

RESOLUTION NO. R-2023-0378

RESOLUTION APPROVING ZONING APPLICATION ZV/Z/ABN-2021-01863
(CONTROL NO. 2003-00020)
an Official Zoning Map Amendment
APPLICATION OF Shawn Chemtov, 6562 Belvedere LLC
BY Schmidt Nichols, AGENT
(Windsor Industrial)

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 ZV/Z/ABN-2021-01863 the Application of Shawn Chemtov, 6562 Belvedere LLC, by Schmidt Nichols, Agent, for a Type 2 Variance to allow a reduction of the width of a Type 3 Incompatibility buffer; substitute wall with chain link fence and locate it on the property line, reduction in number of palms or pines; elimination of small shrubs; reduction in front setback; and, to replace a 12-foot wall loading area screening with an 8-foot hedge on 2.55 acres; an Official Zoning Map Amendment to allow arezoning from the Community Commercial (CC) Zoning District to the Light Industrial (IL) Zoning District on 2.55 acres; and a Development Order Abandonment to abandon a Convenience Store with Gas Sales on 2.55 acres was presented to the Board of County Commissioners at a public hearing conducted on March 23, 2023;

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 an Official Zoning Map Amendment, and Article 3.B.3 for a Conditional Overlay Zone;

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 ZV/Z/ABN-2021-01863, the Application of Shawn Chemtov, 6562 Belvedere LLC, by Schmidt Nichols, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Community Commercial (CC) Zoning District to the Light Industrial (IL) Zoning District, with a Conditional Overlay Zone (COZ), on 2.55 acres, 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 March 23, 2023, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

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

Commissioner Gregg K. Weiss, Mayor	-	Aye
Commissioner Maria Sachs, Vice Mayor	-	Aye
Commissioner Maria G. Marino	-	Aye
Commissioner Matthew Barnett	-	Aye
Commissioner Marci Woodward	-	Aye
Commissioner Sara Baxter	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on March 23, 2023.

Filed with the Clerk of the Board of County Commissioners on March 24, 2023.

This resolution shall not become effective unless or until the effective date of the Large Scale Land Use Amendment No. LGA-2022-00015.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF THE EAST HALF OF TRACT 5, BLOCK 5, "PALM BEACH FARMS COMPANY PLAT No. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45-54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF TRACT "R", "TERRACINA TRACT "R-1" REPLAT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 109, PAGE 117 OF SAID PUBLIC RECORDS, SAID POINT BEING THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF JOG ROAD WITH THE SOUTH LINE OF SAID TRACT 5; THENCE SOUTH 89°03'03" WEST ALONG SAID SOUTH LINE, ALSO BEING THE NORTH LINE OF SAID TRACT "R" 189.17 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF SAID TRACT 5; THENCE NORTH 00°56'57" WEST ALONG THE WEST LINE OF THE EAST HALF OF SAID TRACT 5 FOR 633.57 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-3 CANAL; THENCE NORTH 89°03'03" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE 159.93 FEET TO A POINT ON THE AFOREMENTIONED WESTERLY RIGHT-OF-WAY LINE OF JOG ROAD; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, THE FOLLOWING FOUR (4) COURSES AND DISTANCES; 1) SOUTH 03°13'49" EAST 76.91 FEET; 2) SOUTH 04°08'49" EAST 36.00 FEET; 3) SOUTH 04°08'46" EAST 213.94; 4) SOUTH 03°13'49" EAST 307.42 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING AND BEING IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 111,052 SQUARE FEET (2.5494 ACRES), MORE OR LESS.

DEED LEGAL:

PARCEL 1:

THE WEST HALF (W 1/2) OF THE EAST HALF (E 1/2) OF TRACT 5, BLOCK 5, "THE PALM BEACH FARMS CO. PLAT No. 3", WHICH LIES SOUTH OF THE PALM BEACH CANAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE NORTH 26 FEET THEREOF AS CONVEYED IN DEED BOOK 67, PAGE 412.

PARCEL 2:

THE EAST QUARTER (E 1/4) OF TRACT 5, BLOCK 5, LYING WEST OF THE JOG ROAD RIGHT-OF-WAY, "THE PALM BEACH FARMS CO. PLAT No. 3", WHICH LIES SOUTH OF THE PALM BEACH CANAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

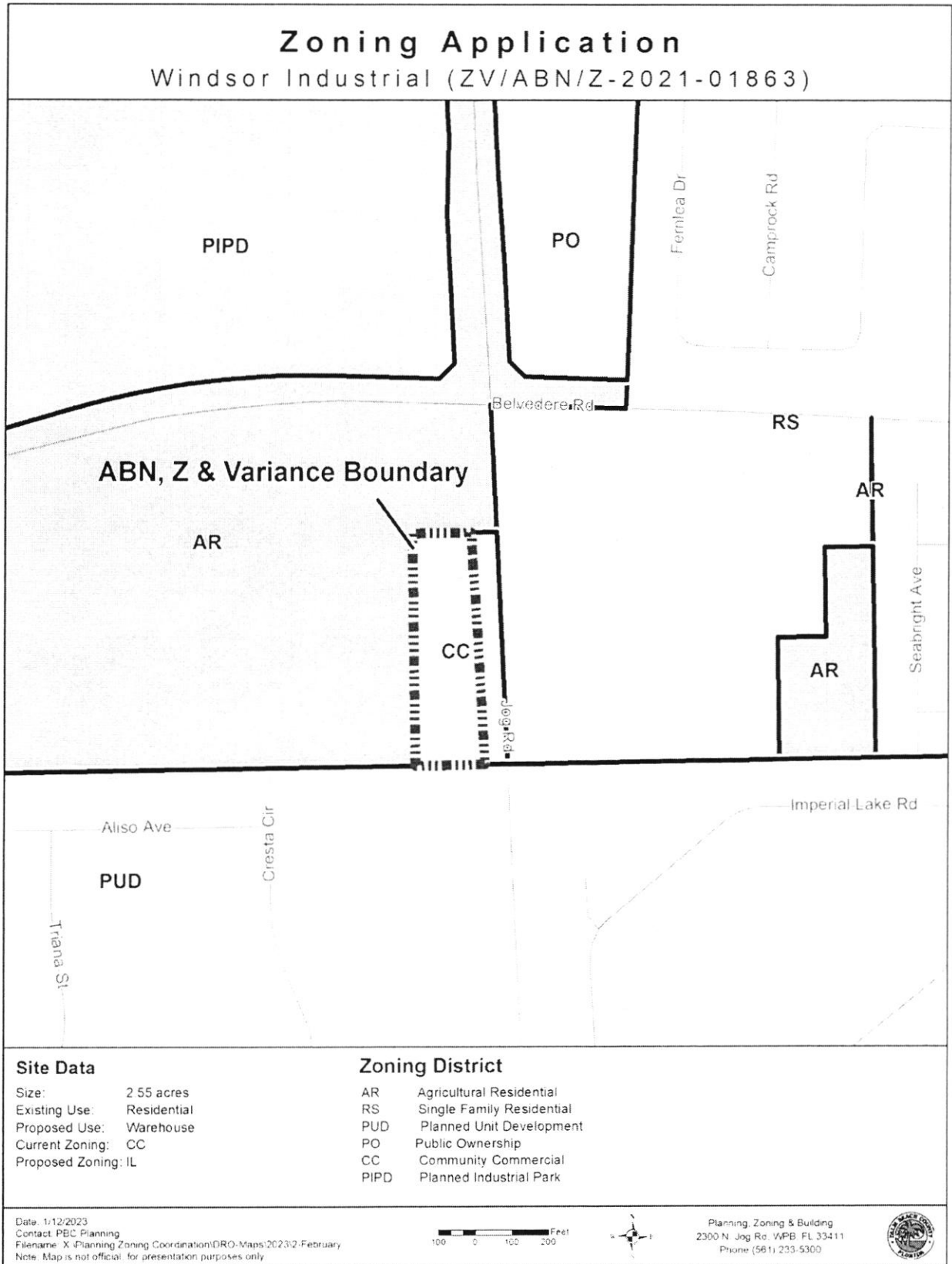


EXHIBIT C

CONDITIONS OF APPROVAL

Official Zoning Map Amendment

ALL PETITIONS

1. The approved Preliminary Site Plan dated December 15, 2022. 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. (ONGOING: ZONING - Zoning)

ENGINEERING

1. 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 or as otherwise approved by the County Engineer. (BLDGPM: MONITORING - Engineering)

2. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for the Jog Road, 60 feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, 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 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. The Property Owner shall provide to the Right of Way Section 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. (BLDGPM/ONGOING: MONITORING - Engineering)

3. 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, 2025, or as amended. 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)

PLANNING

1. Per SCA-2022-015, Condition 1: The site shall be limited to light industrial uses as described in Future Land Use Element Policy 2.2.4-d of the Palm Beach County

Comprehensive Plan. (ONGOING: PLANNING - Planning)

2. Per SCA-2022-015, Condition 2: Uses identified as Commercial in Article 4 of the Unified Land Development Code are prohibited on the site, with the exception of Self-Service Storage and accessory uses. (ONGOING: PLANNING - Planning)

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.