

RESOLUTION NO. R-2017- 0963

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2016-01826
(CONTROL NO. 1985-00155)
a Development Order Amendment
APPLICATION OF Max Realty Corporation
BY Shutts and Bowen, LLP, AGENT
(The Falls 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 ZV/DOA/R-2016-01826 was presented to the Board of County Commissioners at a public hearing conducted on July 27, 2017;

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 a 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.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/DOA/R-2016-01826, the Application of Max Realty Corporation, by Shutts and Bowen, LLP, Agent, for a Development Order Amendment to reconfigure the Site Plan; and add square footage to the Type I Restaurant, 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 July 27, 2017, 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 Kerner and, upon being put to a vote, the vote was as follows:

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

The Mayor thereupon declared that the resolution was duly passed and adopted on July 27, 2017.

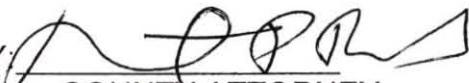
Filed with the Clerk of the Board of County Commissioners on August 2nd, 2017.

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

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

A parcel of land lying within the plat of the FALLS COUNTRY CLUB, as recorded in Plat Book 61, Page 177, Palm Beach County Florida, being more particularly described as follows:

COMMENCE at the Southeast corner of said plat, said corner indicated as the POINT OF BEGINNING of the platted boundary;

thence South $89^{\circ}07'17''$ West, along the South line of said plat (the South line of said plat is assumed to bear South $89^{\circ}07'17''$ West and all other bearings are relative thereto), a distance of 11.92 feet to the POINT OF BEGINNING of the hereinafter described parcel;

thence continue South $89^{\circ}07'17''$ West, along said South line, a distance of 577.21 feet to a point;

thence North $44^{\circ}42'32''$ East, departing said South line, a distance of 310.82 feet to a point;

thence North $55^{\circ}04'03''$ East a distance of 239.49 feet to a point;

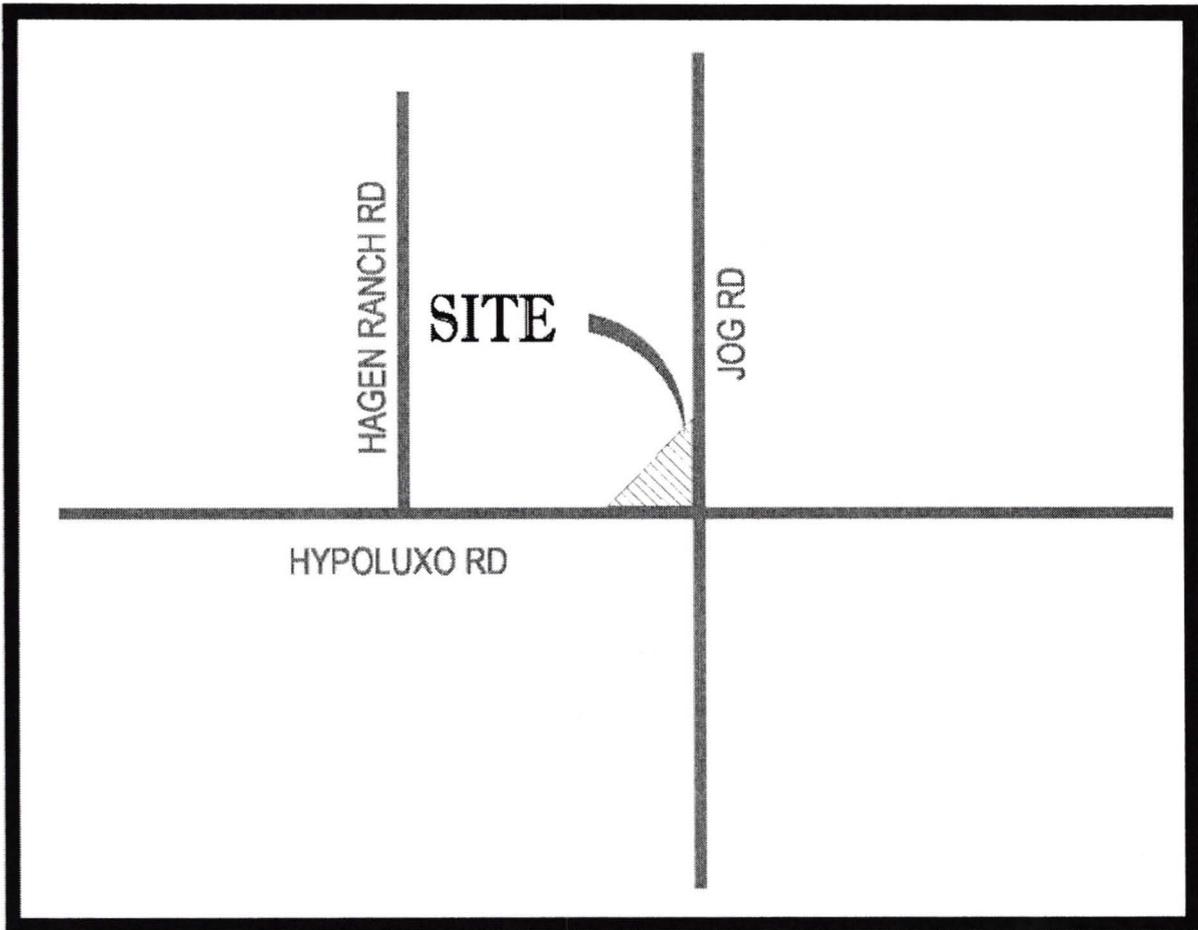
thence North $44^{\circ}57'37''$ East a distance 236.28 feet to a point on the East line of said plat;

thence South $00^{\circ}47'15''$ East, along said East line, a distance of 347.78 feet to a point;

thence South $03^{\circ}15'34''$ West, along the West line of "Additional Thoroughfare Right-of-Way", a distance of 168.90 feet to the POINT OF BEGINNING.

Containing in all 3.511 acres, more or less.

EXHIBIT B
VICINITY SKETCH



LOCATION MAP
SCALE: N.T.S.

EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2016-132, Control No.1985-00155, which currently states:

The approved Preliminary Site, Regulating, and Master Sign Plans are dated October 15, 2015; the Preliminary Architectural Elevations are dated May 22, 2015; and the Preliminary Landscape Plan is dated December 7, 2015. 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 (DRO) as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission.

Is hereby amended to read:

The approved Preliminary Site Plan is dated April 24, 2017; and Preliminary Regulating, Master Sign Plans, and the Preliminary Architectural Elevations are dated May 11, 2017. 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 (DRO) as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2016-0132 (Control 1985-00155), 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 and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

LANDSCAPE – PERIMETER

1. Landscaping along Hypoluxo Road shall be increased to provide a screenwall of vegetation in a combination of hedges and shrubs for a minimum length of 100 feet in front of the Type I Restaurant Drive-through location. The screenwall location and plant material shall be reviewed and approved by the Zoning Division at Final DRO. (DRO/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2016-132, Control No.1985-00155)

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; 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.