

RESOLUTION NO. ZR-2020- 016

RESOLUTION APPROVING ZONING APPLICATION ZV-2019-01642
CONTROL NO. 2012-00374
TYPE 2 VARIANCE (STAND ALONE)
APPLICATION OF SIL FIR Corp
BY Kimley-Horn and Associates, Inc, AGENT
(CUMBERLAND FARMS WESTGATE)

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 26, 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-2019-01642 was presented to the Zoning Commission at a public hearing conducted on June 4, 2020;

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, 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-2019-01642, the Application of SIL FIR Corp, by Kimley-Horn and Associates, Inc, Agent, for a Type 2 Variance to eliminate a Type 2 Incompatibility 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 June 4, 2020, 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 Kern 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
Marcelle Griffith Burke	- Yes
Alex Brumfield III	- Yes
Mark Beatty	- Absent
Jess Sowards	- Yes

The Chair thereupon declared the resolution was duly passed and adopted on June 4, 2020.

This resolution is effective when filed with the Palm Beach County Zoning Division on June 23, 2020.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY

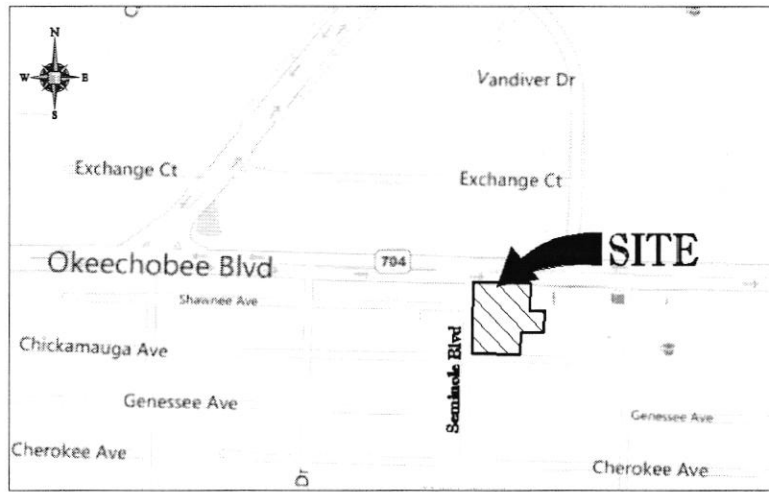
BY: 
CHAIR

EXHIBIT A
LEGAL DESCRIPTION

TRACT 'A', CUMBERLAND FARMS WESTGATE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 124, PAGES 135-136 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING: 2.60 ACRES

EXHIBIT B
VICINITY SKETCH



LOCATION MAP
NOT TO SCALE

EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance - Standalone

VARIANCE

1. Prior to the submittal for Final Approval by the Development Review Officer, the approved Variance and any associated Conditions of Approval shall be shown on the Preliminary Site Plan. (DRO: ZONING - Zoning)
2. This Variance is approved based on the site layout as shown on the Preliminary Site Plan, dated April 13, 2020. 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)
3. The Development Order for this Standalone Variance shall be tied to the Time Limitations of the Development Order for ZV-2019-01642. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)

LANDSCAPE - PERIMETER - LANDSCAPING ALONG SOUTHEAST CORNER OF PARKING LOT ABUTTING DRY RETENTION AREA

1. In addition to the Code requirements, a ten foot wide landscape strip shall be provided in between the southeast corner of the parking lot and the dry retention area, as shown on the Preliminary Site Plan April 13, 2020, to include the following:
 - a. a six foot high vinyl coated chain link fence extending from the northeast corner of the Convenience Store to the Outside edge of the Compatibility Buffer. Gates for utility or maintenance access shall be permitted, but shall otherwise remain locked at all times.
 - b. a continuous opaque hedge to be maintained at a minimum of six feet in height;
 - c. one canopy tree for each 20 linear feet; and,
 - d. exceptions may be permitted for any bisecting easements subject to review of supporting documentation and Zoning Division approval. (CO: ZONING - Zoning)

SITE DESIGN - SECURITY FENCING SOUTH SIDE OF RETENTION AREA

1. Prior to Final DRO Approval, the Applicant shall request consent from all applicable easement holders, to allow for the installation of a six foot high vinyl coated security fence along the south side of the drainage retention area, from the southeast corner of the Convenience Store to the northwest corner of the abutting single family lot. The fence may be gated, but shall remain locked at all times. The fence shall be installed prior to final Certificate of Occupancy. The fence may not be required, subject to Zoning Division approval, if the Applicant is able to document reasonable easement holder objections to placement of the fence in bisecting easements. (CO/DRO: 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 Zoning Commission and/or 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 the Development Permit.

EXHIBIT D

REQUEST

TYPE 2 VARIANCE

#	ULDC Article	REQUIRED	PROPOSED	VARIANCE
V.1	Art. 7.C.2.C, Incompatibility Buffer Types	Type 2 Incompatibility Buffer.	No Incompatibility Buffer along south property line abutting residential.	To eliminate the Type 2 Incompatibility Buffer.