

RESOLUTION NO. R-2015- 0238

RESOLUTION APPROVING ZONING APPLICATION W-2014-01610
(CONTROL NO. 2003-00829)
a Type II Waiver
APPLICATION OF PRG Empire Inc
BY Land Design South, Inc., AGENT
(O'Reilly Auto Parts - Forest)

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, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended), have been satisfied;

WHEREAS, Zoning Application W-2014-01610 was presented to the Board of County Commissioners at a public hearing conducted on February 26, 2015;

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 Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) 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 Palm Beach County Unified Land Development Code 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 BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.G.3 for a a Type II Waiver ; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code 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 W-2014-01610, the petition of PRG Empire Inc, by Land Design South, Inc., Agent, for a Type II Waiver to allow the shortest side of the building to front a primary street; to allow a reduction of the building frontage on a primary street; to allow a reduction to the side setback on a secondary street; and to allow a single story building, on a parcel of land legally described 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 February 26, 2015, subject to the

Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof, and waiver request as described in EXHIBIT D, attached hereto and made a part hereof.

Commissioner Berger 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 Shelley Vana, Mayor	-	Aye
Commissioner Mary Lou Berger, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Paulette Burdick	-	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 February 26, 2015.

Filed with the Clerk of the Board of County Commissioners on February 26th, 2015

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

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN SECTION 12, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF LOTS 10 THRU 16, REPLAT OF BERGANTINO ESTATES, ACCORDING TO THE REPLAT THEREOF AS RECORDED IN PLAT BOOK 23, PAGE 193 IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT A NAIL AND DISK FOUND (NO ID) AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 12, TOWNSHIP 44 SOUTH, RANGE 42 EAST; THENCE ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER S88°32'22"E, A DISTANCE OF 50.05 FEET TO THE ORIGINAL EAST RIGHT OF WAY LINE OF S. MILITARY TRAIL/S.R. 809 AS SHOWN PER REPLAT OF BERGANTINO ESTATES AS RECORDED IN PLAT BOOK 23, PAGE 193, PALM BEACH COUNTY RECORDS; THENCE ALONG SAID ORIGINAL RIGHT OF WAY LINE S01°04'22"E, A DISTANCE OF 379.90 FEET TO THE EXTENDED SOUTH RIGHT OF WAY LINE OF COCOANUT ROAD; THENCE ALONG SAID EXTENDED RIGHT OF WAY LINE S88°33'05"E, A DISTANCE OF 4.64 FEET TO A NAIL AND DISK SET (LB6552) AT THE INTERSECTION OF THE PRESENT EAST RIGHT OF WAY LINE OF S. MILITARY TRAIL AND THE SOUTH RIGHT OF WAY LINE OF COCOANUT ROAD, SAID POINT BEING THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE OF COCOANUT ROAD S88°33'05"E, A DISTANCE OF 228.23 FEET TO A 1/2" REBAR FOUND (NO ID) AT THE NORTHEAST CORNER OF LOT 10, AFORESAID REPLAT; THENCE ALONG THE EAST LINE OF LOTS 10 THROUGH 16, AFORESAID REPLAT, S01°29'04"W, A DISTANCE OF 151.23 FEET TO A 1/2" PIPE FOUND AT THE NORTH RIGHT OF WAY LINE OF FOREST ROAD; THENCE ALONG SAID NORTH RIGHT OF WAY LINE N88°35'14"W, A DISTANCE OF 223.10 FEET TO A 1/2" REBAR AND CAP SET (LB6552) ON THE EAST RIGHT OF WAY LINE OF S. MILITARY TRAIL; THENCE ALONG SAID RIGHT OF WAY, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 21,432.94 FEET, AN ARC DISTANCE OF 121.32 FEET, SAID CURVE SUBTENDED BY A CHORD BEARING N00°51'59"W, A DISTANCE OF 121.32 FEET TO A 1/2" REBAR AND CAP SET (LB 6552); THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE N01°11'55"E, A DISTANCE OF 30.15 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 34,215 SQUARE FEET OR 0.785 ACRE OF LAND MORE OR LESS.

THE PROPERTY DESCRIBED IN THE ABOVE SURVEY METES AND BOUNDS DESCRIPTION IS ONE AND THE SAME AS THAT DESCRIBED IN THE RECORD DESCRIPTION OF THE SUBJECT PROPERTY.

EXHIBIT B
VICINITY SKETCH

LOCATION MAP

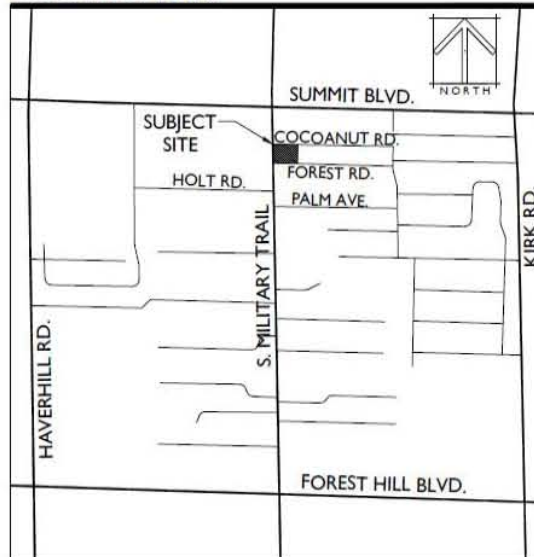


EXHIBIT C

CONDITIONS OF APPROVAL

Type II Waiver

ALL PETITIONS

1. The approved Preliminary Site Plan is dated July 17, 2014. 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 Zoning Commission. (DRO: ZONING - Zoning)
2. Prior to final approval by the Development Review Officer (DRO), the approved Type II Waivers and any associated Conditions of Approval shall be reflected on the Final Site Plan. (DRO: ZONING - Zoning)
3. The Development Order for the Type II Waivers shall be tied to the Time Limitations of the Development Order for DRO-2014-1612. (ONGOING: MONITORING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations 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 December 11, 2015. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO/ONGOING: 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)
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.

EXHIBIT D

REQUEST

TYPE II WAIVER SUMMARY

ULDC Article	Required	Proposed	Variance
3.B.16.F Table 3.B.16.F Building Frontage	65% Minimum Building Frontage	55% Building Frontage	- 10%
3.B.16.F.6.a Building Placement	20 ft. maximum Side Setback at Secondary Frontage	52 feet South Side Setback	+ 34 feet
3.B.16.F.6.a Building Placement	Longest side of building to face the Primary Street	Longest side of building does not face the Primary Street	Allow the longest side of the building to face the Secondary Street
3.B.16.F.6.c.1 a) Building Height and Floors - Minimum Floors	Two stories minimum	One story	- one story