

RESOLUTION NO. ZR-2019- 031

RESOLUTION APPROVING ZONING APPLICATION ZV/PDD/CA-2019-00508  
(CONTROL NO. 1997-00004)  
TYPE 2 VARIANCE (*CONCURRENT*)  
APPLICATION OF SFD Boynton, LLC, and PEBB Boynton, LLC  
BY Dunay, Miskel and Backman, LLP, and Urban Design Kilday Studios, AGENT  
(FOUNTAINS EAST MUPD)

WHEREAS, the Zoning Commission, pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 25, is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the ULDC have been satisfied;

WHEREAS, Zoning Application ZV/PDD/CA-2019-00508 was presented to the Zoning Commission at a public hearing conducted on October 3, 2019;

WHEREAS, the Zoning Commission considered the evidence and testimony presented by the Applicant and other interested parties, and the recommendations of the various County Review Agencies;

WHEREAS, the Zoning Commission 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 Variance;

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, this approval shall only become effective upon the adoption of a resolution approving Zoning Application ZV/PDD/CA-2019-00508 by the Board of County Commissioners;

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 action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/PDD/CA-2019-00508, the Application of SFD Boynton, LLC, and PEBB Boynton, LLC, by Dunay, Miskel and Backman, LLP, and Urban Design Kilday Studios, Agent, for a Type 2 Variance to eliminate a portion of the Right-of-Way Landscape Buffer; and to eliminate or reduce foundation planting requirements, 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 October 3, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof and variance request as described in EXHIBIT D, attached hereto and made a part hereof.

Commissioner Caliendo moved for the approval of the Resolution.

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

Sheri Scarborough, Chair	- Yes
Sam Caliendo, Vice Chair	- Yes
Amir Kanel	- Yes
John Kern	- Yes
Philip L. Barlage	- Yes
Marcelle Griffith Burke	- Yes
Alex Brumfield III	- Yes
Mark Beatty	- Yes
Robert Currie	- Absent

Filed with the Palm Beach County Zoning Division on October 3, 2019.

This resolution shall not become effective unless or until the effective date of the resolution approving Zoning Application No. ZV/PDD/CA-2019-00508 by the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS ZONING COMMISSIONERS

BY:

  
COUNTY ATTORNEY

BY:

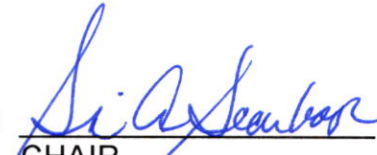
  
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PALM BEACH, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE AFORESAID SECTION 22; THENCE NORTH 00°41'06" WEST ALONG THE WEST LINE OF SAID SOUTHEAST ONE-QUARTER (SE 1/4) A DISTANCE OF 1331.34 FEET TO THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SOUTHEAST ONE-QUARTER (SE 1/4); THENCE NORTH 89°31'42" EAST ALONG SAID LINE, DISTANCE OF 51.88 FEET TO THE EAST RIGHT-OF-WAY LINE OF JOG ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 4224, PAGE 780, AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°31'42" EAST, A DISTANCE OF 615.46 FEET TO A POINT ON THE WEST LINE OF THE WEST ONE-HALF (W1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 22; THENCE SOUTH 00°30'38" EAST ALONG SAID LINE, A DISTANCE OF 1144.98 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BOYNTON BEACH BOULEVARD (STATE ROAD 804) AS SHOWN IN COUNTY ROAD PLAT BOOK 2, PAGE 5, AND AS CONVEYED TO THE STATE OF FLORIDA IN OFFICIAL RECORDS BOOK 4251, PAGE 575 AND AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 97931-2347; THENCE NORTH 86°24'21" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 324.19 FEET; THENCE CONTINUE ALONG SAID NORTH RIGHT-OF-WAY LINE NORTH 88°18'58" WEST, A DISTANCE OF 270.97 FEET TO THE POINT OF BEGINNING OF A CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 30.00 FEET AND A CENTRAL ANGLE OF 88°08'31"; THENCE NORTHWESTERLY AND NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 46.15 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF JOG ROAD; THENCE NORTH 00°10'27" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1081.68 FEET TO THE POINT OF BEGINNING.

THE ABOVE PARCEL BEING ALSO DESCRIBED AS FOLLOWS:

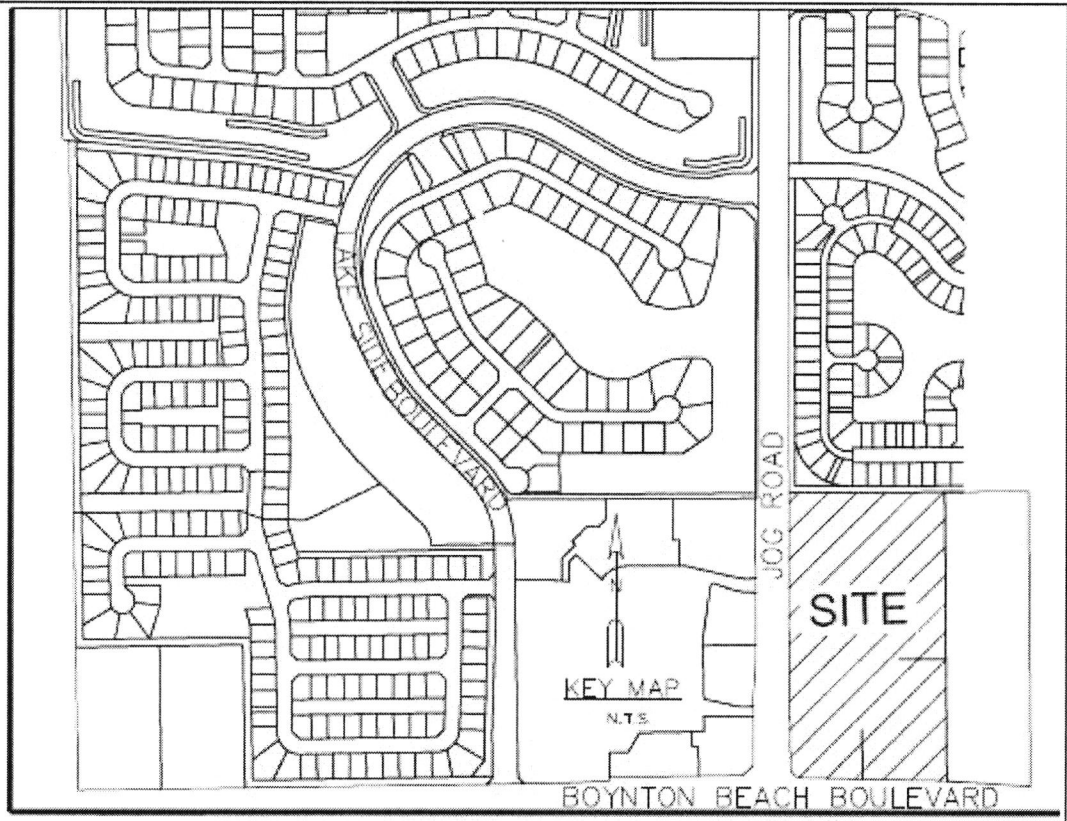
A PARCEL OF LAND SITUATED IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE AFORESAID SECTION 22; THENCE NORTH 00°41'06" WEST ALONG THE WEST LINE OF SAID SOUTHEAST ONE-QUARTER (SE 1/4) A DISTANCE OF 1333.46 FEET TO THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SOUTHEAST ONE-QUARTER (SE 1/4); THENCE NORTH 89°34'27" EAST ALONG SAID LINE, A DISTANCE OF 52.01 FEET TO THE EAST RIGHT-OF-WAY LINE OF JOG ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 4224, PAGE 780, AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 9°34'27" EAST, A DISTANCE OF 616.20 FEET TO A POINT ON THE WEST LINE OF THE WEST ONE-HALF (W 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 22; THENCE SOUTH 00°32'07" EAST ALONG SAID LINE, A DISTANCE OF 1146.58 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BOYNTON BEACH BOULEVARD (STATE ROAD 804) AS SHOWN IN COUNTY ROAD PLAT BOOK 2, PAGE 5, AND AS CONVEYED TO THE STATE OF FLORIDA IN OFFICIAL RECORDS BOOK 4251, PAGE 575 AND AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION

RIGHT-OF-WAY MAP SECTION 97931-2347; THENCE NORTH 86°24'21" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 333.50 FEET; THENCE CONTINUE ALONG SAID NORTH RIGHT-OF-WAY LINE NORTH 88°18'58" WEST, A DISTANCE OF 261.75 FEET TO THE POINT OF BEGINNING OF A CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 30.00 FEET AND A CENTRAL ANGLE OF 88°08'31"; THENCE NORTHWESTERLY AND NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 46.15 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF JOG ROAD; THENCE NORTH 00°10'27" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1083.46 FEET TO THE POINT OF BEGINNING.

CONTAINING, 696,725 SQUARE FEET/15.9946 ACRES, MORE OR LESS.  
SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### **Type 2 Variance - Concurrent**

##### **VARIANCE**

1. This Variance is approved based on the layout as shown on the Preliminary Site Plan dated June 24, 2019. Only minor modifications by Board of County Commissioners or Development Review Officer shall be permitted provided the changes are consistent with this Preliminary Site Plan. (ONGOING: CODE ENF - Zoning)
2. Prior to submittal for Final Approval by the Development Review Officer, the approved Variance(s) and any associated Conditions of Approval shall be shown on the Preliminary Site Plan. (DRO: ZONING - Zoning)
3. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPMT: BUILDING DIVISION - Zoning)

##### **LANDSCAPE - GENERAL**

1. The eliminated foundation planting approved by this Variance shall be relocated to the planting areas along the sidewalks as indicated on the Preliminary Site Plan dated June 24, 2019. (ONGOING: ZONING - Zoning)
2. The landscape material that would have been required within the eliminated buffer shall be relocated into the adjacent plaza as indicated on the Preliminary Site Plan dated June 24, 2019. Prior to the issuance of any Building Permits, the Property Owner shall submit Final Landscape Plans for review and approval, to include the Alternative Landscape Plan, dated July 22, 2019, approved by this Variance. (BLDGPMT: ZONING - Zoning)

##### **COMPLIANCE**

1. In granting this approval, the Zoning Commission 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.

EXHIBIT D

REQUEST

**TYPE 2 VARIANCE SUMMARY**

ULDC Article		Required	Proposed	Variance
V1	Art. 7.C.2.A.3, Width [Right-of-Way (ROW) Buffer]	Minimum width of R-O-W buffer: 20 ft. where width of Ultimate Right-of-Way (R-O-W) is 100 feet and over	0 ft. for approximately 100 linear ft. immediately south of southernmost Jog Road entry drive abutting plaza; with relocation of required plantings into adjacent plaza and R-O-W buffer	-20 ft.
V2	Art. 7.C.3.B.1.a [Foundation Planting Applicability]	8 ft. minimum width for 40 percent of front and side facades.	Building B: eliminate foundation planting area on north side.	-100% of required foundation planting along facades of Buildings B, C, D1, D2, and D3.
			Building C: eliminate foundation planting area on south side.	
			Buildings D1, D2 and D3: eliminate required foundation planting along west side.	
			Building D2: 5 ft. planting area width for south facade.	-3 feet