

RESOLUTION NO. R-2012- 0003

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/DOA-2011-01169
(CONTROL NO. 1973-00032)
a Development Order Amendment
APPLICATION OF John Jarvis & Son, LLC
BY Jon E Schmidt & Associates, AGENT
(Music Man)

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/ABN/DOA-2011-01169 was presented to the Board of County Commissioners at a public hearing conducted on January 5, 2012; 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 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 ZV/ABN/DOA-2011-01169, the petition of John Jarvis & Son, LLC, by Jon E Schmidt & Associates, agent, for a Development Order Amendment to modify uses in the Light Industrial (IL) 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 5, 2012, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick 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 Shelley Vana, Chair - Absent

Commissioner Steven L. Abrams, Vice Chairman - Aye
Commissioner Karen T. Marcus - Aye
Commissioner Paulette Burdick - Aye
Commissioner Burt Aaronson - Aye
Commissioner Jess R. Santamaria - Aye
Commissioner Priscilla A. Taylor - Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 5, 2012.

Filed with the Clerk of the Board of County Commissioners on January 5th, 2012.

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

THE EAST ONE-HALF OF TRACTS 56 AND 65, AND THAT PART OF THE EAST ONE-HALF OF TRACT 76 LYING NORTH OF STATE ROAD NO. 80, ALL IN BLOCK 5, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 2, PAGES 45 TO 54, INCLUSIVE.

EXCEPTING THE EASTERLY 60 FEET THEREOF.

SUBJECT TO RESERVATIONS, EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B

VICINITY SKETCH

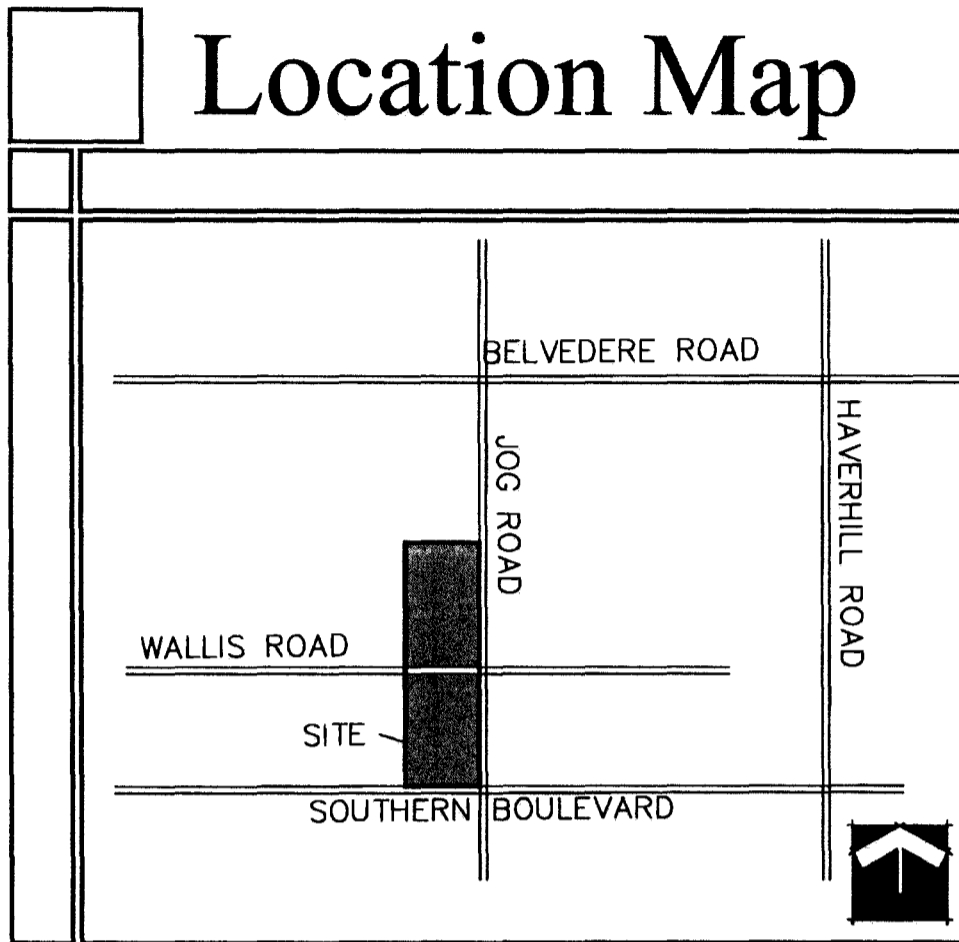


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-73-812 (Control 1973-32), 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. The approved Preliminary Site Plan is dated September 26, 2011. 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)

ENGINEERING

1. Previous Condition 1 of Resolution R-73-812, Control No. 73-32, which currently states:

Prior to the issuance of any building permits, the petitioner shall deed to Palm Beach County the additional right-of-way required to provide for a sixty (60) foot right-of-way for Wallis Road.

Is hereby amended to read:

The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for right of way for 40 feet from the centerline of Wallis Road. All right of way deed(s) and associated documents shall be provided and approved within ninety (90) days of a request by the County Engineer. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Grantor must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the property owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (ONGOING: ENGINEERING-Eng)

2. Petitioner shall construct at his expense two (2) lanes of Wallis Road to Palm Beach County specifications. (ONGOING: ENGINEERING - Eng) (Previous Condition 2 of Resolution R-73-812, Control No. 73-32)

3. The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for the right of way for Jog Road required for the expanded intersection at Southern Boulevard, including a southbound right turn lane. All right of way deed(s) and associated documents shall be provided and approved prior to January 5, 2013 or within ninety (90)

days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Grantor must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the property owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (DATE/ONGOING: MONITORING-Eng)

4. Prior to issuance of the first building permit for additional building square footage or prior to January 15, 2013, whichever shall occur first, the property owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

HEALTH

1. Previous condition 5 of Resolution R-73-812; Control 73-32, which currently states:

Water and sewer facilities must be provided prior to development.

Is hereby deleted. [Reason: Code requirement.]

2. Prior to final Development Review Officer (DRO) Approval the property owner shall obtain a water connection permit. (DRO:HEALTH-Health)

3. Prior to final approval from the Development Review Officer (DRO), the property owner shall obtain a wastewater connection permit from the Palm Beach County Health Department. (DRO:HEALTH-Health)

SITE DESIGN

1. Condition 4 of Resolution R-73-812, Control No. 73-32, which currently states:

All structures shall be setback two hundred forty (240) feet from the southern right-of-way line of Southern Boulevard (S.R. 80).

Is hereby deleted. [REASON: No longer applicable as eminent domain for SR80 has already impacted Lot 1.]

USE LIMITATIONS

1. Petitioner shall provide a natural or manmade opaque screening along the outside perimeter of the property. (ONGOING: ZONING - Landscaping) (Previous Condition 3 of Resolution R-73-812, Control No. 73-32)

2. Prior to the approval of a Business Tax Receipt, single tenant use shall be verified for Lot 2 or building permit documentation shall be demonstrated for multiple tenant use. (ONGOING: CODE ENF - Code Enf)

3. Prior to April 26, 2012, the Contractor Storage Yard use on Lot 2 shall cease. (DATE April 26, 2012: MONITORING - 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 (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)