

RESOLUTION NO. R-2016- 1560

RESOLUTION APPROVING ZONING APPLICATION PDD/R-2016-00425  
(CONTROL NO. 2013-00213)  
an Official Zoning Map Amendment to a Planned Development District  
APPLICATION OF Douglas Feurring  
BY Land Design South, Inc., Wantman Group Inc., AGENT  
(Feurring Commercial 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 PDD/R-2016-00425 was presented to the Board of County Commissioners at a public hearing conducted on October 27, 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 PDD/R-2016-00425, the Application of Douglas Feurring, by Land Design South, Inc., Wantman Group Inc., Agent, for an Official Zoning Map Amendment to a Planned Development District to allow a rezoning from the Agricultural Reserve (AGR) Zoning District 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 October 27, 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 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 - Absent
- 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 October 27, 2016.

Filed with the Clerk of the Board of County Commissioners on October 31st, 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: [Signature]  
COUNTY ATTORNEY

BY: [Signature]  
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

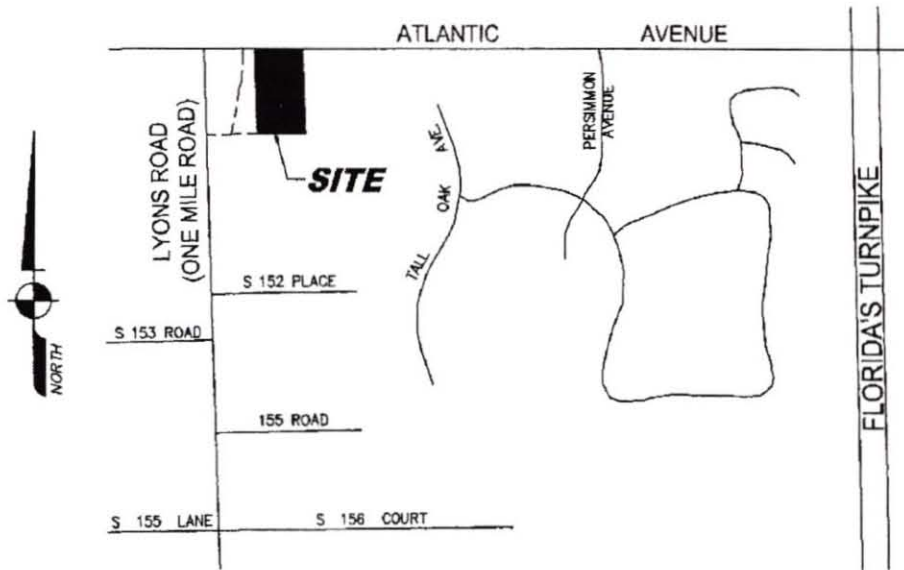
TRACT 15, LESS THE NORTH 22.29 FEET THEREOF, OF THE PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGES 26 TO 28, INCLUSIVE, LYING WITHIN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

CONSISTING OF 4.90 ACRES MORE OR LESS



EXHIBIT B

VICINTY SKETCH



LOCATION SKETCH  
(NOT TO SCALE)

## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Non Residential Planned Development District

##### ALL PETITIONS

1. The approved Preliminary Site Plans are dated August 11, 2016, Regulating Plans are dated June 27 and August 11, 2016 and Master Sign Plan is dated May 25, 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 Final Approval by the Development Review Officer (DRO), the Architectural Elevations for all buildings in Phase I 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). Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (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:

a. No Building Permits for the site may be issued after December 31, 2021. 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. Prior to the issuance of the first building permit, the Property Owner shall enter into a cross access and shared access easement or agreement with the adjacent Property Owner to the east to allow for a shared driveway connection to Atlantic Avenue. (BLDGPM: MONITORING - Engineering)

3. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall reconfigure the County owned retention area adjacent to the west property line to provide sufficient compensating storage, as determined by the County Engineer, to compensate for the storage loss created by the access points from Lyons Road. (BLDGPM/CO: MONITORING - Engineering)

4. The Property Owner shall construct right turn lane west approach on W Atlantic Ave at Project Entrance. This turn lane should be at least 280 ft in storage and 50 ft taper or as approved by the FDOT/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 FDOT 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)

5. No Building Permits shall be issued until the Property Owner makes a proportionate share payment of \$323,170 to widen Lyons Rd from Clint Moore Rd to W Atlantic Ave from



2 lanes to 4 lanes divided and modify the east approach of the intersection of W Atlantic Ave and FL Turnpike East to include 1 left, 3 through and 1 right turn lane. Note that while this proportionate share payment is based on proportionate cost of a specific roadway improvement, the County, in its sole discretion may apply such payment to one or more mobility improvements to regionally significant transportation facilities. The proportionate share payment shall be adjusted at the time of payment by the escalator calculation set forth in Condition 7. Any road impact fees paid by the Developer on this project prior to this proportionate share payment will be applied as a credit toward the proportionate share payment. The proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area. (BLDGPM: MONITORING - Engineering)

6. In recognition that construction prices may change over the life of the project, the proportionate share payments included in Condition 6 above shall be subject to the following escalator calculation:

Adjusted Payment = Original Payment Amount x (BONSpayment month / BONS Month of Prop Share Execution)

- \* Original Payment Amount = Proportionate Share Payment amount specified
- \* BONSpayment = Latest Published Value (including preliminary values) at Time of Payment
- \* BONS Month of Prop Share Execution = Published Value

The cost adjustment for the total and amount of each payment shall be based on the Bureau of Labor Statistics Producer Price Index (PPI) for Other Non-Residential Construction ((BONS) (Series ID: WPUIP23122301).

As of the effective date of this Agreement, the PPI index information may be accessed through the following link:

<http://data.bls.gov/timeseries/WPUIP2312301>  
(ONGOING: ENGINEERING - Engineering)

#### **LANDSCAPE - GENERAL**

1. Prior to Final Approval by the Development Review Officer (DRO), the Applicant shall submit a Landscape Plan for review and approval. The Plan(s) shall be prepared in compliance with the ULDC and all landscape related Conditions of Approval as contained herein. (DRO: ZONING - Zoning)

#### **LANDSCAPE - PERIMETER**

1. In addition to the ULDC requirement, the Property Owner shall provide special planting treatment at the intersection of Lyons Road and Atlantic Avenue. Planting shall consist of the following:

- a. A minimum of three (3) specimen palms; (Bismarck, Canary, Royal, Phoenix, or other species that is acceptable to the Landscape Section)
- b. A minimum of five (5) flowering trees; and,
- c. Appropriate shrub or hedge materials and ground cover.  
(BLDGPM/DRO: ZONING - Zoning)

2. In addition to the ULDC requirements, the Property Owner shall provide special planting treatment within the Right-of-Way (ROW) buffer to the three points of ingress and egress to the site. The following planting shall be installed on both sides of the access point and consist of the following:

- a. A minimum of one (1) specimen palms; (Bismarck, Canary, Royal, Phoenix, or other species that is acceptable to the Landscape Section)
- b. A minimum of two (2) flowering trees; and,
- c. Appropriate shrub or hedge materials and ground cover.  
(BLDGPM/DRO: ZONING - Zoning)

3. Prior to Final Approval by the Development Review Officer (DRO), the Site Plan shall be

revised to provide the required twenty (20) foot Right-of-Way (ROW) buffer along the Lyons Road and Atlantic Avenue. (DRO: 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 - Monitoring)

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 - Monitoring)

### **DISCLOSURE**

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