

RESOLUTION NO. R-2014- 0883

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2014-00079
(CONTROL NO. 1997-00096)
a Development Order Amendment.
APPLICATION OF Willow Development USA LLC - Serge Van Duuren
BY Miller Land Planning, AGENT
(Michelangelo Senior Living MUPD)

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-2014-00079 was presented to the Board of County Commissioners at a public hearing conducted on June 26, 2014;

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-2014-00079, the petition of Willow Development USA LLC - Serge Van Duuren, by Miller Land Planning, agent, for a Development Order Amendment to modify the site plan; add uses; and, delete all prior Conditions of Approval in the Multiple Use Planned Development 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 June 26, 2014, 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 Burdick 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 Mayor thereupon declared that the resolution was duly passed and adopted on June 26, 2014.

Filed with the Clerk of the Board of County Commissioners on July 02, 2014.

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

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING WITHIN SECTION 3, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY FOR THE CANAL L-29, IN ACCORDANCE TO THAT RIGHT-OF-WAY WIDTH REFERRED TO IN THE CHANCERY NO. 407, RECORDED IN OFFICIAL RECORDS BOOK 6495, PAGE 761, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND THE WESTERLY RIGHT-OF-WAY LINE OF JOG ROAD, IN ACCORDANCE TO THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 5867, PAGES 561 THROUGH 563, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S 00° 58' 10" E, ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF JOG ROAD, A DISTANCE OF 621.31 FEET; THENCE S 00° 18' 04" W, A DISTANCE OF 370.34 FEET; THENCE S 06° 32' 38" W, A DISTANCE OF 101.62 FEET; THENCE S 00° 58' 10" E, A DISTANCE OF 280.00 FEET; THENCE S 54° 07' 19" W, A DISTANCE OF 66.37 FEET; THENCE N 70° 48' 16" W, A DISTANCE OF 445.46 FEET; (THE PREVIOUS FIVE COURSES AND DISTANCES ARE ALONG THE RIGHT-OF-WAY LINE OF "FLAVOR PICT ROAD", IN ACCORDANCE TO THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 11789, PAGES 54 THROUGH 56, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA); THENCE N 00° 54' 50" W, ALONG THE EASTERLY BOUNDARY OF THE PLAT OF GREEN CAY VILLAGE AS RECORDED IN PLAT BOOK 106, PAGES 120 THROUGH 124, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 1257.21 FEET TO A POINT OF INTERSECTION WITH SAID SOUTHERLY RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY FOR THE CANAL L-29; THENCE N 89° 05' 10" E ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 492.86 FEET TO THE POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

Location Map

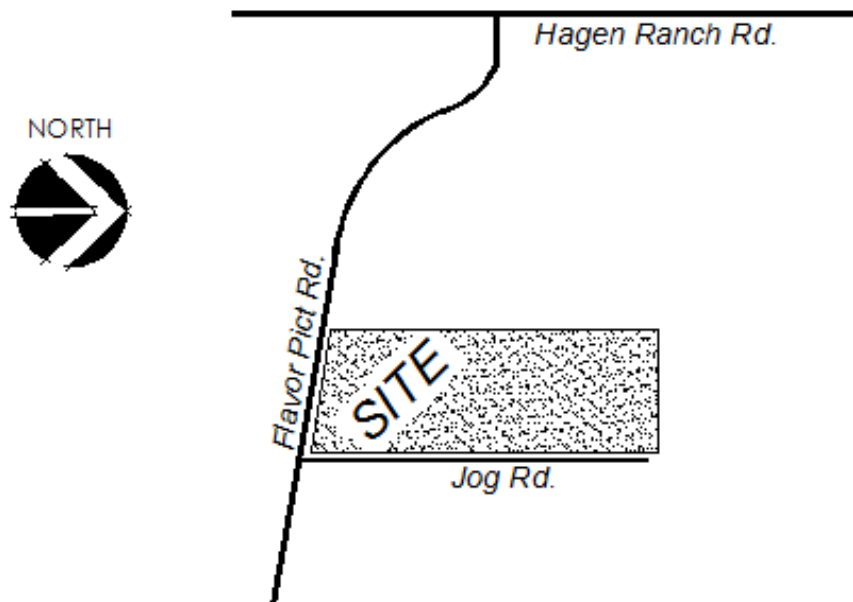


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. The certified Preliminary Site Plan is dated April 24, 2014. 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)

2. All previous Conditions of Approval as contained in Resolutions R-1998-0424, R-1998-0869, R-2000-1569, R-2002-0840 and R-2006-1535 are hereby revoked. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the shall be submitted for final approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated March 24, 2014. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

ENGINEERING

1. 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 for the site may be issued after December 31, 2018. 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 request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. Prior to issuance of the first building permit the, Property Owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPMT: MONITORING - Engineering)

3. Landscape Within the Median of Jog Road

The Property Owner shall design, install, and perpetually maintain median landscape within the median of all abutting right of way of Jog Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners' approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

a. Prior to issuance of a building permit, the necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development. (BLDGPMT: MONITORING - Engineering)

b. Prior to the issuance of the first certificate of occupancy, all installation of the landscaping and irrigation shall be completed. (BLDGPMT/CO: MONITORING - Engineering)

c. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the

amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING - Engineering)

d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation, and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Jog Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPM: MONITORING - Engineering)

4. Prior to issuance of the first building permit, the property owner shall provide to Palm Beach County sufficient public road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Flavor Pict Road and Jog Road along the property frontage; and a maximum of an additional 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and, when necessary, compensating storage capacity within this project s system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM: MONITORING - Engineering)

ENVIRONMENTAL

1. Prior to Final Approval by the Development Review Officer (DRO), the site plan shall be modified if required, to be consistent with the construction standards pursuant to ULDC Article 14.B Wellfield Protection. (DRO: ENVIRONMENTAL RESOURCE MANAGEMENT - Environmental Resource Management)

LANDSCAPE - GENERAL

1. Concurrent with the submittal for Building Permits, the Property Owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related Conditions of Approval as contained herein. (BLDGPM: LANDSCAPE - Zoning)

2. All trees planted within the perimeter buffers shall be installed with a variation of heights with an average height of fourteen (14) feet. (BLDGPM: LANDSCAPE - Zoning)

3. All palms required to be planted on the property, 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 Unified Land Development Code requirements. (BLDGPM: LANDSCAPE - Zoning)

LANDSCAPE – PERIMETER- NORTH PROPERTY LINE

4. In addition to the requirements of the Land Use Ordinance 97-29 and the Code, the perimeter buffer shall be upgraded to include:

- a. one (1) palm or pine for each for each twenty (20) linear feet of the property line;
- b. the palms and pines shall be installed in clusters; and,
- c. the maximum spacing of the clusters shall be no more than sixty (60) feet on center. (BLDGPM: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER-EAST PROPERTY LINE

5. Spacing of the required Canopy Trees within the buffer along the east property line shall be: One (1) Canopy Tree for each twenty (20) linear feet of the property line. (BLDGPM: LANDSCAPE - Zoning)

LANDSCAPE – PERIMETER WEST PROPERTY LINE

6. Prior to Final Approval of the Site Plan, the landscape buffer along the west property line shall be revised to be a minimum width of twenty (20) feet in accordance with Unified Land Development Code Article 3 or the Property Owner must apply for a Type II Variance to allow a reduction of the buffer width. (BLDGPM: LANDSCAPE - Zoning)

7. In addition to the requirements of the Code, the perimeter buffer shall be revised and upgraded to include:

- a. one (1) palm or pine for each for each twenty (20) linear feet of the property line; and,
- b. the palms and pines shall be installed in clusters. (BLDGPM: LANDSCAPE - Zoning)

PLANNING

1. Per LGA 97-94, Ordinance 97-29 condition 2, The total commercial building area limited to no more than 120,000 square feet, with no single store to exceed 20,000 square feet. (ONGOING: PLANNING - Planning)

2. Per LGA 97-94, Ordinance 97-29 condition 1, The following uses shall not be permitted on the subject 290.2 acres:

- a. Gas stations;
- b. Fast food restaurants;
- c. Adult Entertainment enterprises; and,
- d. Communication towers. (ONGOING: PLANNING - Planning)

3. Per LGA 97-94, Ordinance 97-29 condition 3, Height of buildings in areas designated HR-8 shall be limited to no more than 3 stories. (ONGOING: PLANNING - Planning)

4. Per LGA 97-94, Ordinance 97-29 condition 4, Entrance signs shall be monument type. (ONGOING: PLANNING - Planning)

5. Per LGA 97-94, Ordinance 97-29 condition 5, All lighted signs and parking lot signs shall be non-intrusive with respect to the surrounding communities. (ONGOING: PLANNING - Planning)

6. Per LGA 97-94, Ordinance 97-29 condition 6, A six (6) foot high earthen berm shall be placed along the northern and eastern ends of the commercial area. (ONGOING: PLANNING - Planning)

7. Per LGA 97-94, Ordinance 97-29 condition 7, Sufficient landscaping shall be installed at the top of the berm to effectively screen the commercial buildings. (ONGOING: PLANNING - Planning)

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.