

RESOLUTION NO. R-2023- 1181

RESOLUTION APPROVING ZONING APPLICATION SV/ZV/ABN/DOAW-2022-01312
(CONTROL NO. 1977-00031)

a Type 2 Waiver

APPLICATION OF Restoration Property Holdings Inc., Posh Hospitality No. 3,
Congress Avenue LLC

BY Dunay, Miskel and Backman, LLP, AGENT
(Posh Hospitality No. 3)

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-2022-01120 submitted on behalf of Restoration Property Holdings Inc., Posh Hospitality No. 3, and Congress Avenue LLC by Dunay, Miskel and Backman, LLP, Agent, for Backman, LLP, Agent, for a Development Order Abandonment to abandon a Hotel on 2.48 acres; a Development Order Amendment to reconfigure the Site Plan, add land area and access points; and to delete square footage on 2.78 acres; a Type 2 Waiver to allow an extension of the hours of operation for a non-residential use located within 250 feet of a parcel of land with a residential future land use designation or use on 2.78 acres was presented to the Board of County Commissioners at a public hearing conducted on August 24, 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 a Type 2 Waiver;

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 SV/ZV/ABN/DOAW-2022-01312, the Application of Restoration Property Holdings Inc.,

Posh Hospitality No. 3, Congress Avenue LLC, by Dunay, Miskel and Backman, LLP, Agent, for a Type 2 Waiver to allow an extension of the hours of operation for a non-residential use located within 250 feet of a parcel of land with a residential future land use designation or use on 2.78 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 August 24, 2023, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof, and the Waiver request as described in EXHIBIT D, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

The motion was seconded by Commissioner Baxter 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 Michael A. 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 August 24, 2023.

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

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

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

LOTS 1 THROUGH 13 AND 25, BLOCK 2, PALM ACRES ESTATES, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 20, PAGE 5, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

LOTS 23 AND 24, BLOCK 2, PALM ACRES ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 20, PAGE 5, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

THE NORTH 25 FEET OF THE FOLLOWING DESCRIBED TRACT: A PORTION OF OKLAHOMA STREET BEING A 50 FOOT WIDE PUBLIC RIGHT OF WAY, ADJOINING THE SOUTH LINE OF LOTS 5 THROUGH 13 INCLUSIVE, BLOCK 2 AND THE NORTH LINE OF BLOCK 1 OF "PALM ACRES ESTATES", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 20, PAGE 5, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" IRON REBAR AT THE SOUTHWEST CORNER OF LOT 5 OF SAID PLAT, SAID POINT ALSO BEING THE WEST LINE OF SAID PLAT AND THE EAST RIGHT-OF-WAY LINE OF CONGRESS AVENUE (SR 807); THENCE ALONG THE SAID EAST RIGHT-OF-WAY LINE NORTH 02°32'46" EAST A DISTANCE OF 287.01 FEET TO THE NORTHWEST CORNER OF LOT 1; THENCE DEPARTING SAID EAST LINE SOUTH 88°38'09" EAST A DISTANCE OF 254.45 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF KENTUCKY STREET TO THE NORTHEAST CORNER OF LOT 23; THENCE DEPARTING SAID SOUTH LINE SOUTH 02°59'04" WEST A DISTANCE OF 143.53 FEET TO THE SOUTHEAST CORNER OF LOT 23; THENCE SOUTH 88°38'09" EAST A DISTANCE OF 249.26 FEET TO THE NORTHEAST CORNER OF LOT 13; THENCE SOUTH 03°06'40" WEST A DISTANCE OF 168.54 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 25.00 FEET OF A ABANDONED PORTION OF OKLAHOMA STREET (TO BE ABANDONED BY SEPARATE INSTRUMENT); THENCE RUNNING ALONG SAID SOUTH LINE NORTH 88°38'09" WEST A DISTANCE OF 500.95 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF CONGRESS AVENUE (SR 807); THENCE ALONG THE SAID EAST RIGHT-OF-WAY LINE NORTH 02°32'46" EAST A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 120,961 SQUARE FEET OR 2.78 TOTAL ACRES.

EXHIBIT B
VICINITY SKETCH

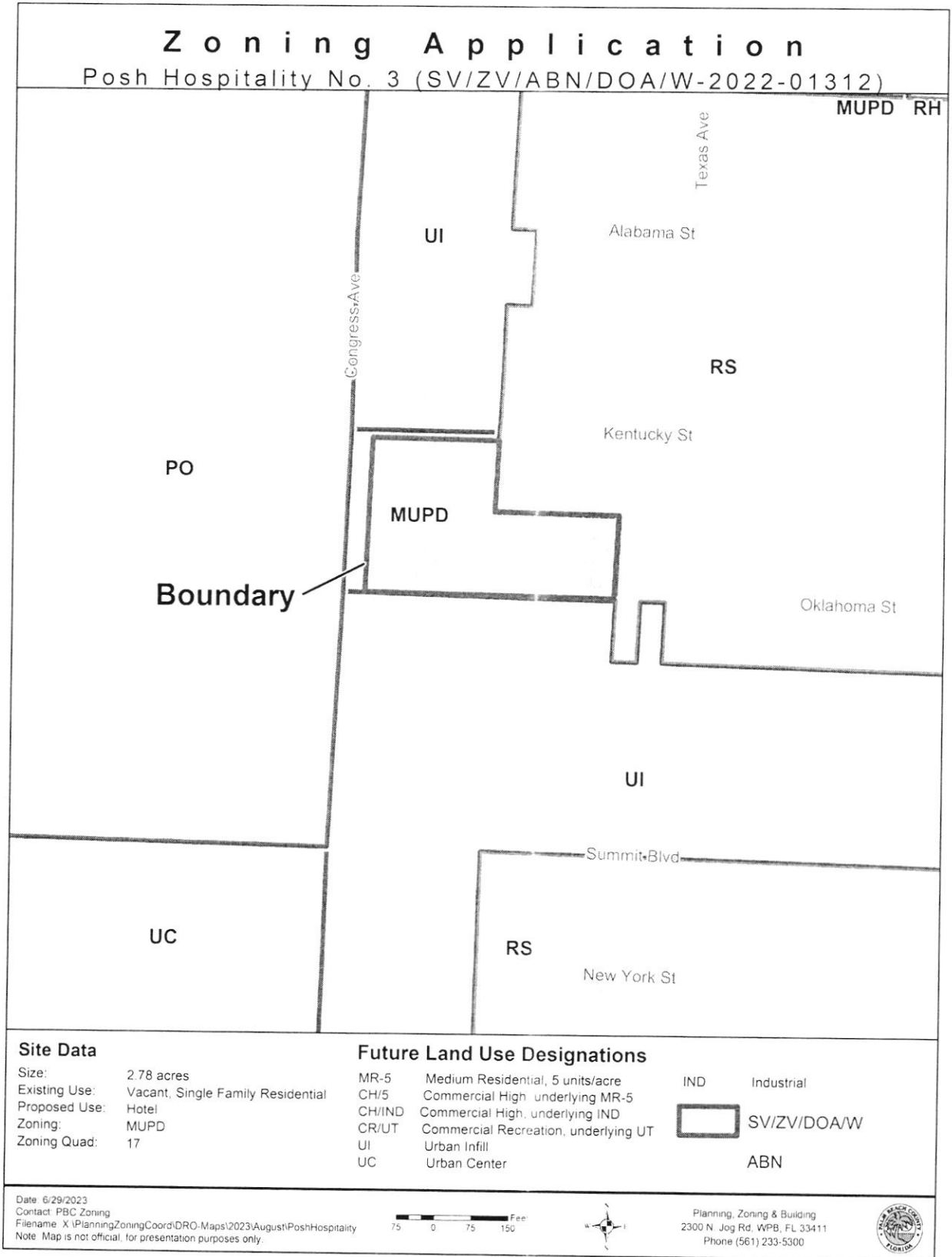


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Waiver

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 20, 2023. 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)

USE LIMITATIONS

1. Accessory services and facilities, such as food and beverage, recreational, meeting, or conference rooms, ballrooms, and delivery shall be limited to the hours of operation of 6:00 a.m. to 11:00 p.m. (ONGOING: CODE ENF - 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

TYPE 2 WAIVER SUMMARY

ULDC Article	Required	Proposed	Waiver
5.E.5.A Hours of Operation - Proximity to Residential	Hours of Operation - 6:00 a.m. to 11:00 p.m. for a Non-residential use located within 250 feet of a residential FLU or use	24-hour operation	Extend the hours of operation to 24-hours (+7 hours)