

RESOLUTION NO. ZR-2019-038

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2018-01208
(CONTROL NO. 1984-00163)
TYPE 2 VARIANCE (CONCURRENT)
APPLICATION OF Barkley International, Inc.
BY Dunay, Miskel and Backman, LLP, AGENT
(DELRAY COMMONS (BARKLEY PLACE))

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 24, 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/DOA-2018-01208 was presented to the Zoning Commission at a public hearing conducted on December 6, 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 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/DOA-2018-01208 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/DOA-2018-01208, the Application of Barkley International, Inc., by Dunay, Miskel and Backman, LLP, Agent, for a Type 2 Variance to allow a reduction in lot depth, Right-of-Way (R-O-W) Buffer width and, building setbacks; to allow for elimination of foundation planting, and, to increase easement overlap within a R-O-W Buffer, 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 December 6, 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 Brumfield moved for the approval of the Resolution.

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

Sheri Scarborough, Chair	- Absent
Sam Caliendo, Vice Chair	- Absent
Amir Kanel	- Yes
John Kern	- Yes
Philip L. Barlage	- Yes
Marcelle Griffith Burke	- Yes
Alex Brumfield III	- Yes
Mark Beatty <i>Acting Chair</i>	- Yes

Filed with the Palm Beach County Zoning Division on December 6, 2019.

This resolution shall not become effective unless or until the effective date of the resolution approving Zoning Application No. ZV/DOA-2018-01208 by the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY:


COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY:


CHAIR

EXHIBIT A

LEGAL DESCRIPTION

NORTHERN PARCEL:

THE WEST 150.00 FEET (150.04 FEET ALONG PROPERTY LINE) OF THE EAST 203.00 FEET (203.03 FEET ALONG PROPERTY LINE) OF THE NORTH 732.13 FEET (738.31 FEET ALONG PROPERTY LINE) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 2, TOWNSHIP 46 SOUTH, RANGE 42 EAST, SAID LAND SITUATE WITHIN PALM BEACH COUNTY, FLORIDA.

SOUTHERN PARCEL:

THE WEST 150.00 FEET (150.04 FEET ALONG PROPERTY LINE) OF THE EAST 203.00 FEET (203.03 FEET ALONG PROPERTY LINE) OF THE SOUTH 548.58 FEET (548.68 FEET ALONG PROPERTY LINE) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 2, TOWNSHIP 46 SOUTH, RANGE 42 EAST, SAID LAND SITUATE WITHIN PALM BEACH COUNTY, FLORIDA.

LESS: THOSE PORTIONS OF THE ABOVE PARCELS WHICH WERE CONVEYED TO PALM BEACH COUNTY, FLORIDA BY DEED DATED JANUARY 30, 1992, FILED MARCH 3, 1992 IN O.R. BOOK 7141, PAGE 1827, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

PARCEL 1: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 2; THENCE ALONG THE EAST LINE OF SECTION 2, SOUTH 01 DEGREE 30 MINUTES 17 SECONDS EAST ON AN ASSUMED BEARING A DISTANCE OF 1381.48 FEET; THENCE SOUTH 89 DEGREES 46 MINUTES 24 SECONDS WEST, A DISTANCE OF 60.01 FEET, TO A POINT ON THE WEST RIGHT OF WAY LINE OF MILITARY TRAIL BEING ALSO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 89 DEGREES 46 MINUTES 24 SECONDS WEST, A DISTANCE OF 25.00 FEET; THENCE SOUTH 45 DEGREES 51 MINUTES 56 SECONDS EAST, A DISTANCE OF 35.76 FEET; THENCE NORTH 01 DEGREE 30 MINUTES 17 SECONDS WEST, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.

PARCEL 2: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 2; THENCE SOUTH 01 DEGREE 30 MINUTES 17 SECONDS EAST, ON AN ASSUMED BEARING ALONG THE EAST LINE OF SAID SECTION 2 A DISTANCE OF 2073.79 FEET; THENCE SOUTH 89 DEGREES 46 MINUTES 24 SECONDS WEST, A DISTANCE OF 60.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89 DEGREES 46 MINUTES 24 SECONDS WEST, A DISTANCE OF 25.00 FEET; THENCE NORTH 44 DEGREES 08 MINUTES 00 SECONDS EAST, A DISTANCE OF 34.96 FEET; THENCE SOUTH 01 DEGREE 30 MINUTES 17 SECONDS EAST, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.

PARCEL 3: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 2; THENCE SOUTH 01 DEGREE 30 MINUTES 17 SECONDS EAST, ON AN ASSUMED BEARING ALONG THE EAST LINE OF SAID SECTION 2, A DISTANCE OF 2073.79 FEET; THENCE SOUTH 89 DEGREES 46 MINUTES 24 SECONDS WEST, A DISTANCE OF 60.01 FEET; THENCE SOUTH 01 DEGREE 30 MINUTES 17 SECONDS EAST A DISTANCE OF 60.01 FEET; THENCE SOUTH 01 DEGREE 30 MINUTES 17 SECONDS EAST, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 01 DEGREE 30 MINUTES 17 SECONDS EAST, A DISTANCE OF 25.00 FEET; THENCE NORTH 45 DEGREES 49 MINUTES 58 SECONDS WEST, A DISTANCE OF 35.76 FEET; THENCE NORTH 89 DEGREES 49 MINUTES 47 SECONDS EAST, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.004 ACRES MORE OR LESS

EXHIBIT B
VICINITY SKETCH

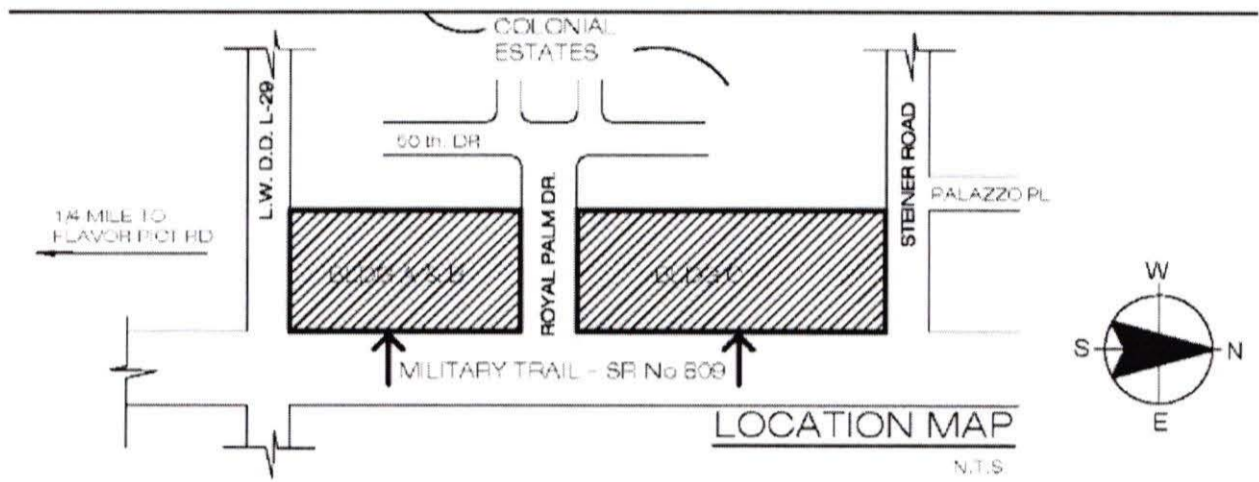


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Preliminary Site Plan is dated October 14, 2019. 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 or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. 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. (BLDGPM: BUILDING DIVISION - Zoning)

3. Prior to the issuance of a Final Certificate of Occupancy, the Property Owner shall install a minimum two (2) foot wide planters along a minimum of forty percent (40%) of the sidewalk abutting the building east facade. (CO: BUILDING DIVISION - Zoning)

4. Prior to the issuance of a Final Certificate of Occupancy, the Property Owner shall install four (4) divider medians with a minimum width of twelve (12) feet excluding curbing, and a minimum landscape area of six hundred and fifty (650) square feet, consistent with the Preliminary Site Plan dated October 14, 2019. (CO: BUILDING DIVISION - 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 II VARIANCE SUMMARY

#	ULDC Article	Required	Proposed	Variance
V1	Table 3.D.1.A, Property Development Regulations: Lot Depth (CC)	200 ft	143.ft.	-57ft.
V2	Table 3.D.1.A, Property Development Regulations: (CC) Rear Setback	30 ft. Rear setback	25 ft. (Building C)	-5 ft. (Building C)
V3	Table. 7.C.3.B, Foundation Planting and Dimensional Requirements: Facades to be Planted	8 ft. wide Foundation Planting 40% of Front Facade.	Eliminate Front Facade (Buildings A, B, & C)	100% Front Facades (Buildings A, B, & C)
V4	Art. 7.C.5, Easements in Landscape Buffers	Maximum 5 ft. overlap for Underground Utilities in Landscape Buffer.	Maximum 10 foot overlap in R-O-W Buffer (Palm Tran Easement) Military Trail	+5 foot easement overlap (Palm Tran Easement)
V5	7.C. Landscape Buffer Requirements	20 ft. R-O-W Buffer	16 ft. R-O-W Buffer Military Trail	-4 ft