

RESOLUTION NO. R-2016- 1090

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2015-02530
(CONTROL NO. 1975-00151)
a Development Order Amendment
APPLICATION OF F P Dino Inc
BY Covelli Design Associates, Inc., AGENT
(Delray Villas - Civic Pod)

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 DOA/R-2015-02530 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 a 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 DOA/R-2015-02530, the Application of F P Dino Inc, by Covelli Design Associates, Inc., Agent, for a Development Order Amendment to reconfigure the Master Plan 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



EXHIBIT A

LEGAL DESCRIPTION

PLAT NO. 1 OF DELRAY VILLAS, AS RECORDED IN PLAT BOOK 37, PAGES 4 THROUGH 7, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PLAT NO. 2 OF DELRAY VILLAS, AS RECORDED IN PLAT BOOK 33, PAGES 161 THROUGH 162, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PLAT NO. 3 OF DELRAY VILLAS, AS RECORDED IN PLAT BOOK 39, PAGES 198 THROUGH 200, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PLAT NO. 4 OF DELRAY VILLAS, AS RECORDED IN PLAT BOOK 40, PAGES 27 THROUGH 30, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PLAT NO. 5 OF DELRAY VILLAS, AS RECORDED IN PLAT BOOK 42, PAGES 114, 116, & 117, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PLAT NO. 5A OF DELRAY VILLAS, AS RECORDED IN PLAT BOOK 52, PAGE 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PLAT NO. 6 OF DELRAY VILLAS, AS RECORDED IN PLAT BOOK 47, PAGES 24 THROUGH 25, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

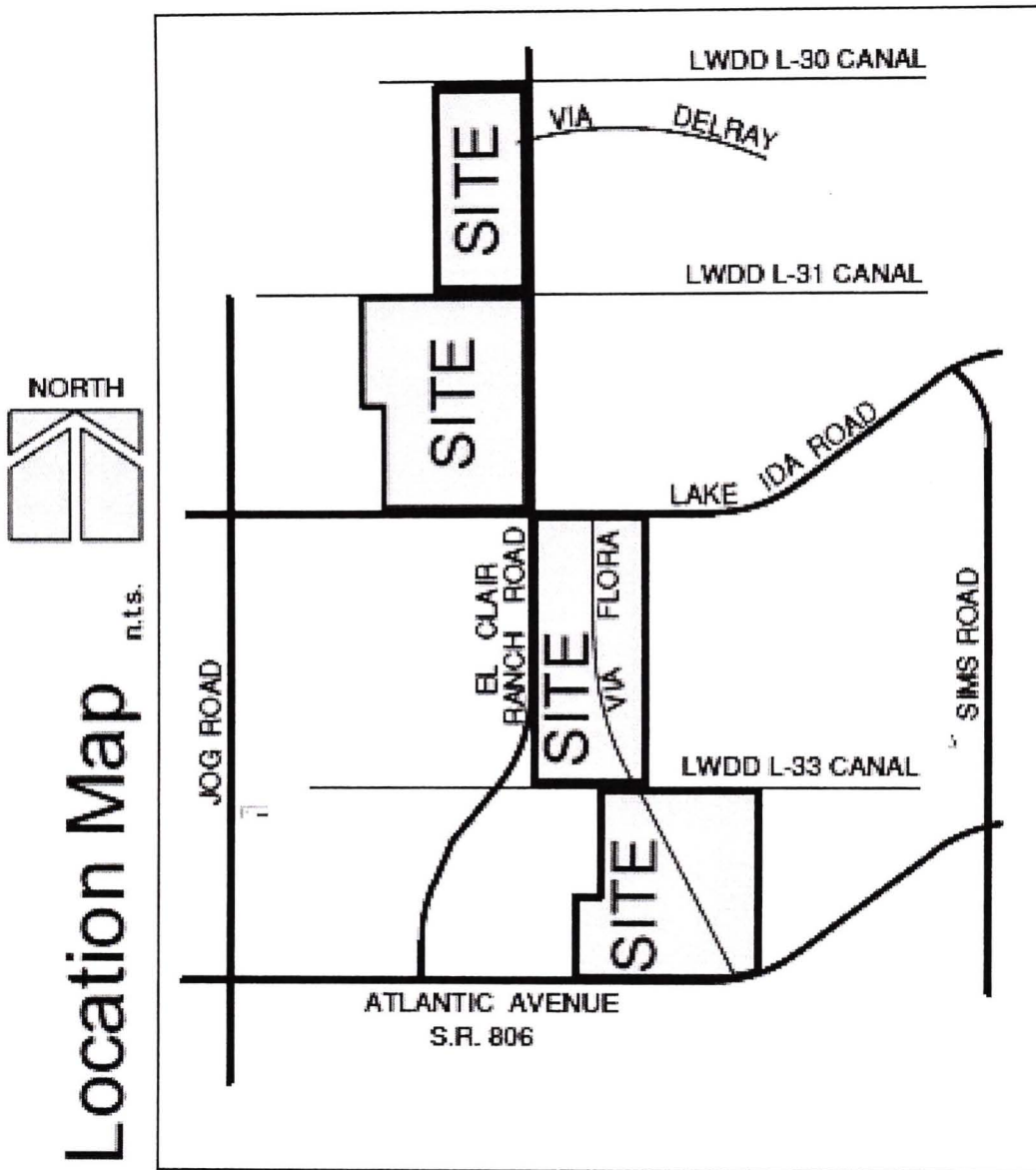


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous A Condition 1 of Resolution R-1991-1463, Control No.1975-00151, which currently states:

The petitioner shall comply with all previous conditions of approval, including original deadlines for Zoning Code Section 402.9 compliance, unless expressly modified herein.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in R-1975-0863 (Control 1975-00151), Resolution R-88-1623 (Control 1975-00151 (A), R-91-1463) (Control 1975-00151 (B) 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.

2. Previous A Condition 2 of Resolution R-1991-1463, Control No.1975-00151, which currently states:

Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 102). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Zoning Code Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval.

Is hereby amended to read:

The approved Master Plan and Preliminary Site Plan is dated June 09, 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)

3. Previous ALL PETITIONS Condition 1 of Resolution R-1988-1623, Control No.1975-00151, which currently states:

The developer shall comply with all previous conditions of approval unless expressly modified herein.

Is hereby deleted. [REASON: superseded by Condition All Petitions 2]

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. 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: 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 two (2) feet of additional right of way for Lake Ida Road.

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 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 the issuance of the Certificate of Occupancy, the Property Owner shall receive approvals and permits for and finalize construction of a minimum of a five (5) foot wide sidewalk along the east right of way of Via Flora from Altocedro Drive north to Lake Ida Road. (BLDGPMT/CO: MONITORING - Engineering)

4. The commercial tract "A" shall be limited to 40,264 square feet of gross floor area. (BLDGPMT: ENGINEERING - Engineering) (Previous D Condition 1 of Resolution R-1991-1463, Control No.1975-00151)

5. Turn lanes as shown on Figure 8 of the Traffic Impact Analysis for Villadelray, Exhibit No.8, shall be constructed with the exception of the intersection of Via Flora and Delray West Road, where the following shall be constructed:

- a) Dual left turn lane and a right turn lane on the north approach.
- b) Right turn lane on the east approach.
- c) Left turn lane on the west approach. [Note: COMPLETED]
- d) Signalization to be provided when required as determined by the Board of County Commissioners. [Note: COMPLETED] (ONGOING: ENGINEERING - Engineering)

HEALTH

1. Previous C Condition 1 of Resolution R-1991-1463, Control No.1975-00151, which currently states:

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.

Is hereby amended to read:

Owners and operators of facilities that generate toxic, hazardous, or industrial waste shall not deposit or cause to be deposited any 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, and the agency responsible for sewage works are installed and used. (ONGOING: CODE ENF - Health Department)

2. Previous HEALTH Condition 7 of Resolution R-1988-1623, Control No.1975-00151, which currently states:

Since sewer service is available to the property, septic tank shall not be approved for use on said property.

Is hereby deleted. [REASON: Code Requirement]

3. Previous HEALTH Condition 8 of Resolution R-1988-1623, Control No.1975-00151, which currently states:

Since water service is available to the property, a potable water well shall not be approved for water use on said property.

Is hereby deleted. [REASON: Code Requirement]

PLANNED DEVELOPMENT

1. The petitioner, as he represented at the public hearing, shall reduce the density by five hundred (500) units in the Villa Delray Planned Unit Development, which was approved at Public Hearings on 9/16/71 & 10/21/71, by the concurrent filing of an amended Master Plan at the Board of County Commissioners' meeting, sitting as the final zoning authority on November 20, 1975. (ONGOING: ZONING - Zoning) (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-1975-863, Control No.1975-00151)

2. Previous PLANNED DEVELOPMENT Condition 2 of Resolution R-1988-1623, Control No.1975-00151, which currently states:

Prior to site plan certification, the site plan shall be amended to indicate the following:

- a. The delineation of the proposed use within the center.
- b. An additional loading berth in proximity to the dry cleaning facility.
- c. One (1) of three (3) alternative landscape strips along the northern property line.

Is hereby deleted. [REASON: No longer applicable.]

SITE DESIGN

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters, shall be confined to areas designated on the site plan and shall be screened by a solid opaque enclosure constructed of brick, concrete, concrete block, or other decorative masonry or comparable wood or steel, consistent with the architectural character of the development. The open end of the enclosure shall have an obscuring opaque gate. All exterior sides of such enclosures, except the open end, shall be landscaped with thirty-six (36) inch high shrub and hedge material planted twenty-four (24) inches on center. This provision shall not apply to litter containers provided for the convenience of pedestrians. (ONGOING: ZONING - Zoning) (Previous B Condition 1 of Resolution R-1991-1463, Control No.1975-00151)

USE LIMITATIONS

1. No outdoor speaker or public address systems shall be permitted on site. Existing outdoor loud speakers or public address systems shall be removed from site. (ONGOING: ZONING - Zoning) (Previous F Condition 1 of Resolution R-1991-1463, Control No.1975-00151)

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.