

RESOLUTION NO. R-2019- 0163

RESOLUTION APPROVING ZONING APPLICATION DOA-2018-01151
(CONTROL NO. 1976-00152)
Development Order Amendment
APPLICATION OF Tri County Humane Society, City of Boca Raton
BY Miller Land Planning, AGENT
(Tri County Humane Society)

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 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application DOA-2018-01151 was presented to the Board of County Commissioners at a public hearing conducted on January 24, 2019;

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 (Application Processes and 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 Processes) 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.B.6.C (Board Action) 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-2018-01151, the Application of Tri County Humane Society, City of Boca Raton, by Miller Land Planning, Agent, for Development Order Amendment to reconfigure the Site Plan to add square footage, uses and phasing, and add and delete an access point; modify Conditions of Approval (Architecture, Signage); and, Restart the Commencement of Development Clock, 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 January 24, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McKinlay moved for the approval of the Resolution.

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

| | | |
|--------------------------------------|---|-----|
| Commissioner Mack Bernard, Mayor | - | Aye |
| Commissioner Dave Kerner, Vice Mayor | - | Aye |
| Commissioner Hal R. Valeche | - | Aye |
| Commissioner Gregg K. Weiss | - | Aye |
| Commissioner Robert S. Weinroth | - | Aye |
| Commissioner Mary Lou Berger | - | Aye |
| Commissioner Melissa McKinlay | - | Aye |

The Mayor thereupon declared that the resolution was duly passed and adopted on January 24, 2019.

Filed with the Clerk of the Board of County Commissioners on February 4th, 2019

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 'BOCK' at the bottom. The inner ring contains 'PALM BEACH COUNTY' at the top and 'FLORIDA' at the bottom. A five-pointed star is positioned at the bottom center of the seal.

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

TRACT F-1 AND PODS 1, 2, 3, 4, 5, 6, 7 AND 8, TRI-COUNTY HUMANE SOCIETY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 121, PAGES 22, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS LYING AND SITUATED IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 599,054 SQUARE FEET (13.7524 ACRES) MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

Location Map

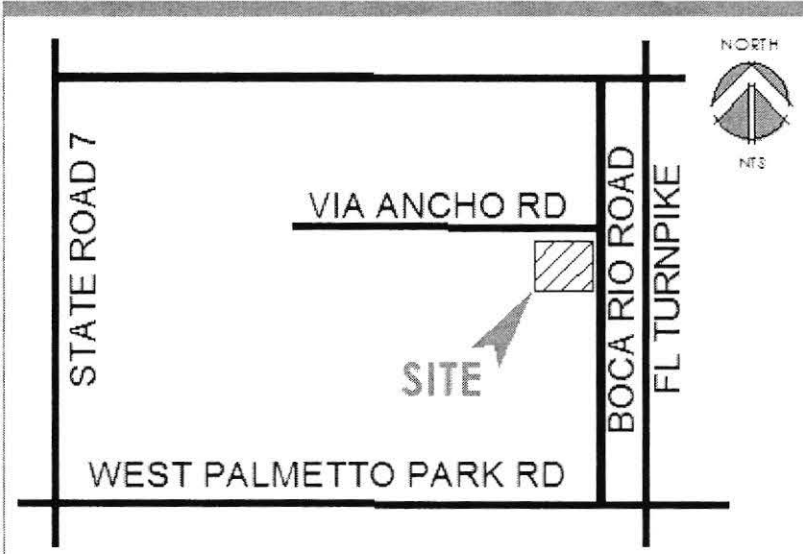


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2012-935, Control No.1976-00152, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-76-1026 (Control 76-152), 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 (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-76-1026 (Control 76-152), Resolution R-2012- 935 (Control 76-152) 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 (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous ALL PETITIONS Condition 1 of Resolution R-2012-936, Control No.1976-00152, which currently states:

The approved Preliminary Site Plan is dated March 15, 2012. 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)

Is hereby amended to read:

The approved Preliminary Site Plan is dated November 13, 2018. 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 2 of Resolution R-2012-935, Control No.1976-00152, which currently states:

The approved Preliminary Site Plan and Regulating Plans are dated March 15, 2012. 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)
(ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: Regulating Plans are optional. Site Plan is cited in preceding condition.]

ARCHITECTURAL REVIEW

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2012-936, Control No.1976-00152, which currently states:

At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for all proposed buildings in Phase one shall be submitted for final architectural review and approval. Architectural elevations for all phases 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 site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

Is hereby amended to read:

At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for proposed Buildings 1, and 2, 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 Architectural Elevations dated November 13, 2018. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ARCHITECTURAL REVIEW - Zoning)

BUILDING

1. Prior to the issuance of any new building permits (structures or improvements), all inactive building permits shall be re-activated and completed; and, any unpermitted structures removed. (CO: BUILDING DIVISION - Building Division) [Note: COMPLETED] (Previous BUILDING Condition 1 of Resolution R-2012-936, Control No.1976-00152)

ENGINEERING

1. The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for:

i) Via Ancho Road, 40 feet measured from centerline of the existing right of way,
ii) Boca Rio Road, 80 feet measured from eastern edge of the existing right of way, and
iii) a 25-foot corner clip at the southwest corner of the intersection of Via Ancho Road with Boca Rio 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 Grantor 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 Grantor, the Grantor 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) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2012-935, Control No.1976-00152)

2. The property owner shall:

a. Remove the individual parcel lines to be replatted from the site plan prior to Final Site Plan approval by the DRO. (DRO: ENGINEERING - Engineering) [Note: COMPLETED]
b. Combine the property into a legal lot of record, in accordance with Article 11 of the Unified Land Development Code, prior to issuance of the first building permit. (BLDGPMT:

MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2012-935, Control No.1976-00152)

3. Prior to the issuance of the first building permit, the property owner shall provide a temporary roadway construction easement to Palm Beach County along Boca Rio Road. This roadway construction easement shall also contain an isosceles trapezoid connecting the Corner Clips across this property owners entrance. The property owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2012-935, Control No.1976-00152)

4. Developer shall file a plat for the pet cemetery. (PLAT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2012-936, Control No.1976-00152)

5. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall remove the driveway connection on Boca Rio Road and restore the right-of-way to Palm Beach County standards. (BLDGPMT/CO: MONITORING - Engineering)

6. Prior to issuance of the first building permit, the Property Owner shall release the portion of the limited access easement in conflict with the proposed driveway. (BLDGPMT: MONITORING - Engineering)

7. 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, 2028. 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)

8. The Property Owner shall construct left turn lane east approach on Via Ancho Road at the project's westernmost driveway, 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. (BLDGPMT: MONITORING - Engineering)

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

9. The Property Owner shall install a channelizing island at the eastern project entrance on Via Ancho Rd to prohibit left turn in. This may require installation of raised curbed island or any other means to restrict this movement, as permitted by the County Engineer. The construction shall be completed before issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

10. The hours of operation to be open to the public on weekdays (Monday through Friday) shall be limited to 10 AM to 4 PM only. (ONGOING: ENGINEERING - Engineering)

LANDSCAPE - PERIMETER-WEST PROPERTY LINE AND WEST 480 FEET OF THE SOUTH PROPERTY LINE

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate a Type 2 Incompatibility buffer along the west property line and the west 480 feet of the south property line. In addition to Code requirements, the buffer shall include:

a. a minimum width of thirty (30) feet; and,

b. a minimum eight (8) foot high hedge of areca palms planted to create an opaque screen. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2012-936, Control No.1976-00152)

SIGNS

1. Previous SIGNS Condition 1 of Resolution R-2012-936, Control No.1976-00152, which currently states:

Ground mounted freestanding signs shall be limited to the Boca Rio Road frontage and as follows:

- a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
- b. maximum sign face area per side - one hundred (100) square feet;
- c. maximum number of signs - two (2); and,
- d. style - monument style only.

Is hereby amended to read:

Ground mounted freestanding signs shall be limited to the Via Ancho Road frontage, as follows:

- a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
- b. maximum sign face area per side - one hundred (100) square feet;
- c. maximum number of signs - three (3);
- d. location: one on the corner of Via Ancho and Boca Rio Road, and one sign by each entrance on Via Ancho Road frontage, and,
- d. style - monument style only. (BLDG/PMT/ONGOING: BUILDING DIVISION - Zoning)

SITE DESIGN

1. Previous SITE DESIGN Condition 1 of Resolution R-2012-936, Control No.1976-00152, which currently states:

Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to show a maximum of two (2) phases. Landscaping shall be installed in accordance with the phases as shown on the Landscape Plan and Final Site Plan. (DRO: ZONING - Zoning) (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: The Code addresses phasing.]

USE LIMITATIONS

1. Total gross floor area for the Accessory Retail Store Building 2, shall be limited to a maximum of 5,000 square feet. (ONGOING: ZONING - Zoning)

2. Total area for the Pet Cemetery expansion shall be limited to a maximum of 7500 square feet of land area area and as depicted on the Preliminary Site Plan dated November 13, 2018. (ONGOING: MONITORING - 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: MONITORING - Zoning)

DISCLOSURE

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