

RESOLUTION NO. R-2015- 1080

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2015-00762
(CONTROL NO. 1989-00117)
a Development Order Amendment
APPLICATION OF FR Del Mar Village LLC
BY JMorton Planning & Landscape Architecture, AGENT
(Del Mar Plaza)

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) (ULDC), have been satisfied;

WHEREAS, Zoning Application ZV/DOA-2015-00762 was presented to the Board of County Commissioners at a public hearing conducted on August 27, 2015;

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 ULDC 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 ULDC 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 ULDC 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-2015-00762, the application of FR Del Mar Village LLC, by JMorton Planning & Landscape Architecture, Agent, for a Development Order Amendment to reconfigure the site plan to reduce square footage; reconfigure the parking lot; and, modify Conditions of Approval (Landscape), 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 August 27, 2015, 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 Shelley Vana, Mayor	-	Aye
Commissioner Mary Lou Berger, Vice Mayor	-	Absent
Commissioner Hal R. Valeche	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Priscilla A. Taylor	-	Absent
		Absent

The Mayor thereupon declared that the resolution was duly passed and adopted on August 27, 2015.

Filed with the Clerk of the Board of County Commissioners on August 27th, 2015

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 NO. 1: (Fee Simple)

Parcels I, IX and X of Del Mar Plaza Sub Division No. 1, according to the plat thereof, as recorded in Plat Book 41, Pages 108 to 110, inclusive, of the Public Records of Palm Beach County, Florida. 582,091 square feet, (13.3630 acres) more or less.

PARCEL NO. 2: (Easement)

Easement for the benefit of Parcel No. 1, as created by the Easement Agreement dated May 29, 1981 and recorded June 4, 1981, in Official Records Book 3534, Page 1661, of the Public Records of Palm Beach County, Florida, and re-recorded April 7, 1982, in Official Records Book 3703, Page 1115, in the Public Records of Palm Beach County, Florida, for construction and maintenance of signs, over, under and across the land described as follows:

A parcel of land being a portion of Parcel VIII Del Mar Plaza Sub Division No. 1 as recorded in Plat Book 41, Page 108, of the Public Records of Palm Beach County, Florida, said portion of Parcel VIII being more particularly described as:

A 10.00 foot by 20.00 foot strip of land bounded on the south by the north line of a 20.00 foot drainage easement, on the east by the west line of a 10.00 foot utility easement, on the west by a line 10.00 feet west of and parallel to said west line of utility easement, and on the north by a line 20.00 feet north of and parallel to the north line of said 20.00 foot drainage easement, said drainage and utility easements as shown on the Plat of Del Mar Plaza Sub Division as recorded in Plat Book 41, Page 108, of the Public Records of Palm Beach County, Florida.

A parcel of land being a portion of Parcel II Del Mar Plaza Sub Division No. 1 as recorded in Plat Book 41, Page 108, of the Public Records of Palm Beach County, Florida, said portion of Parcel II being more particularly described as:

A 10.00 foot by 20.00 foot strip of land, lying in the southeast corner of said Parcel II, bounded on the south and east by respectively the north and west lines of 10.00 foot utility easement, said 10.00 foot by 20.00 foot strip being also bounded on the west by a line 20.00 feet west of and parallel to the aforementioned west line of a 10.00 foot utility easement and on the north by a line 10 feet north of and parallel to the aforementioned north line of a 10.00 foot utility easement. Said utility easements as shown on the Plat of Del Mar Plaza Sub Division No. 1 as recorded in Plat Book 41, Page 108, of the Public Records of Palm Beach County, Florida. Subject to the terms, provisions and conditions set forth in said instrument.

PARCEL NO. 3: (Easement)

Easement for the benefit of Parcel No. 1 as created by that Easement Agreement dated May 29, 1981 and recorded June 4, 1981, in Official Records Book 3534, Page 1686, of the Public Records of Palm Beach County, Florida, and re-recorded April 7, 1982, in Official Records Book 3703, Page 1106, of the Public Records of Palm Beach County, Florida, for a non-exclusive easement for ingress and egress over, under and across the land described as follows:

A parcel of land being a portion of Parcel VIII Del Mar Plaza Sub Division No. 1, as recorded in Plat Book 41, Page 108, of the Public Records of Palm Beach County, Florida, said portion being more particularly described as:

The east 25.00 feet of the west 47.50 feet of said Parcel VIII.

EXHIBIT B
VICINITY SKETCH

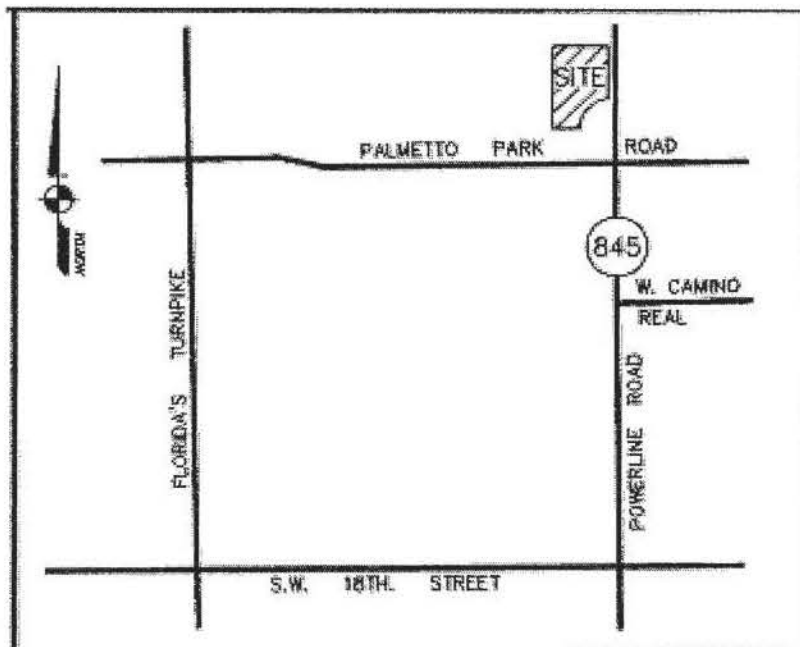


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2014-562, Control No.1989-00117, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-1990-1291 (Control 1989-00117), 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.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2014-0562 (Control 1989-00117), 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 ALL PETITIONS Condition 2 of Resolution R-2014-562, Control No.1989-00117, which currently states:

The approved Preliminary Site Plan is dated February 13, 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)

Is hereby amended to read:

The approved Preliminary Site Plan is dated June11, 2015. 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 Fitness Center shall be submitted for review and approval by the Zoning Division. Architectural 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 Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO/ONGOING: ZONING - Zoning) (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2014-562, Control No.1989-00117)

2. Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2014-562, Control No.1989-00117, which currently states:

The maximum height for the Fitness Center including air conditioning, mechanical equipment and satellite dishes shall not exceed fifty (50) feet. Heights shall be measured from finished grade to highest point of the structure excluding those portions of the structure addressed in Article 3.D.1.E Height Exemptions of the ULDC.

a. the primary entrance for Building B shall be from the south or east elevation;and

b. windows (other than glass block or other translucent material which allows a maximum sixty (60) percent of exterior light transmission according to the manufacturer's specifications) shall not be allowed to penetrate to any portion of the north or west elevation of Building B. (BLDGPMT/ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: no longer applicable]

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2014-562, Control No.1989-00117, which currently states:

Use of the site shall be limited to a Planned Commercial Development with 154,612 gross square feet, subject to amendments allowed through the site plan review process. The facility shall be limited to a minimum of 2,370 square foot specialty shop or a combination of uses which do not generate more than an additional 1,040 vehicle trips/day,

Is hereby amended to read:

Use of the site shall be limited to a Planned Commercial Development with 113,970 gross square feet of commercial retail and 37,000 gross square feet of health club, subject to amendments allowed through the site plan review process.

2. Condition deleted by Resolution R-2014-0562. (Previous ENGINEERING Condition 2 of Resolution R-2014-562, Control No.1989-00117)

3. Previous ENGINEERING Condition 3 of Resolution R-2014-562, Control No.1989-00117, which currently states:

The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$57,200.00 (1,040 trips X \$55.00 per trip). (BLDGPMT: MONITORING - Engineering)

Is hereby deleted. [REASON: Code requirement]

4. Prior to the issuance of a building permit, the Property Owner shall abandon or release, and relocate if necessary, all easements in conflict with existing or proposed buildings. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 4 of Resolution R-2014-562, Control No.1989-00117)

5. Prior to issuance of the first building permit 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. (BLDGPMT: MONITORING - Engineering)

HEALTH

1. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents.

Owners and operators of facilities that generate hazardous, toxic, or industrial wastes shall not deposit or cause to be deposited such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP), the Florida Department of Health in Palm Beach County, and the agency responsible for sewerage works are constructed and used. (ONGOING: CODE ENF-Health) (Previous HEALTH Condition 1 of Resolution R-2014-562, Control No.1989-00117)

2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (ONGOING:HEALTH-Health) (Previous HEALTH Condition 2 of

Resolution R-2014-562, Control No.1989-00117)

3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (ONGOING:HEALTH-Health) (Previous HEALTH Condition 3 of Resolution R-2014-562, Control No.1989-00117)

LANDSCAPE - GENERAL

1. Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2014-562, Control No.1989-00117, which currently states:

At time of submittal for Final Approval by the Development Review Officer, the Property Owner shall submit Landscape Plan(s) to the Landscape Section for review and approval. The Plan(s) and/or supporting documents shall demonstrate the Preserve vegetation will meet or exceed the Unified Land Development Code requirements. Additional native vegetation may be relocated or added to preserve areas to meet the intent of this condition. (DRO: ZONING - Landscape)

Is hereby deleted. [REASON: superceded by code requirement]

LANDSCAPE - PERIMETER-PERIMETER LANDSCAPING ALONG THE WEST PROPERTY LINE (NORTHERN 500 FEET ONLY)

2. In addition to Code requirements, landscaping along the west property line shall be upgraded to include:

a. an eight (8) foot high at installation opaque hedge. Height of the hedge shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of measuring height of the hedge shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property. (BLDGPM/ONGOING: BUILDING DIVISION - Landscape) (Previous LANDSCAPE - PERIMETER Condition 2 of Resolution R-2014-562, Control No.1989-00117)

SIGNS

1. No banners, flags, balloons, snipe signs, etc., shall be permitted on site. All advertisement shall be in conformance with the Palm Beach County Sign Code. (BLDGPM/ONGOING: BUILDING DIVISION - Building Division) (Previous SIGNS Condition 2 of Resolution R-2014-562, Control No.1989-00117)

SITE DESIGN

1. Prior to Site Plan Review Approval the petitioner shall submit a recorded Unity of Control document acceptable to the Palm Beach County Attorney's office. (DRO/ONGOING: COUNTY ATTORNEY - County Attorney) [Note: COMPLETED] (Previous SITE DESIGN Condition 1 of Resolution R-2014-562, Control No.1989-00117)

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) (Previous COMPLIANCE Condition 2 of Resolution R-2014-562, Control No.1989-00117)

DISCLOSURE

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