

RESOLUTION NO. R-2015- 1738

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2015-01215
(CONTROL NO. 2004-00354)
a Requested Use
APPLICATION OF W & W XXIV, LLC
BY Cotleur & Hearing, Inc., AGENT
(Merchants Walk 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) (ULDC), have been satisfied;

WHEREAS, Zoning Application DOA/R-2015-01215 was presented to the Board of County Commissioners at a public hearing conducted on December 3, 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 Palm Beach County 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 Palm Beach County 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 Requested Use; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County 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 DOA/R-2015-01215, the application of W & W XXIV, LLC, by Cotleur & Hearing, Inc., Agent, for a Requested Use to allow a Type I Restaurant with a drive-through, 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 3, 2015, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

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

The Mayor thereupon declared that the resolution was duly passed and adopted on December 3, 2015.

Filed with the Clerk of the Board of County Commissioners on December 14th, 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

LEGAL DESCRIPTION

PARCEL ONE:

THE SOUTH 285 FEET OF THE NORTH 340.00 FEET, AS MEASURED AT RIGHT ANGLES, OF THE WEST 329.67 FEET, AS MEASURED AT RIGHT ANGLES, OF THAT PART OF LOT 3, LYING WEST OF A LINE PARALLEL TO AND 301.05 FEET WEST OF, AS MEASURED AT RIGHT ANGLES, THE EAST LINE OF LOT 3, TRACT 41, ACCORDING TO THE PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 13, AS RECORDED IN PLAT BOOK 6, PAGE 99 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. SUBJECT TO A ROAD AND DRAINAGE EASEMENT ALONG THE EASTERLY 25 FEET, AS MEASURED AT RIGHT ANGLES.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 2.25 ACRES MORE OR LESS.

PARCEL TWO:

THE SOUTH 300 FEET OF THE NORTH 340.00 FEET, AS MEASURED AT RIGHT ANGLES, OF THE EAST 400.00 FEET, AS MEASURED ALONG THE NORTH PROPERTY LINE OF LOT 4, TRACT 41, ACCORDING TO THE PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 13, AS RECORDED IN PLAT BOOK 6, PAGE 99 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS, HOWEVER A STRIP OF LAND, 20 FEET IN DEPTH ALONG THE SOUTHERLY SIDE OF LANTANA ROAD, WHICH STRIP HAS BEEN OFFERED FOR DEDICATION TO PALM BEACH COUNTY.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 2.57 ACRES MORE OR LESS.

TOTAL AREA PARCELS 1 & 2: 4.82 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

LOCATION MAP



EXHIBIT C

CONDITIONS OF APPROVAL

Requested Use

Type I Restaurant with drive-through

ALL PETITIONS

1. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan, Regulating Plan and Master Sign Plan are dated September 10, 2015; and the Preliminary Elevations are dated August 24, 2015. All modifications to the Development Order must be approved by the Board of County Commissioners or Zoning Commission, unless the proposed changes are required to meet Conditions of Approval. (DRO/ONGOING: ZONING - 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; 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.