

RESOLUTION NO. R-2020- 1247

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/CAW-2019-01438
(CONTROL NO. 1973-00039)

a Type 2 Waiver

APPLICATION OF Atlantic Avenue Realty Associates LLC, McDonald's USA, L/C
BY Corporate Property Services, Inc., Dunay, Miskel and Backman, LLP, AGENT
(McDonald's L/C #009-2659 Atlantic and Hagen)

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 (ULDC), Ordinance 2003-067, Supplement 25, have been satisfied;

WHEREAS, Zoning Application ZV/DOA/CAW-2019-01438 was presented to the Board of County Commissioners at a public hearing conducted on August 27, 2020;

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 ZV/DOA/CAW-2019-01438, the Application of Atlantic Avenue Realty Associates LLC, McDonald's USA, L/C, by Corporate Property Services, Inc., Dunay, Miskel and Backman, LLP, Agent, for a Type 2 Waiver to allow 24 Hour Operations for a Non-Residential Use located within 250 feet of a parcel of land with a Residential Future Land Use designation or Use, 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 27, 2020, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

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

Commissioner Dave Kerner, Mayor	- Nay
Commissioner Robert S. Weinroth, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Gregg K. Weiss	- Nay
Commissioner Mary Lou Berger	- Absent
Commissioner Melissa McKinlay	- Absent
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on August 27, 2020.

Filed with the Clerk of the Board of County Commissioners on September 9th, 2020

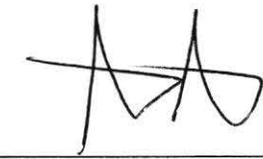
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

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:



DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

THE WEST 184.66 FEET OF THE EAST 402.66 FEET OF THE SOUTH 226.06 FEET OF PARCEL C-1, VILLAGES OF ORIOLE SHOPS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGES 9 AND 10, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 0.958 ACRES MORE OF LESS

EXHIBIT B
VICINITY SKETCH

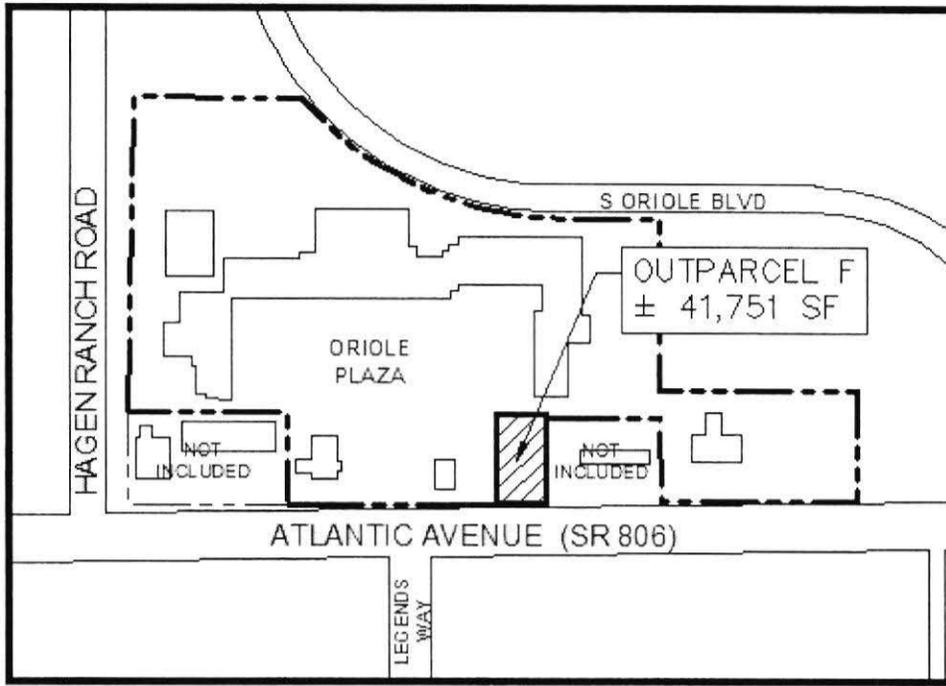


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Waiver

ALL PETITIONS

1. The approved Preliminary Site Plan is dated April 13, 2020. 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)

USE LIMITATIONS

1. Hours of business operation for loading and deliveries shall be limited to 6:00 a.m. to 11:00 p.m. daily. Drive through lanes and interior service may be open twenty-four (24) hours daily. (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

TYPE 2 WAIVER SUMMARY

ULDC Article	Required	Proposed	Waiver
Art. 5.E.5.A Hours of Operation - Proximity to Residential District	Hours of Operation between 6:00 a.m. to 11:00 p.m. for commercial uses within 250 feet of a parcel of land with a Residential Use or FLU designation.	Hours of operation to be 24 hours / 7 days a week	Allow hours of operation from 11:00 p.m. - 6:00 a.m.