

RESOLUTION NO. R-2016- 0828

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2015-02146
(CONTROL NO. 1977-00041)
a Requested Use
APPLICATION OF Cherry Road Plaza LLC, AATC Realty LLC
BY Jon E Schmidt & Associates, AGENT
(Cherry Road Plaza 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 pursuant to 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/R-2015-02146 was presented to the Board of County Commissioners at a public hearing conducted on June 23, 2016;

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, THE Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Requested Use;

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 Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; 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/R-2015-02146, the Application of Cherry Road Plaza LLC, AATC Realty LLC, by Jon E Schmidt & Associates, Agent, for a Requested Use to allow General Repair and Maintenance, on a parcel of land generally described as shown on the legal description 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 23, 2016, 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 Valeche 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 Paulette Burdick	- Aye
Commissioner Shelley Vana	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Melissa McKinlay	- Aye
Commissioner Priscilla A. Taylor	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on June 23, 2016.

Filed with the Clerk of the Board of County Commissioners on June 30th, 2016

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

LEGAL DESCRIPTION (PCN's: 00-42-43-25-00-000-5030, 00-42-43-25-00-000-5040 & 00-42-43-25-00-000-5073)

The Northwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida less the right-of-way for State Road 809 (Military Trail) and less the West 130' of the South 150' of the Northwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida.

AND

A parcel of land in the Southwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows: Beginning at the NE corner of the SW Quarter of the NW Quarter of the SE Quarter of said Section 25, thence westerly along the North line of the SW Quarter of the NW Quarter of the SE Quarter a distance of 369.8 feet, more or less, to a point in a line parallel with and 303 feet easterly from the North-South Quarter Section line of said Section 25; thence southerly along said parallel line a distance of 125.66 feet, more or less, to the northerly right-of-way line of Cherry Road Extension, as shown on map by Palm Beach County Engineer; said point on the North right-of-way line of Cherry Road Extension being in the arc of a curve concave to the North and having a radius of 770 feet; thence easterly along the North right-of-way line of Cherry Road Extension and the arc of said curve a distance of 35.85 feet to a tangent to said curve; thence along said tangent, a distance of 117.62 feet to the P.C. of a curve concave to the South and having a radius of 830 feet; thence continue easterly along the northerly right-of-way line of Cherry Road Extension and the arc of said curve, a distance of 202.81 feet, to the tangent to said curve; thence easterly along the tangent, a distance of 20.15 feet, more or less, to the East line of the SW Quarter of the NW Quarter of the SE Quarter of said Section 25; thence northerly along said East line, a distance of 63.25 feet, more or less, to the POINT OF BEGINNING

Excepting therefrom the North 280 feet.

Excepting therefrom a 7 foot additional right-of-way for State Road 809 as recorded on Official Record Book 3283, page 1114 through 1117 of the Public Records of Palm Beach County, Florida.

Excepting therefrom the following described parcel:

Being a part of the Southeast quarter (SE 1/4) of Section 25, Township 43 South, Range 42 East more particularly described as follows:

Commencing at the Northeast corner of the Southwest quarter (SW 1/4) of the Northwest quarter (NW 1/4) of the Southeast quarter (SE 1/4) of Section 25, thence South 0°02'33" West along the easterly line of the Southwest quarter (SW 1/4) of the Northwest quarter (NW 1/4) of the Southeast quarter (SE 1/4) 63.45 feet to the northerly right-of-way line of Cherry Road; thence South 89°40'53" West along the northerly right-of-way line of Cherry Road 20.65 feet to a point curvature; thence southwesterly along the northerly right-of-way line and the arc of a curve concave to the South having a radius of 830.0 feet and a central angle of 12°52'29" a distance of 186.51 feet to the POINT OF BEGINNING, thence continuing southwesterly along the northerly right-of-way line of Cherry Road and along the arc of a curve concave to the South having a radius of 830.0 feet and a central angle of 1°06'16" a distance of 16.0 feet to a point of tangency; thence South 75°42'02" West, continuing along the North right-of-way line of Cherry Road 117.62 feet to a point of curvature; thence southwesterly continuing along the northerly right-of-way line of Cherry Road and the arc of a curve concave to the Northwest having a radius of 770.0 feet and a central angle of 2°39'28" a distance of 35.72 feet; thence North 0°00'12" West 125.53 feet to the North line of the Southwest

quarter (SW 1/4) of the Northwest quarter (NW 1/4) of the Southeast quarter (SE 1/4); thence South 89°51'59" West along said North line 120.0 feet to a line 183.0 feet East of and parallel with the West line of the Southeast quarter (SE 1/4), thence North 0°00'14" West parallel to the West line of the Southeast quarter (SE 1/4) 150.0 feet; thence North 89°51'48" East 284.59' ; thence South 0°00'12" East 235.0 feet to the POINT OF BEGINNING.

ALSO, Excepting therefrom the following described parcel:

A parcel of land in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, described as follows: Commencing at the Northwest corner of the Southeast Quarter of said Section 25, Thence South 00°00'12" East, along the West line of the Southeast Quarter of said Section 25, a distance of 280.00 feet to a point of intersection with a line parallel with and 280.00 feet South of, as measured at right angles to, the North line of the Southeast Quarter of said Section 25; thence North 89°46'48" East, along said parallel line, a distance of 60.00 feet to a point of intersection with the East right-of-way line of Military Trail (SR 809), and the Point of Beginning for the herein described parcel: Thence continue North 89°46'48" East a distance of 180.92 feet; thence South 00°00'12" East a distance of 224.18 feet; thence South 89°51'48" West a distance of 29.65 feet; thence South 00°08'12" East a distance of 20.00 feet; to a point of intersection with a line parallel with and 150.00 feet North of, as measured at right angles to, the South line of the Northwest Quarter of the Northwest Quarter of the Southeast Quarter of said Section 25; thence South 89°51'48" West, along said parallel line a distance of 151.32 feet to a point of intersection with the East right-of-way line of said Military Trail; thence North 00°00'12" West, along said right-of-way line, a distance of 243.92 feet to the POINT OF BEGINNING.

LEGAL DESCRIPTION (PCN: 00-42-43-25-00-000-5400)

A parcel of land in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, described as follows: Commencing at the Northwest corner of the Southeast Quarter of said Section 25, Thence South 00°00'12" East, along the West line of the Southeast Quarter of said Section 25, a distance of 280.00 feet to a point of intersection with a line parallel with and 280.00 feet South of, as measured at right angles to, the North line of the Southeast Quarter of said Section 25; Thence North 89°46'48" East, along said parallel line, a distance of 60.00 feet to a point of intersection with the East right-of-way line of Military Trail (S.R. 809), and the Point of Beginning for the herein described parcel; Thence continue North 89°46'48" East, a distance of 180.92 feet; Thence South 00°00'12" East, a distance of 224.18 feet; Thence South 89°51'48" West, a distance of 29.65 feet; Thence South 00°08'12" East, a distance of 20.00 feet to a point of intersection with a line parallel with and 150.00 feet North of, as measured at right angles to, the South line of the Northwest Quarter of the Northwest Quarter of the Southeast Quarter of said Section 25; Thence South 89°51'48" West, along said parallel line a distance of 151.32 feet to a point of intersection with the East right-of-way line of said Military Trail; Thence North 00°00'12" West, along said right-of-way line, a distance of 243.92 feet to the Point of Beginning.

LEGAL DESCRIPTION (PCN: 00-42-43-25-00-000-5350)

Parcel A:

Being a part of the Southeast quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Commencing at the Northeast corner of the Southwest quarter of the Northwest quarter of the Southeast quarter of Section 25; thence South 00°02'33" West along the Easterly line of the Southwest quarter of the Northwest quarter if the Southeast quarter, 63.45 feet to the Northerly right-of-way line of Cherry Road; thence South 89°40'53" West, along the Northerly right-of-way line of Cherry Road 20.65 feet to a point of curvature; thence Southwesterly along the Northerly right-of-way line and the arc of a curve concave to the South having a radius of 830.00 feet and a central angle of 12°52'29", a

distance of 186.51 feet to the Point of Beginning; thence continuing Southwesterly along the Northerly right-of-way line of Cherry Road and along the arc of a curve concave to the South having a radius of 830.00 feet and a central angle of 01°06'16", a distance of 16.0 feet to a point of tangency; thence South 75°42'02" West, continuing along the North right-of-way line of Cherry Road, 117.62 feet to a point of curvature; thence Southwesterly continuing along the Northerly right-of-way line of Cherry Road and the arc of a curve concave to the Northwest having a radius of 770.00 feet and a central angle of 02°39'28" a distance of 35.72 feet; thence North 00°00'12" West, 125.53 feet to the North line of the Southwest quarter of the Northwest quarter of the Southeast quarter; thence South 89°51'59" West, along said North line 120.00 feet to a line 183.00 feet East of and parallel with the West line of the Southeast quarter; thence North 00°00'14" West, parallel to the West line of the Southeast quarter, 150.00 feet; thence North 89°51'48" East, 284.59 feet; thence South 00°00'12" East, 235.00 feet to the Point of Beginning.

Parcel B:

Ingress and egress easement over the Mr.Bubbles, Inc. property to and from Military Trail, contained in Declaration of Reciprocal Easements, Covenants and Maintenance of Mr.Bubbles Auto Care Center, recorded January 24, 1989, in Official Records Book 5945, Page 604, of the Public Records of Palm Beach County, Florida.

Containing 3.48 Acres, more or less

EXHIBIT B

VICINITY SKETCH

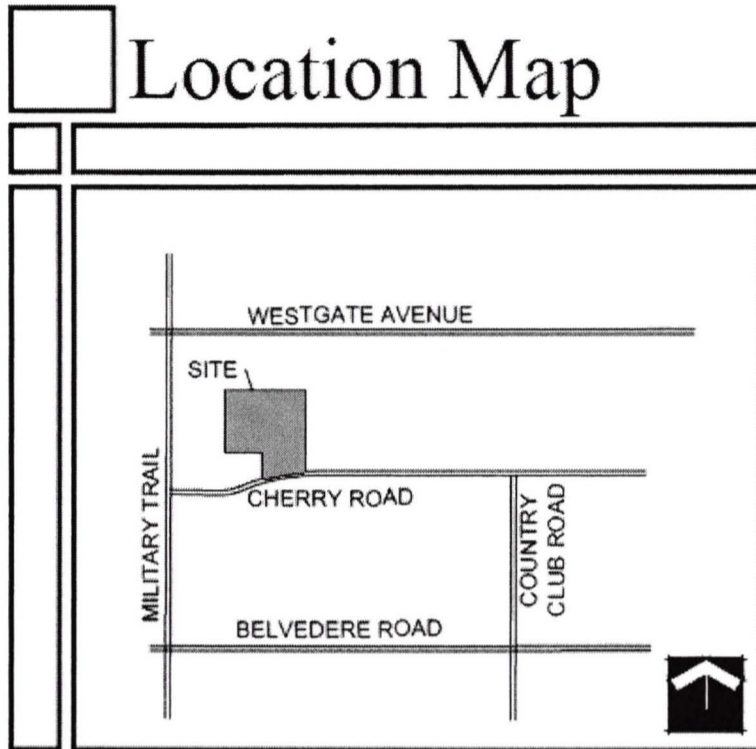


EXHIBIT C

CONDITIONS OF APPROVAL

Requested Use - General Repair and Maintenance

ALL PETITIONS

1. The approved Preliminary Site Plan is dated April 14, 2016. 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-REPAIR AND MAINTENANCE GENERAL

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Vehicle Sales and Rental, and General Repair and Maintenance 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) and shall be generally consistent with the Architectural Elevations dated February 5, 2016. 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:

No Building Permits for the site may be issued after December 31, 2019. 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/ONGOING: MONITORING - Engineering)

2. Prior to issuance of the first building permit, the Property Owner shall reconfigure the entire boundary of the MUPD, plus any residual parcels, into lots of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering)

3. Prior to DRO approval, the Property Owner shall provide an updated drainage statement that clearly describes the point of legal positive outfall for the MUPD. (DRO: ENGINEERING - Engineering)

4. Prior to DRO approval, the Property Owner shall revise the site plan to show a five (5) foot wide utility easement along Cherry Road within the Badcock property. (DRO: ENGINEERING - Engineering)

5. Prior to the issuance of a Building Permit, the Property Owner shall obtain an onsite Drainage Review from the Palm Beach County Engineering Department, Permit Section. The drainage system shall be designed so the fenced in area shall be upstream of the master drainage system. Other areas within the MUPD but outside of the fenced in area shall not drain through the fenced in area. (BLDGPM: MONITORING - Engineering)

LANDSCAPE - GENERAL-REPAIR AND MAINTENANCE GENERAL

1. 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 - Zoning)

2. Prior to the issuance of a building permit, the Applicant/Property Owner shall complete a Landscape Site Inspection to ensure trees preserved trees are barricaded and protected prior to site improvements. Permanent tree protection devices including, but not limited to: tree wells, retaining walls shall be installed for the preservation of trees. (BLDG/PMT/ONGOING: ZONING - Zoning)

3. Prior to Final Approval by the Development Review Officer, the Property Owner shall identify on the Final Site Plan and Final Landscape Plan the specific locations of the permanent tree protection devices. (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: ZONING - 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: ZONING - Zoning)

DISCLOSURE

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