

RESOLUTION NO. R-2016- 1064

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2015-01223
(CONTROL NO. 1975-00164)
Development Order Amendment
APPLICATION OF Colors Flying
BY Land Research Management, Inc., AGENT
(Palm Beach Commons)

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-2015-01223 was presented to the Board of County Commissioners at a public hearing conducted on August 25, 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 Development Order Amendment;

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-2015-01223, the Application of Colors Flying, by Land Research Management, Inc., Agent, for Development Order Amendment to reconfigure the site plan, amend Conditions of Approval (Engineering, Airports), and add a Requested Use, 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 August 25, 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 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	-	Absent
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 25, 2016.

Filed with the Clerk of the Board of County Commissioners on August 29th, 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



The seal is circular with a double-line border. The outer ring contains the text 'PALM BEACH COUNTY COMMISSIONERS' at the top and 'BOARD OF COUNTY COMMISSIONERS' at the bottom, separated by a star. The inner ring contains 'PALM BEACH COUNTY FLORIDA'.

EXHIBIT A

LEGAL DESCRIPTION

LAND DESCRIPTION:

That portion of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, lying South of the 60 foot right-of-way for Cherry Road as now laid out and in use, also less the Westerly 53 feet thereof for right-of-way of Military Trail (State Road 809), also less the following described parcel:

COMMENCING at the intersection of the centerline of State Road 809, as shown in road Plat Book 2, Pages 229 through 233 with the centerline of Cherry Road as now laid out and in use. Said point of intersection being 503.10 feet more or less North of the Southwest corner of the Northwest Quarter of the Southeast Quarter, of said Section 25, as measured along the centerline of State Road 809; thence South 01°46'24" West along the centerline of State Road 809 and North-South Quarter Section line of said Section 25, a distance of 205 feet; thence South 88°13'36" East, a distance of 53 feet to the POINT OF BEGINNING and the Southwest Corner of the herein described Parcel; thence continue South 88°13'36" East, a distance of 150 feet; thence North 01°46'24" East, a distance of 176.76 feet to a point in the southerly right-of-way line of said Cherry Road; thence westerly along said southerly right-of-way line, and along the arc of a curve concave to the North, and having a radius of 830 feet, through a central angle of 03°43'49", an arc distance of 54.04 feet to the end of said curve; thence North 88°13'36" West, along a line tangent to said curve, a distance of 71 feet to the beginning of a curve concave to the Southeast, having a radius of 25 feet and a central angle of 90°00'00"; thence Southwesterly along the arc of said curve, a distance of 39.27 feet to the end of said curve; thence South 01°46'24" West, a distance of 150 feet to the POINT OF BEGINNING.

Also LESS the north 20 feet of the east 20 feet thereof.

Said lands situate in Palm Beach County, Florida, containing 6.60 acres, more or less.

EXHIBIT B
VICINITY SKETCH

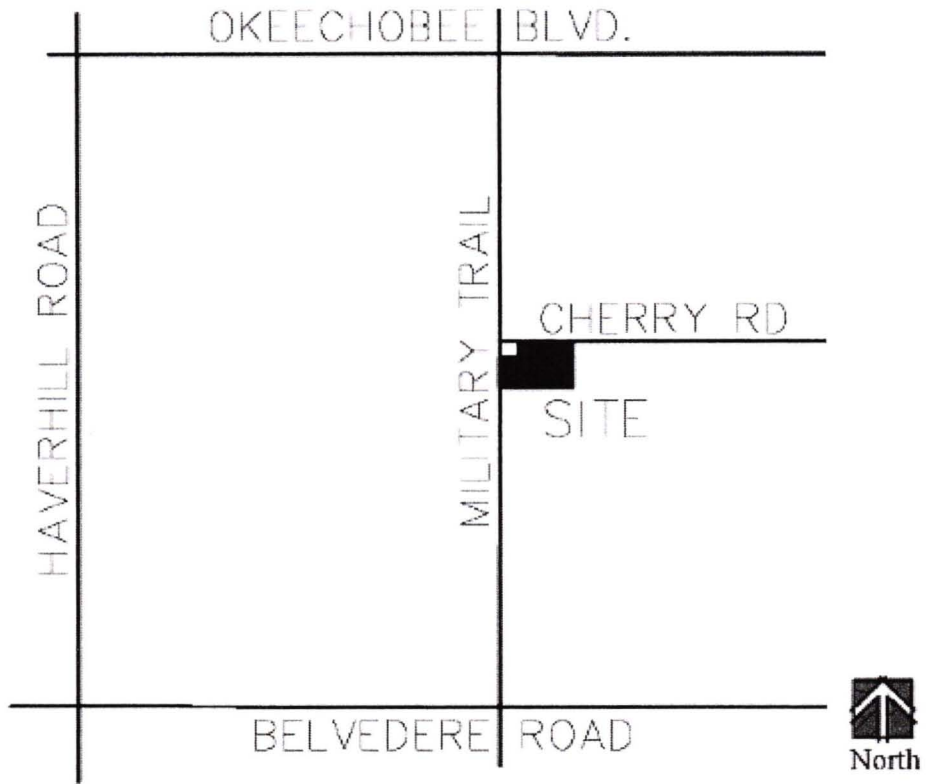


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-75-952 (Control No. 1975-00164), 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: ZONING - Zoning)

2. The approved Preliminary Site Plan 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. (ONGOING: ZONING - Zoning)

DEPARTMENT OF AIRPORTS (DOA)

1. Developer shall pursue the possibility of obtaining the necessary approvals from the Federal Aviation Administration and Palm Beach County for legal positive outfall to the Airport Canal System. (ONGOING: AIRPORTS - Airports) (Previous A Condition 3 of Resolution R-1975-952, Control No.1975-00164)

2. Previous A Condition 4 of Resolution R-1975-952, Control No.1975-00164) which currently states:

The developer shall give Palm Beach County an avigation easement over said lands as described within this resolution to a height that is acceptable by, and acceptable to, Federal Aviation Administration (FAA) Standards.

Is hereby amended to read:

Prior to January 1 2017, the Property Owner shall give Palm Beach County an avigation easement over said lands as described within this resolution to a height that is acceptable by, and acceptable to, Federal Aviation Administration (FAA) Standards. (ONGOING: AIRPORTS - Airports)

3. Previous Condition 5 of Resolution R-1975-952, Control No.1975-00164, which currently states:

The developer shall permit any authorized Palm Beach County employee, or its agent, to enter upon said lands as described within this resolution, for the purpose of removing any natural, or man-made object to the extent that it protrudes into the avigation easement.

Is hereby amended to read:

Prior to January 1 2017, the Property Owner shall address in the Avigation easement the authorization of any Palm Beach County employee, or its agent, to enter upon said lands as described within this resolution, for the purpose of removing any natural, or man-made object to the extent that it protrudes into the avigation easement. (ONGOING: AIRPORTS - Airports)

ENGINEERING

1. Prior to August 31, 2017, the Property Owner shall configure the property into legal lot(s) of record in accordance with the provisions of Article 11 of the Unified Land Development Code. (DATE: MONITORING - Engineering)

SITE DESIGN

1. Prior to Final Approval by the Development Review Officer (DRO) the Property Owner shall provide Form 38 to address the Cost of Renovations of the existing structure, and demonstrate compliance with Article 5.C. (DRO: ZONING - Zoning)
2. Prior to the issuance of the Certificate of Occupancy the Property Owner shall correct the terminal island and divider median on site to match the Preliminary Site Plan (PSP) dated May 12, 2016. (CO: 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) (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: MONITORING - Zoning) (ONGOING: ZONING - Zoning)

DISCLOSURE

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