

RESOLUTION NO. R-2016- 1058

RESOLUTION APPROVING ZONING APPLICATION ZV/PDD-2015-01040
(CONTROL NO. 1982-00053)
an Official Zoning Map Amendment to a Planned Development District
APPLICATION OF Meloche Rick J Trust &
BY Wantman Group Inc., AGENT
(Able Lawnmower Sales and Service)

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/PDD-2015-01040 was presented to the Board of County Commissioners at a public hearing conducted on August 22, 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 an Official Zoning Map Amendment to a Planned Development District;

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/PDD-2015-01040, the Application of Meloche Rick J Trust &, by Wantman Group Inc., Agent, for an Official Zoning Map Amendment to a Planned Development District to allow a rezoning from the Agriculture Residential (AR), Residential Single Family (RS) and Residential Transitional Urban (RTU) Zoning Districts to the Multiple Use Planned Development (MUPD) Zoning District, 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 indicated on a vicinity sketch in EXHIBIT B, attached hereto and made a part hereof, was approved on August 22, 2016 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 Taylor 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 August 22, 2016.

Filed with the Clerk of the Board of County Commissioners on September 6th, 2016

This resolution shall not become effective unless or until the effective date of Large Scale Land Use Amendment No. LGA-2015-010.

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 4: FROM ORB 6200, PG. 1699

THE NORTH HALF OF THE EAST HALF OF THE WEST HALF OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 44 SOUTH, RANGE 42 EAST, IN PALM BEACH COUNTY, FLORIDA, CONTAINING TWO AND ONE-HALF ACRES, MORE OR LESS, LESS THE NORTH 25 FEET TO BE USED TOGETHER WITH THE SOUTH 25 FEET OF THE EAST HALF OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 35, FOR RIGHT-OF-WAY FOR OTHER TRACT OWNERS AND THE PUBLIC; ALSO AN EASEMENT OVER SOUTH 25 FEET OF EAST HALF OF EAST HALF OF NORTHEAST QUARTER OF SOUTHEAST QUARTER AND OVER THE NORTH 25 FEET OF EAST HALF OF EAST HALF OF SOUTHEAST QUARTER OF SOUTHEAST QUARTER TO THE COUNTY RIGHT-OF-WAY, ALL IN SECTION 35, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

PARCEL 5: FROM ORB 6200, PG. 1695

THE WEST QUARTER (W ¼) OF THE EAST HALF (E ½) OF THE SOUTHEAST QUARTER (SE¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 35, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE NORTH HALF (N ½) THEREOF, AND THE SOUTH 40 FEET.

LESS AND EXCEPT: FROM ORB 5517, PG. 1369

THE NORTH 14.00 FEET OF THE SOUTH 54.00 FEET OF THE WEST ONE-QUARTER (W¼) OF THE EAST ONE-HALF (E½) OF THE SOUTHEAST ONE-QUARTER (SE¼) OF THE SOUTHEAST ONE-QUARTER (SE¼) OF SAID SECTION 35.

PARCEL 6: FROM ORB 9097, PG. 1746

THE EAST ½ OF THE WEST ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ (LESS THE NORTH 283.67 FEET AS MEASURED PERPENDICULAR AND LESS THE SOUTH 54 FEET FOR LANTANA ROAD RIGHT OF WAY), SECTION 35, TOWNSHIP 44 SOUTH, RANGE 42 EAST, SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

PARCEL 7: FROM ORB 21058, PG. 1724

THE NORTH 258.67 FEET (AS MEASURED PERPENDICULAR) OF THE FOLLOWING DESCRIBED PARCEL:

THE EAST ½ OF THE WEST ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ (LESS THE NORTH 25 FEET AND THE SOUTH 54 FEET FOR LANTANA ROAD RIGHT OF WAY), OF SECTION 35, TOWNSHIP 44 SOUTH, RANGE 42 EAST, SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 20.239 ACRES MORE OR LESS

EXHIBIT B
VICINITY SKETCH

LOCATION MAP

NTS



EXHIBIT C

CONDITIONS OF APPROVAL

Non Residential Planned Development District

ALL PETITIONS

1. The approved Preliminary Site Plan (PSP) is dated May 12, 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.

ARCHITECTURAL REVIEW

1. At time of submittal for a Building Permit, the Architectural Elevations for the Repair Services, Limited structure 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 DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (BLDGPMT/ONGOING: 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, 2020. 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 Article 2, Section E of the Unified land Development Code. (DATE: MONITORING - Engineering)

2. The Property Owner shall provide to the Palm Beach County Right of Way Acquisition Section of Roadway Production Division a road right of way deed and all associated documents as required by the County Engineer for Lantana Road, 55 feet, measured from centerline of the proposed right of way 110 feet in width on an alignment approved by the County Engineer.

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage or as determined by the County Engineer and shall be free and clear of all encroachments and encumbrances. 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. 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. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT: MONITORING - Engineering)

3. Prior to issuance of the first building permit, the Property Owner shall reconfigure the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering)

4. Prior to final approval of the Site Plan by the DRO, the Property Owner shall obtain and record an access easement over Rasmussen Way in order to provide legal access from Haverhill Road. (DRO: MONITORING - Engineering)

5. Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the Property Owner shall provide to Palm Beach County Right of Way Acquisition Section of Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on Lantana Road at the project's entrances. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet, or as approved by the County Engineer. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance. This additional right of way shall be free of all encumbrances and encroachments and 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. 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. (BLDGPM/ONGOING: MONITORING - Engineering)

6. The Property Owner shall construct right turn lane, east approach on Lantana Road at Project's entrances, as shown on the latest site plan, or as approved by the County Engineer.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

7. The property owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The property owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPM: MONITORING - Engineering)

8. Prior to August 31, 2017, the property owner shall obtain Drainage Review approval and construct any required drainage improvements. (DATE: MONITORING - Engineering)

ENVIRONMENTAL

1. Prior to DRO Final Site Plan approval, a Tree Preservation Area Management Plan shall be submitted to ERM detailing the quantity and sizes of native vegetation planted, exotic species control and perpetual maintenance responsibility for the tree preservation area. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

LANDSCAPE - GENERAL

1. Prior to Final Approval by the Development Review Officer (DRO):

a. The Property Owner shall submit a Landscape Plan for review and approval to be generally consistent with all landscape related Conditions of Approval as contained herein and shall account for all preserved, relocated, and mitigated trees as provided in the Tree Disposition and Inventory Plan dated February 22, 2016 and the Preliminary Regulating Plan Dated March 10, 2016. Additional native vegetation may be relocated or added to the site to meet the intent of this condition;

b. The Property Owner shall meet with Landscape Staff to ensure that the maximum amount of existing native is incorporated into the final site design. Staff (Landscape and ERM) will ensure that the existing trees be mitigated to the greatest extent possible on site;

c. The Plans and supporting documents shall demonstrate the Preserved vegetation will meet or exceed the Unified Land Development Code requirements;

d. Any openings in the buffer where the storage yard is visible to the adjacent properties shall be enhanced to meet code and provide an opaque screen;

e. Any drainage improvement or berming that affect the grade changes shall meander past the tree drip lines;

f. No water retention areas shall overlap in a required buffer; and,

g. Additional tree preservation to accommodate the fifty (50) foot cross-hatched area from the west property line in accordance with Planning LGA 2015-010 Condition 2. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Zoning)

2. Prior to Final Approval by the Development Review Officer (DRO):

The Applicant/Property Owner shall submit a Tree Protection and Re-location plan. The Plan shall describe the following information:

a. How the existing trees proposed to be preserved will be protected. Permanent tree protection devices including, but not limited to: tree wells, retaining walls, shall be installed for the preservation of trees. All protecting devices must be illustrated on the Tree Protection and Relocation plan;

b. Where the proposed relocated trees exist and where they will be relocated to;

c. How the proposed relocated trees will be pruned prior to relocation and associated time lines for pruning so the trees will not go into shock;

d. Where the proposed relocated trees will be temporarily located during site improvements;

e. How the proposed relocated trees will be maintained and cared for while in their temporary location; and,

f. The date in which the trees will be removed to their temporary location so that an inspection by Zoning Staff is scheduled and completed prior to any site improvements.

(ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Zoning)

3. The Tree Preservation Area shall maintained with a minimum of 0.79 acre area. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Zoning)

4. Should the proposed preserved or relocated trees in the Tree Disposition Plan, be determined not feasible for relocation by a Licensed Florida Arborist, the trees shall be mitigated and replaced on site in accordance with Article 7 or ERM Management Plan. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Zoning)

5. Prior to Issuance of a Vegetation Permit, the Applicant shall request a coordinated site inspection by Staff from Zoning and Environmental Resource Management to ensure trees proposed for preservation have been properly tagged and the tree protection devices have been installed. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Zoning)

6. Prior to Final Approval by the Development Review Officer (DRO) the Final Landscape and Regulating Plans shall indicate relocation of the canopy trees that were eliminated as part of the Type II Variance for the twenty-seven (27) terminal islands. (ONGOING: ZONING - Zoning)

LANDSCAPE - PERIMETER- ALONG THE NORTH AND SOUTH PROPERTY LINES (ABUTTING NASH TRAIL AND LANTANA ROAD)

7. In addition to Code requirements, landscaping along the north and south property lines shall be upgraded to include:

a. one (1) additional palm or pine for each for each twenty (20) linear feet of the property line. (BLDGPMPT: ZONING - Zoning)

MASS TRANSIT

1. If required, mass transit access, shelters and/or bus stops, shall be constructed by the Petitioner in a location and manner acceptable to Palm Tran and the County Engineer prior to prior to issuance of the first certificate of occupancy (CO). The Petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the Property Owner. (BLDGPMPT/CO: MONITORING - Engineering)

PLANNING

1. Per LGA 2015-010 condition 1, The northernmost 200 feet of the site, excluding access and/or publicly dedicated right of way for Nash Trail, shall be depicted with cross hatched lines and be limited, as follows: The northernmost 50 feet of the cross hatched area shall be limited to water retention, landscaping, and/or drainage; and the remainder of the cross hatched area shall also allow parking and/or vehicular storage. (ONGOING: PLANNING - Planning)

2. Per LGA 2015-010 condition 2, The westernmost 50 feet of the site shall be depicted with cross hatched lines and be limited to water retention, landscaping, and drainage. (ONGOING: PLANNING - Planning)

3. Per LGA 2015-010 condition 3, Development of the site shall exclude heavy industrial uses which engage in the basic processing, manufacturing, or storage of flammable, hazardous, or explosive materials or products, or processes which potentially involve hazardous or commonly recognized offensive conditions as described in Policy 2.2.4-d of the Future Land Use Element of the Palm Beach County Comprehensive Plan. (ONGOING: PLANNING - Planning)

4. Prior to Final Development Review Office approval, the site plan shall be amended to be consistent with all of the conditions as show in exhibit 1 of LGA 2015-010 Abel Lawnmower Sales Service. (DRO: PLANNING - Planning)

USE LIMITATIONS

1. The storage of rental trucks or trailers shall not be permitted on the property. (ONGOING: ZONING - Zoning)

2. Vehicles which run overnight, such as refrigeration units, or semi-trucks, are not permitted to be stored or run at night on the subject property. (ONGOING: ZONING - Zoning)

3. No lawn maintenance equipment, contractor storage yard uses, or semis shall be parked within two hundred (200) feet of the north property line or fifty (50) feet from the west property line. (ONGOING: ZONING - Zoning)

4. Accessory Retail Sales shall be limited as accessory to the Repair and Services limited

only. No Retail Sales shall be permitted as part of the Contractor Storage Yard. (ONGOING: ZONING - Zoning)

5. Repair or maintenance of vehicles, including oil changes, shall not be permitted on the Contractor Storage Yard, excluding incidental and emergency repairs. Repair or maintenance is limited to the structures and areas on the south portion of the site designated for Repair Services, Limited for lawnmowers and similar lawn maintenance equipment. (ONGOING: ZONING - Zoning)

6. Standalone fuel tanks, other than those that legally permitted, are not permitted on the site. (ONGOING: ZONING - Zoning)

7. Hours of operation shall be limited from 6:00 AM to 10:00 PM daily including deliveries, and supercedes the Type II Variance ZV 2015-1040 for hours of operation approved by the Zoning Commission on July 7, 2016. (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.