

RESOLUTION NO. R-2015- 1731D

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/DOA-2015-00765
(CONTROL NO. 2010-00352)
a Development Order Amendment
APPLICATION OF Newman Window and Door - Tad Newman
BY Jon E Schmidt & Associates, AGENT
(934 Pike LLC)

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) (ULDC), have been satisfied;

WHEREAS, Zoning Application ZV/ABN/DOA-2015-00765 was presented to the Board of County Commissioners at a public hearing conducted on December 3, 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 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 Palm Beach County 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 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.B for a Development Order Amendment; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County 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/ABN/DOA-2015-00765, the application of Newman Window and Door - Tad Newman, by Jon E Schmidt & Associates, Agent, for a Development Order Amendment to reconfigure the Site Plan; and modify and delete Conditions of Approval (Landscaping, Site Design, and Use Limitation), 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 December 3, 2015, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

The motion was seconded by Commissioner McKinlay 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	-	Aye
Commissioner Steven L. Abrams	-	Absent
Commissioner Melissa McKinlay	-	Aye
Commissioner Priscilla A. Taylor	-	Absent

The Mayor thereupon declared that the resolution was duly passed and adopted on December 3, 2015.

Filed with the Clerk of the Board of County Commissioners on December 14th, 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

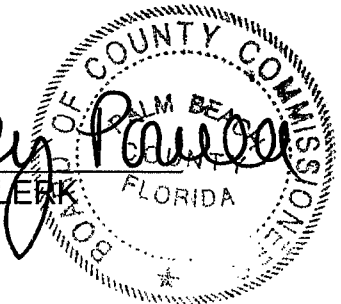


EXHIBIT A

LEGAL DESCRIPTION

Tract 3, Block 6, Palm Beach Farms Company Plat No. 3, according to the map or plat thereof, as recorded in Plat Book 2, Page 45 through 54, inclusive, of the Public Records of Palm Beach County, Florida.

LESS and EXCEPT the following portions of said Tract 3:

1. The North 245 feet thereof.
2. The South 198 feet thereof.
3. The east 220 feet thereof LESS the North 245 feet thereof and LESS the South 198 feet thereof.
4. The South 17 feet of the North 262 feet thereof, LESS the East 220 feet thereof.

ALSO LESS and EXCEPT the lands conveyed to Palm Beach County in Warranty Deed recorded in Official Records Book 23885, Page 1622 and more particularly described as follows:

A portion of Tract 3, Block 6, Palm Beach Farms Company Plat No. 3, according to the map or plat thereof, as recorded in Plat Book 2, Page 45 through 54, inclusive, of the Public Records of Palm Beach County, Florida. Being more particularly described as follows:

Commencing at the Northwest corner of said Tract 3; thence South 00°59'11" East along the West line of said Tract 3, a distance of 262.00 feet to a point on a line being 262.00 South of an parallel with the North line of said Tract 3, same being the Point of Beginning; thence North 89°00'49" East along said parallel line, 25.00 feet to a point on a line being 25.00 feet East of and parallel with the West line of said Tract 3, same being the new East Right-of-way line of Pike Road; thence South 00°59'11" East along said parallel line and said new East Right-of-way line, 200.00 feet to a point on a line being 462.00 feet south of and parallel with the North line of said Tract 3; thence South 89°00'49" West along said parallel line to the West line of said Tract 3, a distance of 25.00 feet; thence North 00°59'11" West along the West line of said Tract 3, a distance of 200.00 feet to the Point of Beginning.

EXHIBIT B
VICINITY SKETCH

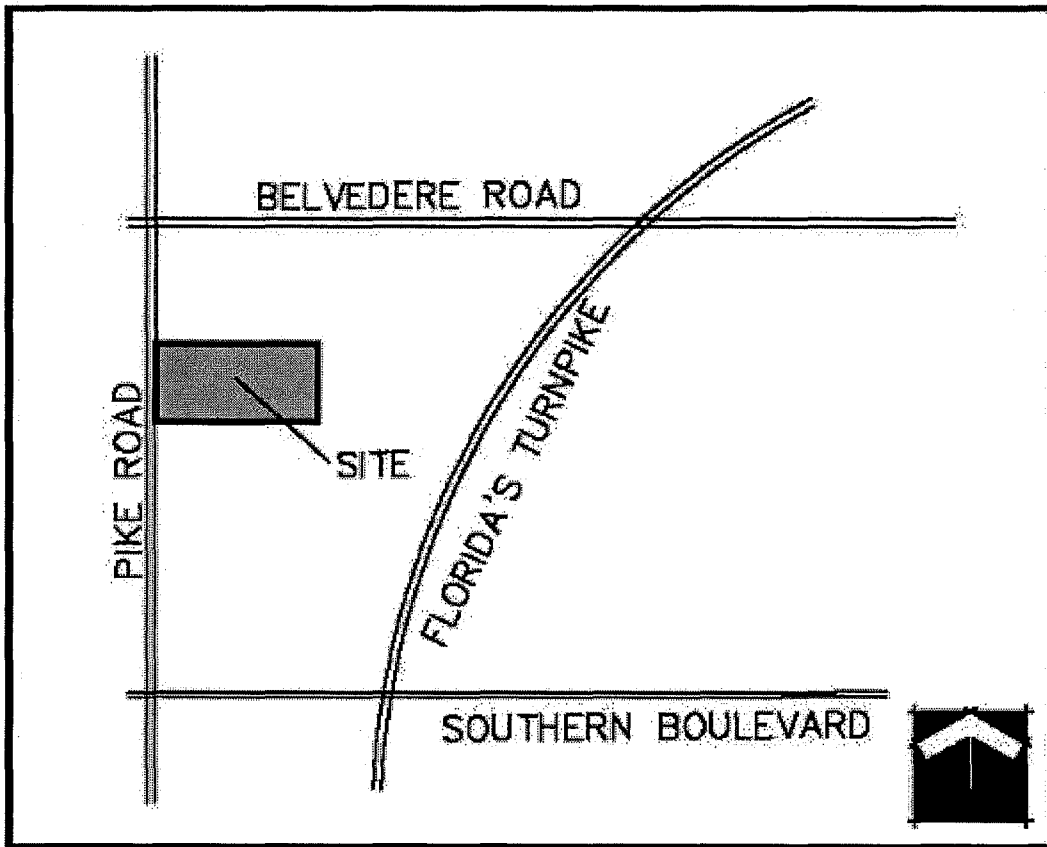


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment - Conditional Overlay Zone

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2011-561, Control No.2010-00352, which currently states:

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, 2014. 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-Eng) (DATE: MONITORING - Engineering)

Is hereby amended to read:

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. Prior to issuance of the first building permit the property owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering) (Previous ENGINEERING Condition 2 of Resolution R-2011-561, Control No.2010-00352)

3. Property owner shall construct a 5 foot concrete sidewalk along the property frontage along the east side of Pike Road. 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. These improvements shall be completed concurrently with the onsite paving and grading and shall be completed prior to the issuance of the first building permit. Alternatively, the property owner may provide funds to Palm Beach County to construct the sidewalk based on 110% of a cost estimate prepared by a professional engineer and approved by the County Engineer. (BLDGPM: MONITORING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2011-561, Control No.2010-00352)

4. The property owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The property owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPM: MONITORING - Engineering) (Previous ENGINEERING Condition 4 of Resolution R-2011-561, Control No.2010-00352)

HEALTH

1. Wastewater and water service is available to the property. Therefore, no onsite sewage

treatment and disposal system (OSTDS) or potable water well will be permitted. All existing OSTDS and potable water well systems shall be abandoned in accordance with Chapter 64E-6, and 8 F.A.C. respectively. (ONGOING: HEALTH-Health) (ONGOING: HEALTH DEPARTMENT - Health Department) (Previous HEALTH Condition 1 of Resolution R-2011-561, Control No.2010-00352)

LANDSCAPE - GENERAL

1. Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2011-561, Control No.2010-00352, which currently states:

Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning) (BLDGPMPT: ZONING - Zoning)

Is hereby deleted. [REASON: Required by Code]

2. Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2011-561, Control No.2010-00352, which currently states:

Prior to the issuance of any permits for the subject property, a landscape inspection shall be required to ensure preservation and barricading of the Simarouba glauca (Paradise Tree, Bitterwood). (BLDG PERMIT: LANDSCAPE Zoning)

Is hereby amended to read:

Prior to the issuance of any permits for the subject property, a landscape inspection shall be required to ensure preservation and barricading of the Simarouba glauca (Paradise Tree, Bitterwood). All tree protection measures utilized shall remain in place for the duration of all construction phases. (BLDGPMPT: ZONING - Zoning)

LANDSCAPE - PERIMETER-NORTH PROPERTY LINE

3. Previous LANDSCAPE - PERIMETER Condition 3 of Resolution R-2011-561, Control No.2010-00352, which currently states:

The landscaping and buffer width along the north property line shall include:

- a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a minimum eight (8) foot high concrete panel wall;
- c. one (1) canopy tree per twenty (20) linear feet; and
- d. a continuous four (4) foot high hedge to be planted on the outside of the wall. (BLDG PERMIT: LANDSCAPE - Zoning)

Is hereby amended to read:

The landscaping and buffer width along the north property line shall include:

- a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a minimum eight (8) foot high concrete wall along the east 250 feet of the north property line;
- c. a minimum six (6) foot high chain link fence along the west 165 feet of the north property line;
- d. one (1) canopy tree per twenty (20) linear feet; and
- e. a continuous four (4) foot high hedge to be planted on the outside of the fence and the wall. (ONGOING: ZONING - Zoning)

LANDSCAPE - PERIMETER-SOUTH AND EAST PROPERTY LINE

4. Previous LANDSCAPE - PERIMETER Condition 4 of Resolution R-2011-561, Control No.2010-00352, which currently states:

The landscaping and buffer width along the south and east property lines shall include:

- a. a minimum of ten (10) foot wide landscape buffer strip;
- b. one (1) canopy tree per twenty (20) linear feet;
- c. a minimum eight (8) foot high opaque fence;
- d. a continuous four (4) foot high hedge to be planted on the outside of the fence. (BLDG PERMIT: LANDSCAPE - Zoning)

Is hereby amended to read:

The landscaping and buffer width along the south and east property lines shall include:

- a. a minimum of ten (10) foot wide landscape buffer strip;
- b. a minimum eight (8) foot high concrete wall along the east property line;
- c. a minimum eight (8) foot high concrete wall along the east 250 feet of the south property line;
- d. a minimum six (6) foot high chain link fence along the west 165 feet of the south property line;
- e. one (1) canopy tree per twenty (20) linear feet;
- f. a continuous four (4) foot high hedge to be planted on the outside of the fence and the wall. (ONGOING: ZONING - Zoning)

LIGHTING

1. All outdoor, freestanding and structure mounted lighting fixtures shall not exceed twenty (20) feet in height measured from finished grade to highest point. (ONGOING: BUILDING DIVISION - Zoning) (Previous LIGHTING Condition 1 of Resolution R-2011-561, Control No.2010-00352)
2. All outdoor lighting shall be extinguished no later than 7:30 P.M., excluding security lighting only. (ONGOING: CODE ENF - Zoning) (Previous LIGHTING Condition 2 of Resolution R-2011-561, Control No.2010-00352)
3. The lighting conditions above shall not apply to proposed low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning) (Previous LIGHTING Condition 3 of Resolution R-2011-561, Control No.2010-00352)

SITE DESIGN

1. Previous SITE DESIGN Condition 1 of Resolution R-2011-561, Control No.2010-00352, which currently states:

The repair and maintenance structure shall be limited to a height of twenty-five (25) feet and the bay door shall be located on the west facade. (ONGOING/BLDG PERMIT: BLDG - Zoning) (BLDGPMT/ONGOING: BUILDING DIVISION - Zoning)

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

USE LIMITATIONS

1. Previous USE LIMITATIONS Condition 1 of Resolution R-2011-561, Control No.2010-00352, which currently states:

Hours of operation for the site shall be limited as follows:

- a. Outdoor Activities and Repair and Maintenance: 6:00 AM to 7:00 PM Monday through Saturday; and
- b. Office: 6:00 AM to 11:00 PM. (ONGOING: CODE ENF - Zoning)

Is hereby amended to read:

The hours of operation for the outdoor activities on the site shall be limited to 6:00 AM to 7:00 PM on Monday through Saturday. (ONGOING: CODE ENF - Zoning)

2. Previous USE LIMITATIONS Condition 2 of Resolution R-2011-561, Control No.2010-00352, which currently states:

The Repair and Maintenance structure shall be an accessory use to the Contractor's Storage Yard. No paint and bodywork shall be permitted on site. (ONGOING: CODE ENF - Zoning) (ONGOING: CODE ENF - Zoning)

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

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.