

RESOLUTION NO. R-2016- 1829

RESOLUTION APPROVING ZONING APPLICATION ZV/CB/Z/CA-2015-02346
(CONTROL NO. 2009-02311)
a Class A Conditional Use
APPLICATION OF Chinhoi of The Palm Beaches LLC
BY PLACE Planning & Design, AGENT
(Speedy Tires)

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/CB/Z/CA-2015-02346 was presented to the Board of County Commissioners at a public hearing conducted on December 7, 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 hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Class A Conditional Use;

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, 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/CB/Z/CA-2015-02346, the Application of Chinhoi of The Palm Beaches LLC, by PLACE Planning & Design, Agent, for a Class A Conditional 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 December 7, 2016, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Berger moved for the approval of the Resolution.

The motion was seconded by Commissioner Bernard and, upon being put to a vote, the vote was as follows:

Commissioner Paulette Burdick, Mayor	- Aye
Commissioner Melissa McKinlay, Vice Mayor	- Absent
Commissioner Hal R. Valeche	- Aye
Commissioner Dave Kerner	- Aye
Commissioner Steven L. Abrams	
Commissioner Mary Lou Berger	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on December 7, 2016.

Filed with the Clerk of the Board of County Commissioners on December 19th, 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 COUNTY
FLORIDA



EXHIBIT A

LEGAL DESCRIPTION

A parcel of land lying within Section 29, Township 43 South, Range 43 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the Southwest corner of Section 29, Township 43 South, Range 43 East, Palm Beach County, Florida, thence North 01°32'37" East along the West line of said Section 29 a distance of 2510.77 feet; thence departing said West line South 88°26'54" East along the North line of the North 125 feet of the South 2510.77 feet of the West 560 feet of said Section 29 a distance of 1.44 feet to a point on the centerline of Congress Avenue (100.0 feet wide right-of-way) as described in Book 1394, Page 56 of the Official Records of Palm Beach County, Florida; thence continuing along said North line South 88°26'54" East a distance of 50.02 feet to a point on the East right-of-way line of said Congress Avenue and the **Point of Beginning**.

Thence continuing South 88°26'54" East along said North line and the North line of the North 125 feet of the South 2510.77 feet of the West 660 feet of said Section 29 a distance of 608.54 feet; thence departing said North line South 01°32'37" West along a line 660 feet East of and parallel with said West line of Section 29 a distance of 208.75 feet; thence

North 88°38'33" West along the prolongation of the centerline of a private road as described in Book 27160, Page 93 of said Official Records a distance of 100.00 feet; thence departing said centerline North 01°32'37" East a distance of 84.09 feet to a point on the South line of said North 125 feet of the South 2510.77 feet of the West 560 feet of Section 29; thence along said South line North 88°26'54" West a distance of 99.66 feet; thence departing said South line

South 01°44'16" West a distance of 85.62 feet; thence North 88°21'21" West a distance of 300.00 feet; thence North 01°44'16" East a distance of 10.00 feet; thence North 88°21'21" West a distance of 41.84 feet to a point on the Easterly right-of-way line of Old Congress Avenue (66.0 feet wide) as described in Book 1421, Pages 307-316 of said Official Records; thence along said Easterly right-of-way line North 24°46'21" West a distance of 145.41 feet to a point on the East right-of-way line of said Congress Avenue as described in Book 1394, Page 56 of said Official Records; thence along said East right-of-way line of Congress Avenue North 0°21'44" West a distance of 69.77 feet to the **Point of Beginning**, and containing 2.61 acres plus or minus.

Formerly described as:

Parcel 1:

The North 125 feet of the South 2510.77 feet of the West 560 feet of Section 29, Township 43 South, Range 43 East, lands lying and being in Palm Beach County, Florida.

Less and except lands described in Warranty Deed recorded in O.R. Book 1394, Page 56, Public Records of Palm Beach County, Florida, more particularly described as follows:

A parcel of land in the North 125 feet of the South 2510 feet of the West 660 feet of Section 29, Township 43 South, Range 43 East, Palm Beach County, Fla., which lies within 50 feet of, measured at right angles to, the following described Baseline of Survey for the realignment Congress Ave. to-wit: Beginning at the Southwest corner of Section 29, Township 43 South, Range 43 East, run S. 89 deg. 58 min. 43 sec. East a distance of 17.44 feet to a point in the South line of said Section 29 and the point of commencement of the herein described Baseline of Survey; thence run N. 1 deg. 13 min. 35 sec. East a distance of 397.14 feet to the beginning of a curve concave to the East having a delta of 0 deg. 54 min. 17 sec. and a radius of 5729.60 feet, run along the arc of said curve 90.47 feet; thence run N. 2 deg. 07 min. 52 sec. a distance of 200.00 feet to the beginning of a curve concave to the West having a delta of 2 deg. 07 min. 52 sec. and a radius of 5729.60 feet; run along the arc of said curve 213.11 feet; thence continue due North a distance of 712.03 feet to the beginning of a curve concave to the West and having a delta of 3 deg. 05 min. 26 sec. and a radius of 5729.60 feet, run along the arc of said curve 309.06 feet; thence run N. 3 deg. 05 min. 26 sec. West a

distance of 432.82 feet to the beginning of a curve concave to the East and having a delta of 3 deg. 05 min. 26 sec. and a radius of 5729.60 feet, run along said curve 809.06 feet to a point in the South RW line of Lake Worth Drainage District L-2 Canal and the end of the herein described Baseline of Survey.

Parcel 2:

A parcel of land in Section 29, Township 43 South, Range 43 East, Palm Beach County, Florida; said parcel of land being more particularly described as follows:

Commencing at the Southwest corner of said Section 29; thence, North along the West line of said Section 29, a distance of 2385.76 feet; thence, North 89 degrees 48 minutes 50 seconds East, a distance of 78.95 feet to a point in the East Right-of-Way line of "Old Congress Avenue"; thence, continue North 89 degrees 48 minutes 50 seconds East, a distance of 281.05 feet; thence, South a distance of 85.46 feet; thence, South 89 degrees 54 minutes 25 seconds West, a distance of 200.00 feet; thence, North a distance of 10.00 feet; thence, South 89 degrees 54 minutes 25 seconds West, a distance of 43.03 feet to a point in the aforementioned East Right-of-Way line of "Old Congress Avenue"; thence, North 26 degrees 24 minutes 07 seconds West, along said Right-of-Way line, a distance of 84.24 feet to the Point of Beginning.

AND

A parcel of land in Section 29, Township 43 South, Range 43 East, Palm Beach County, Florida; said parcel of land being more particularly described as follows:

Commencing at the Southwest corner of said Section 29; thence, North along the West line of said Section 29, a distance of 2385.76 feet; thence, North 89 degrees 48 minutes 50 seconds East, a distance of 360.00 feet to the Point of Beginning; thence, continue North 89 degrees 48 minutes 50 seconds East, a distance of 100.00 feet; thence, South a distance of 85.62 feet; thence, South 89 degrees 54 minutes 25 seconds West, a distance of 100.00 feet; thence, North a distance of 86.46 feet to the Point of Beginning.

Parcel 3:

The East 100 feet of the North 125 feet of the South 2510.75 feet of the West 660 feet of Section 29, Township 43 South, Range 43 East, Palm Beach County, Florida.

AND

A parcel of land in Section 29, Township 43 South, Range 43 East, more particularly described as follows:

Beginning at a point in the West line of Section 29, Township 43 South, Range 43 East, 2215.88 feet North of the Southwest corner of said Section; thence Easterly at an angle of 90 degrees 05 minutes 35 seconds measured from South to East, a distance of 560 feet; thence Northerly and parallel with the said West line of Section 29, a distance of 85 feet to the center line of a private road, which point is the Point of Beginning of the tract of land to be herein described; thence continuing on the same course a distance of 85.79 feet to the Northwest corner; thence Easterly at an angle of 90 degrees 11 minutes 10 seconds measured from South to East, a distance of 100 feet to the Northeast corner; thence Southerly and parallel to the West line of said tract, a distance of 85.48 feet along the East side of the Henry B. Davis lands, to the projection of the centerline of a private road, thence Westerly along the projection of the centerline of a private road a distance of 100 feet to the Point of Beginning.

(NOTE: Surveyors affidavit should be obtained reciting the new legal description is the same with minor variations as Parcels 1 to 3)

EXHIBIT B
VICINITY SKETCH

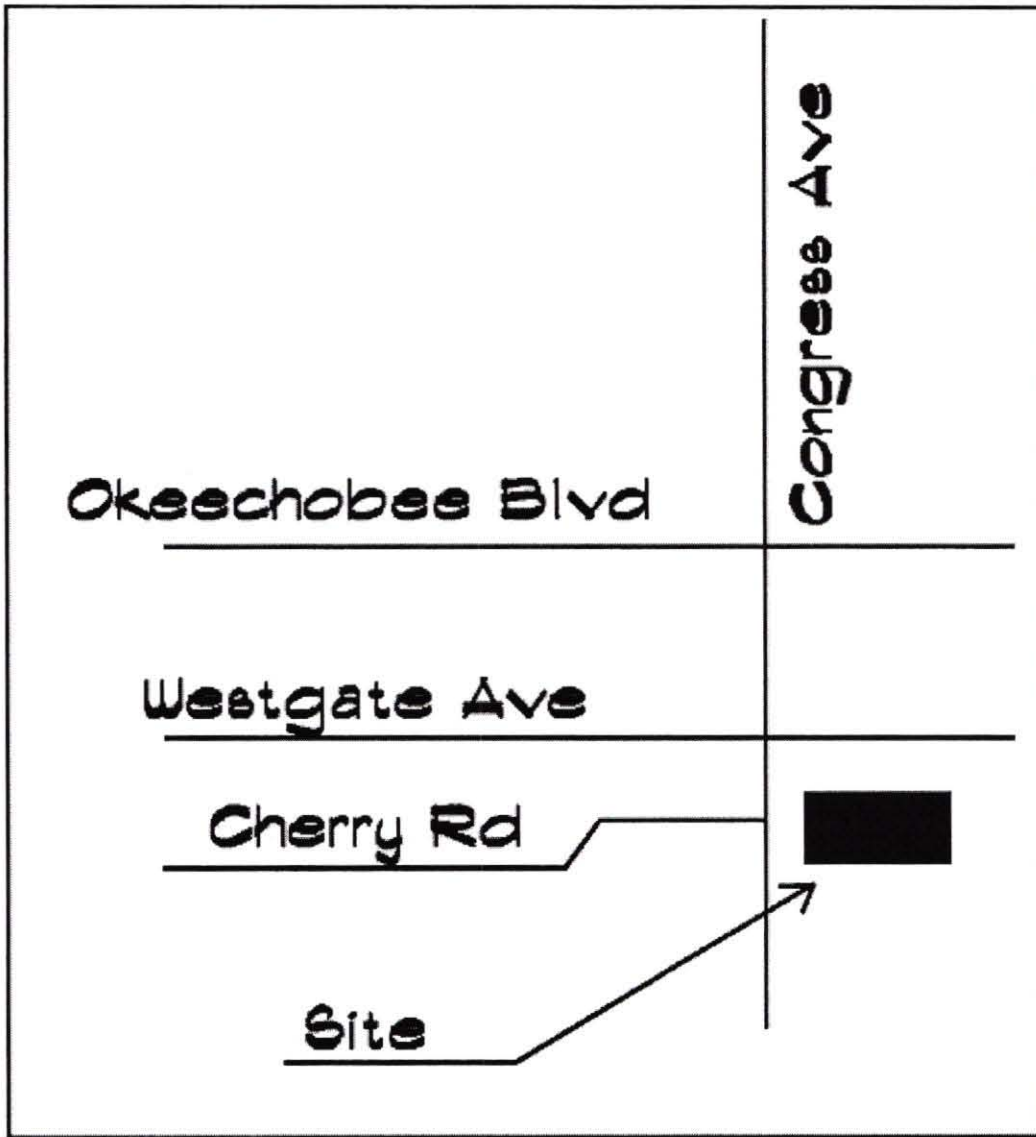


EXHIBIT C

CONDITIONS OF APPROVAL

Conditional Use Class A - General Repair and Maintenance

ALL PETITIONS

1. The approved Preliminary Site, Regulating and Phasing Plans are dated July 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. (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, 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. (BLDGPMT/DATE: MONITORING - Engineering)

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

3. 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 Congress Avenue, ten (10) feet additional right of way for a total of sixty (60) feet, measured from centerline of the proposed right of way, 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 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)

LANDSCAPE - PERIMETER-SOUTH AND EAST PROPERTY LINES INCOMPATIBILITY BUFFER

1. In addition to Code requirements, the Incompatibility Buffer where adjacent to the

residential uses along the south and east property lines shall be upgraded to include:

- a) a minimum of twenty (20) feet in width;
- b) one (1) canopy tree for each fifteen (15) feet of the property line. Trees to be spaced and planted in a staggered pattern within this Incompatibility Buffer;
- c) a total of three (3) layers of shrubs; and,
- d) a six (6) foot high opaque barrier to be either a hedge, fence or wall. (ONGOING: ZONING - Zoning)

SITE DESIGN

1. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Final Site and Regulating Plans to be consistent with the Landscape Perimeter Condition 1. (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 - 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.