of occupancy for the proposed office building. The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous

paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. (CO: ZONING - Eng) (Previous MASS TRANSIT Condition H.2 of Resolution R-2001-1351, Control 2000-096)

PLANNING

1. Condition Planning 1. of Resolution R-2001-1351, Control No. 2000-096, which currently states:

The petitioner shall agree to the County's undertaking a corrective land use Amendment to Commercial High Office (CH-O) and rezoning of the site's P0 Zoning to any zoning district that is consistent with the CH-O future land use designation. (ONGOING: Zoning-Planning)

Is hereby deleted. [REASON: No longer applicable.]

SITE DESIGN

1. Prior to final DRC certification, the petitioner shall revise the site plan to indicate the following site amenities between the proposed office building and the parking garage;

- a. Covered pedestrian walkway,
- b. Outdoor patio, courtyard or plaza,
- c. Seating area to consist of tables, benches and trash receptacles. (BLDG PERMIT : DRO- Zoning) (Previous MASS TRANSIT Condition C.1 of Resolution R-2001-1351, Control 2000-096)

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 (CO); 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; 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 (ULDC) 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; 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)