

RESOLUTION NO. R-2013- 1759

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2013-01841
(CONTROL NO. 1973-00091)
a Development Order Amendment
APPLICATION OF LW Jog SC, Ltd
BY Perry & Taylor PA, AGENT
(Lake Worth Plaza West)

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;

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;

WHEREAS, Zoning Application ZV/DOA/R-2013-01841 was presented to the Board of County Commissioners at a public hearing conducted on December 5, 2013;

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;

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;

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;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

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; and

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/DOA/R-2013-01841, the petition of LW Jog SC, Ltd, by Perry & Taylor PA, agent, for a Development Order Amendment to modify the Site Plan and add a use in the Multiple Use Planned Development (MUPD) 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 December 5, 2013, subject to the Conditions of Approval described in EXHIBIT C-2, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

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

Commissioner Priscilla A. Taylor, Mayor	- Aye
Commissioner Paulette Burdick, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Shelley Vana	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Jess R. Santamaria	- Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on December 5, 2013.

Filed with the Clerk of the Board of County Commissioners on December 9, 2013

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

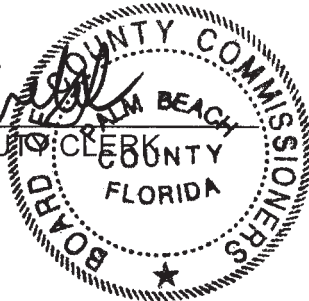


EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

A parcel of land in the Northeast 1/4 of Section 27, Township 44 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the Northwest corner of the Northeast 1 /4 of Section 27; thence South 00°58'18" West (State Plane Grid Datum), along the West line of the Northeast 1/4 of Section 27, a distance of 1339.12 feet to the South line of the Northwest 1/4 of the Northeast 1/4 of Section 27; thence South 88°32'45" East, along said South line, 80.00 feet to the Easterly right-of-way line of Jog Road, and to the Point of Beginning of the parcel described herein; thence continue South 88°32'45" East, along said South line, 933.37 feet to the East line of the West 1/2 of the East 1/2 of the Northwest 1/4 of the Northeast 1/4 of Section 27; thence North 00°55'50" East, along said East line, 1104.20 feet to a point that is 236.03 feet South of the North line of Section 27, as measured along said East line; thence North 89°04'10" West, 188.18 feet to a point of curvature; thence Northwesterly, along an arc of a curve concave to the Northeast, having a radius of 30.00 feet, a central angle of 38°19'04", an arc length of 20.06 feet to a non-tangent line; thence North 02°33'43" West, 197.51 feet to the South right-of-way line of Lake Worth Road (S.R. 802), being a non-tangent curve; thence Westerly, along the said South right-of-way line, being an arc of a curve concave to the South, having a calculated radius of 2798.11 feet, a central angle of 01°38'18", a chord length of 80.00 feet, which bears South 87°26'17" West, an arc length of 80.00 feet to a non-tangent line; thence South 02°33'43" East, 173.69 feet to a non-tangent curve; thence Southwesterly, along the arc of a curve concave to the Northwest, having a radius of 30.00 feet, a central angle of 32°51'53", a chord length of 16.97 feet bearing South 21 °51 '23" West, an arc length of 17.21 feet to a point of reverse curvature; thence Southwesterly, along an arc of a curve concave to the South, having a radius of 979.00 feet, a central angle of 22°32'57", an arc length of 385.29 feet to a point of compound curvature; thence Southwesterly, along an arc of a curve concave to the Southeast, having a radius of 149.00 feet, a central angle of 55°00'46", an arc length of 143.06 feet to a point of tangency; thence South 00°55'50" West, 363.24 feet to a point of curvature; thence Southwesterly, along an arc of a curve concave to the Northwest, having a radius of 30.00 feet, a central angle of 41 °51 '05", an arc length of 21.91 feet to a point of non-tangency; thence North 89°01 '42" West, 208.35 feet to the East right-of-way line of Jog Road, being a line that is 80.00 feet East of and parallel with the West line of the Northeast 1/4 of Section 27; thence South 00°58'18" West, along said line, 80.00 feet; thence South 89°01'42" East, 182.90 feet; thence South 00°55'50" West, 336.62 feet; thence North 88°32'45" West, 183.15 feet to the said East right-of-way line of Jog Road; thence South 00°58'18" West, along said line 38.64 feet to the Point of Beginning.

PARCEL 2:

A parcel of land in the Northeast 1/4 of Section 27, Township 44 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the Northwest corner of the Northeast 1/4 of Section 27; thence South 00°58'18" West (State Plane Grid Datum), along the West line of the Northeast 1/4 of Section 27, a distance of 1339.12 feet to the South line of the Northwest 1/4 of the Northeast 1/4 of Section 27; thence South 88°32'45" East along said South line, 80.00 feet to the Easterly right-of-way line of Jog Road; thence North 00°58'18" East, 38.64 feet to the Point of Beginning; thence continuing North 00°58'18" East, 335.01 feet to a point; thence South 89°01 '42" East, 182.90 feet to a point; thence South 00°55'50" West, 336.62 feet to a point; thence North 88°32,45" West, 183.15 feet to the Point of Beginning.

PARCEL 3:

Easement for the benefit of Parcels 1 and 2 for access over and use of the retention pond on Out Parcel L-4, as set forth in paragraph 1.2 of the Cooperation and Easement

Agreement dated March 17, 1986, and recorded April 2, 1986, in Official Records Book 4836, page 10, as modified by instrument recorded in Official Records Book 5744, page 1905, of the public records of Palm Beach County, Florida. Said Out Parcel L-4 being more particularly described as follows:

Commencing at the North quarter corner of Section 27, Township 44 South, Range 42 East, Palm Beach County, Florida; thence South $1^{\circ}22'26''$ West (State Plane Grid Datum), along the North-South quarter Section line of Section 27, a distance of 653.08 feet; thence South $88^{\circ}37'34''$ East, perpendicular to the previous course 80.0 feet to the Easterly right-of-way line of Jog Road and the Point of Beginning; thence North $1^{\circ}22'26''$ East, along said right-of-way line and parallel with the North-South quarter section line, 61.29 feet; thence North $02^{\circ}16'49''$ East, along said right-of-way line, 189.64 feet; thence North $01^{\circ}22'26''$ East, along said right-of-way line, 18.00 feet; thence South $88^{\circ}37'34''$ East, perpendicular to the previous course, 271.16 feet to a non-tangent point of curvature; thence Southwesterly, along the arc of a curve concave to the Southeast, having a radius of 149.0 feet, a central angle of $52^{\circ}40'42''$, a chord length of 132.22 feet which bears South $27^{\circ}40'35''$ West, an arc distance of 136.99 feet to a point of tangency; thence South $01^{\circ}20'15''$ West, 150.40 feet; thence North $88^{\circ}37'34''$ West, along a line perpendicular to the North-South quarter section line, 215.68 feet to the Point of Beginning.

EXHIBIT B
VICINITY SKETCH

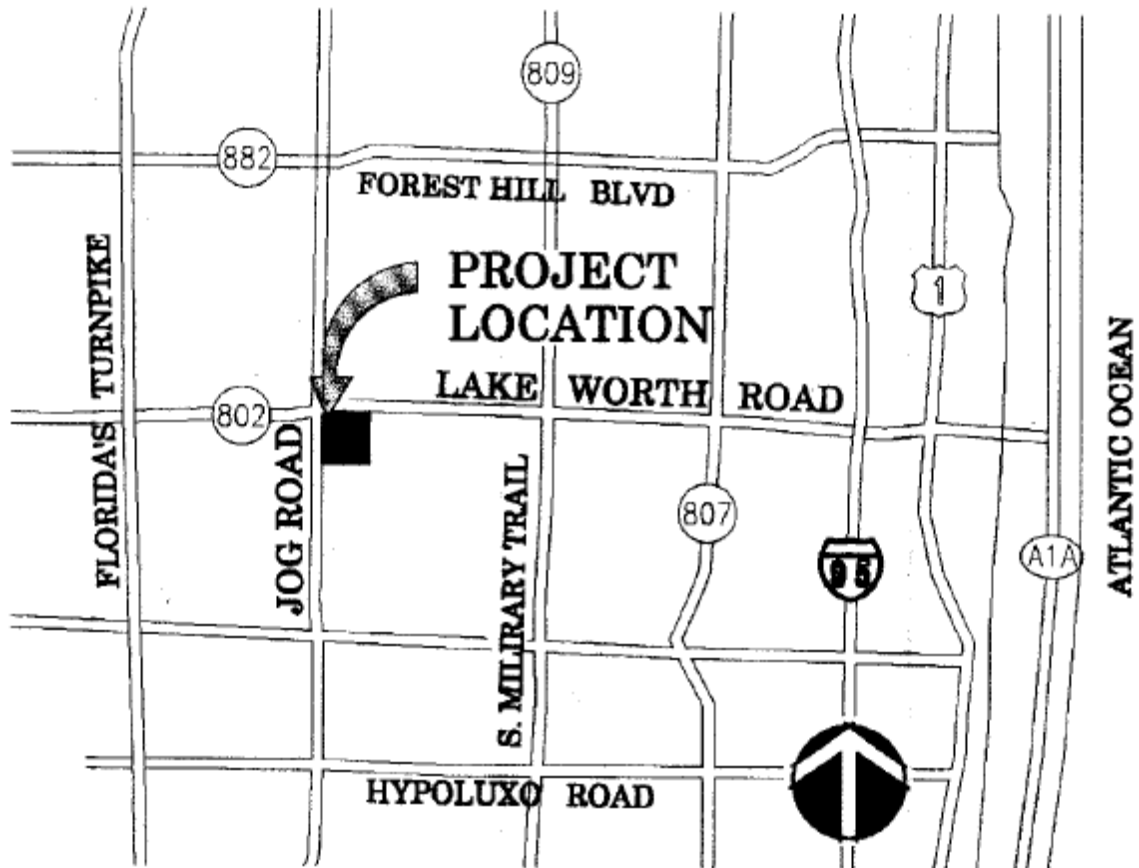


EXHIBIT C-2

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Previous Condition All Petitions 1 of Resolution R-2012-469, Control No. 1973-091 which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-1997-1576 (Control No. 1973-091D), R-2007-1046 (Control No. 1973-091), 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)

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-1997-1576 (Control No. 1973-091D), R-2007-1046 (Control No. 1973-091), R-2012-469, (Control No. 1973-091), 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 and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous Condition All Petitions 2 of Resolution R-2012-469, Control No. 1973-091 which currently states:

The approved Preliminary Site Plan is dated January 18, 2012. 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)

Is hereby amended to read:

The Preliminary Site Plan is dated September 27, 2013. 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)

ARCHITECTURAL REVIEW

1. At time of submittal for final approval by the Development Review Officer (DRO), the Architectural Elevations for the retail building (Parcel L-3) shall be submitted for final architectural review and approval. Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (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) (Previous Condition Architectural Review 1 of R-2012-469, Control No. 1973-091)

ENGINEERING

1. Prior to the issuance of any building permits, the Property Owner shall dedicate to Palm Beach County the additional right of way required to provide for a one hundred twenty (120) foot right-of-way for Lake Worth Road (SR 802) and Jog Road. (BLDG PERMIT: MONITORING-Eng) (Previous Condition E.1 of Resolution R-2012-00469, Control No. 1973-00091) [NOTE: COMPLETED]

2. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a) No Building Permits shall be issued after December 31, 2015. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE:MONITORING-Eng) (Previous Condition E.4.a of Resolution R-2012-00469, Control No. 1973-00091)

3.Prior to issuance of the first building permit, the Property Owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Jog Road at the intersection with Lake Worth Road as well as a Removal Agreement approved by the Engineering Department to allow improvements to remain until notified by the County Engineer. This right of way shall be a minimum of 192 feet in storage length and a minimum of twelve feet in width or as approved by the County Engineer. The right of way should be continued across the project entrance. This additional right of way shall include Corner Clips where appropriate, as determined by the County Engineer. 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, unless otherwise approved by the County Engineer with an appropriate subordination agreement.

The Property Owner 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 Property Owner, the Property Owner 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. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDG PERMIT: MONITORING-Eng) (Previous Condition E.5 of Resolution R-2012-00469, Control No. 1973-00091)

4.Prior to issuance of the first building permit on the parcel located at the northwest corner of the development site, the Property Owner shall legally create the lot in accordance with Article 11 of the ULDC. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E.6 of Resolution R-2012-00469, Control No. 1973-00091) [NOTE: COMPLETED]

5.Prior to December 31, 2014, the Property Owner shall plat the property in accordance with the provisions of Article 11 of the Unified Land Development Code. (DATE: MONITORING - Eng)

LANDSCAPE - GENERAL

1.Prior to December 31, 1996, the petitioner of Zoning Control No. 73-91(C) shall install native canopy trees thirty (30) feet on center along Jog Road and a continuous opaque hedge in accordance with ULDC requirements, between the south property line and the second driveway entrance north. Credit shall be given for existing landscape material in this area meeting this requirement. (DATE: MONITORING - Landscape) (Previous Condition Landscape 1 of Resolution R-2012-469, Control No. 1973-091)

LANDSCAPE - GENERAL-FIRST UNION BANK EXPANSION PETITION 93-91

2.Landscaping and buffering along 153 Feet of the North Property Line Commencing from the Northeast Corner Abutting Lake Worth Road shall be upgraded to include:

- a. One (1) canopy tree planted every twenty (20) linear feet with a maximum spacing of thirty (30) feet on center;
- b. Thirty (30) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE-Zoning) (Previous Condition Landscape 2 of Resolution R-2012-469, Control No. 1973-091)

LANDSCAPE - GENERAL-WINN DIXIE/MAIN ANCHOR RETAIL

3. Prior to the issuance of the Certificate of Occupancy or Certificate of Completion for the Winn Dixie (subject of Petition 73-91(B) the petitioner shall complete the following:

- a. Repair or replace all missing or damaged fence panels on the south and east property lines of the shopping center;
- b. Install one (1) eighteen (18) to twenty (20) foot tall Sabal Palms twenty (20) feet on center along the east property line within the five foot wide existing Alternate 1 Landscape Buffer; and,
- c. Replace all missing or dead landscaping within the parking areas (excluding out parcels). All replacement trees and shrubs shall meet the standards of Section 7.3 of the ULDC. (CO: BLDG / LANDSCAPE - Zoning) (Previous Condition Landscape 4 of Resolution R-2012-469, Control No. 1973-091)

USE LIMITATIONS-COCKTAIL LOUNGE

1. The cocktail lounge permitted by Zoning Control No. 73-91(C) shall be limited to a maximum of 5,000 gross square feet located in the southwest area of the principle structure, as indicated on Exhibit 48. (DRO: ZONING-Zoning) (Previous Condition Use Limitations 1 of Resolution R-2012-469, Control No. 1973-091)

USE LIMITATIONS-VETERINARY CLINIC AND COMMERCIAL KENNEL

2. Prior to site plan certification, the site plan shall be amended to indicate the following:

- a. Landscaping located outside of the utility easements, or release agreements shall be obtained from all easement holders and filed with the Zoning Division.
- b. Revise square footage of the veterinary clinic and commercial kennel with corrective changes to the parking calculations. (DRO: ZONING - Zoning) (Previous Condition Use Limitations 2 of Resolution R-2012-469, Control No. 1973-091)

USE LIMITATIONS-USE RETAIL-PARCEL L-3

3. Prior to July 31, 2014, the applicant shall abandon the Type II Restaurant use and amend approved Plans to remove any Phasing reference to implement the General Retail Use. (DATE: MONITORING - Zoning) (Previous Condition Use Limitations 3 of Resolution R-2012-469, Control No. 1973-091)

UTILITIES

1. If any relocation/modifications to the County's existing facilities are required that are the direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD - PBCWUD) (Previous Utilities Condition 1 of Resolution R-2007-1046, Control 1973-091)

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; 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; the 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 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 of Approval; 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)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.