

RESOLUTION NO. R-2013- 1767

RESOLUTION APPROVING ZONING APPLICATION W-2013-02239

(Control No.1977-00190)

TYPE II WAIVER

Tax Collector of Palm Beach County - Anne Gannon

BY Urban Design Kilday Studios, AGENT

(Central Palm Beach Service Center)

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, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended), have been satisfied;

WHEREAS, Zoning Application W-2013-02239 was presented to the Board of County Commissioners at a public hearing conducted on December 5, 2013;

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 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code 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 BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.G.3 for a Type II Waiver; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code 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 W-2013-02239, the application of Tax Collector of Palm Beach County - Anne Gannon, by Urban Design Kilday Studios, agent, for a Type II Waiver to allow a reduction in the required setback for outdoor uses adjacent to residential; to exceed the individual building length; to not provide a Pedestrian Pass Thru; to allow a reduction in the size of the minimum open space; to allow useable open space along the primary frontage and to eliminate benches and trash receptacles along Landar Drive in the Urban Infill (UI) Zoning District, on a parcel of land legally described 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 5, 2013, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof, and waiver request as described in EXHIBIT D, attached hereto and made a part hereof.

Commissioner Vana moved for the approval of the Resolution.

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

Commissioner Priscilla A. Taylor, Mayor	- Aye
Commissioner Paulette Burdick, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Shelley Vana	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Jess R. Santamaria	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on December 5, 2013.

Filed with the Clerk of the Board of County Commissioners on December 9, 2013.

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

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 

EXHIBIT A

LEGAL DESCRIPTION

PROPERTY DESCRIPTION

THE WEST 293.38 FEET OF THE EAST 333.38 FEET OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 25, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

LESS HOWEVER:

THE EAST 27.00 FEET THEREOF FOR ADDITIONAL RIGHT-OF-WAY FOR MILITARY TRAIL AS DEDICATED BY WARRANTY DEED RECORDED IN OFFICIAL RECORD BOOK 6021, PAGE 1258, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

ALSO, LESS:

THE SOUTH 60.00 FEET THEREOF FOR RIGHT-OF-WAY FOR LANDAR DRIVE AS SHOWN AND DEDICATED TO THE PUBLIC ON THE PLAT OF COUNTRYSIDE TOWNHOMES PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 36, PAGES 145 AND 146, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

AND FURTHER LESS:

THE NORTH 70.00 FEET THEREOF FOR RIGHT-OF-WAY FOR LAKE WORTH DRAINAGE DISTRICT LATERAL CANAL 12,

AND FURTHER LESS:

CORNER CLIP "A" AND CORNER CLIP "B" CONVEYED TO PALM BEACH COUNTY BY WARRANTY DEED RECORDED IN OFFICIAL RECORD BOOK 22398, PAGE 1295, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

LOCATION MAP: SECTION 25 TOWNSHIP 44 SOUTH RANGE 43 EAST



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. The approved Preliminary Site Plan is dated September 23, 2013. 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 Zoning Commission. (DRO: ZONING - Zoning)

2. These Waivers are approved for the Government Services Use only. Any change to the use shall require reconsideration of the Waivers by the Board of County Commissioners. (ONGOING: CODE ENF - Zoning)

3. Prior to the submittal for Final Approval by the Development Review Officer, the approved Waivers and any associated Conditions of Approval shall be shown on the Final Site Plan. (DRO: ZONING - Zoning)

4. The Development Order for these Waivers shall be tied to the Time Limitations of the Development Order for DRO/W-2013-2364. (ONGOING: MONITORING - Zoning)

5. At time of application for a Building Permit, the Property Owner shall provide a copy of this Waiver approval along with copies of the approved Final Site Plan to the Building Division. (BLDG PERMIT: BLDG - Zoning)

LANDSCAPE - PERIMETER - LANDAR DRIVE-ADJACENT TO OUTDOOR USE AREA

1. Landscaping and buffering along Landar Drive, adjacent to the outdoor use area, shall be upgraded to include:

- a. a bougainvillea hedge, or other similar hedge alternative, and shall be planted to provide an opaque screen;
- b. installed at a minimum of four feet in height;
- c. maintained at six feet in height; and,
- d. shall continue north along the west edge of the outdoor use area for a distance of thirty (30) feet. (BLDG PERMIT: LANDSCAPE - Zoning)

USE LIMITATION-OUTDOOR DRIVING AREA

1. Hours of operation for the Outdoor Driving area shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday only. No weekend operation shall be permitted. (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

REQUEST

APPLICATION NO.	CODE SECTION	REQUIRED	PROPOSED	VARIANCE	
W-2013-02239	W.1	3.B.16.E.4.a Outdoor Uses - Residential Setback	200 feet	70 feet	Reduction of 130 feet
	W.2	3.B.16.F PRA Block Building PDRs	300 foot maximum length	360 feet maximum length	Increase of 60 feet
	W.3	3.B.16.F PRA Block Building PDRs	Pedestrian Pass Thru at a minimum of 100 feet and a maximum of 300 feet	Provide a Pedestrian Pass Thru at the entrance of the building	Elimination of Pedestrian Pass Thru
	W.4	3.B.16.F.7.b.1) Streetscape Standards - Streetscape Components	One bench for every 50 linear feet of street frontage	Landar Drive - no benches and no trash receptacles	Landar Drive - eliminate benches and trash receptacles
	W.5	3.B.16.F.8.e Usable Open Space - Dimension	Minimum size 5,000 sq ft; minimum 60 feet in length and minimum 40 feet in width	Usable Open Space 1 - 3,288 sq ft; 86 feet long by 28 feet wide Usable Open Space 2: 890 sq ft; 40 feet long by 22 feet wide	Usable Open Space 1: Reduction of 1,712 sq ft; and reduction of 12 feet in width Open Space 2: Reduction of 4,110 sq ft; reduction on 20 feet in length and reduction of 18 feet in width
	W.6	3.B.16.F.8.e Usable Open Space - Location	No Usable Open Space on a Primary Frontage	Useable Open Space fronting on both a Primary and Secondary Street Frontage	Allow Useable Open Space on a Primary Street Frontage
APPLICANT REQUEST:	to allow a reduction in the required setback for outdoor uses adjacent to residential; to exceed the individual building length; to not provide a Pedestrian Pass Thru; to allow a reduction in the size of the minimum open space; to allow useable open space along the primary frontage, and to elimnate benches and trash receptacles along Landar Drive.				