

RESOLUTION NO. ZR-2024-008

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/CA-2024-00490
(CONTROL NO. 1984-00053)
TYPE II VARIANCE (CONCURRENT)
APPLICATION OF 600 N. 4th St. Associates, L.P.
BY Urban Design Studio, AGENT
(POLLO CAMPERO RESTAURANT)

WHEREAS, the Zoning Commission, pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), 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/ABN/CA-2024-00490 the Application of 600 N. 4th St. Associates, L.P. by Urban Design Studio, Agent, for a Type 2 Variance to allow a modification to the Compatibility Buffer consisting of a width reduction and utility encroachment on 0.74 acres was presented to the Zoning Commission at a public hearing conducted on October 3, 2024;

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/ABN/CA-2024-00490 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

1. The foregoing recitals are true and correct and are incorporated herein.

2. Zoning Application ZV/ABN/CA-2024-00490, the Application of 600 N. 4th St. Associates, L.P., by Urban Design Studio, Agent, for a Type 2 Variance to allow a modification to the Compatibility Buffer consisting of a width reduction and utility encroachment on 0.74 acres, 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, 2024, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kelley moved for the approval of the Resolution.

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

Cheri Pavlik, Chair	- Aye
John Kern, Vice Chair	- Aye
Michael Kelley	- Aye
Sam Caliendo	- Absent
Lori Vinikoor	- Absent
William Reicherter	- Absent
Alex Brumfield III	- Aye
Susan Kennedy	- Absent
James Williams	- Aye

The Chair thereupon declared the resolution was duly passed and adopted on October 3, 2024.

This resolution was filed with the Palm Beach County Zoning Division on October 3, 2024

This resolution shall only become effective upon the adoption of a resolution approving Zoning Application ZV-ABN-CA-2024-00490 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

A PARCEL OF LAND IN THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF OKEECHOBEE ROAD AND THE EASTERLY RIGHT-OF-WAY LINE OF HAVERHILL ROAD AND RUN THENCE NORTH 1°55'56" EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF HAVERHILL ROAD 200 FEET TO AN IRON PIPE; THENCE SOUTH 88°57'24" EAST 200 FEET TO AN IRON PIPE; THENCE SOUTH 1°55'56" WEST 200 FEET TO AN IRON PIPE ON THE NORTHERLY RIGHT-OF-WAY LINE OKEECHOBEE ROAD; THENCE NORTH 88°57'24" WEST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF OKEECHOBEE ROAD 200 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL OF LAND:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; THENCE NORTH 1°55'56" EAST ALONG THE WEST LINE OF SAID SECTION 24, A DISTANCE OF 81.00 FEET; THENCE SOUTH 88°57'24" EAST, A DISTANCE OF 50.00 FEET TO THE INTERSECTION OF THE EXISTING NORTHERLY RIGHT-OF-WAY LINE OF OKEECHOBEE BOULEVARD AND THE EXISTING EASTERLY RIGHT-OF-WAY LINE OF HAVERHILL ROAD, SAID INTERSECTION BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE FROM THE POINT OF BEGINNING NORTH 1°55'56" EAST ALONG SAID EASTERLY RIGHT-OF-WAY OF HAVERHILL ROAD, A DISTANCE OF 200.00 FEET; THENCE SOUTH 88°57'24" EAST, A DISTANCE OF 14.00 FEET; THENCE SOUTH 1°55'56" WEST, A DISTANCE OF 164.61 FEET; THENCE SOUTH 43°30'44" EAST, A DISTANCE OF 35.63 FEET; THENCE SOUTH 88°57'24" EAST, A DISTANCE OF 160.61 FEET; THENCE SOUTH 1°55'56" WEST, A DISTANCE OF 10.00 FEET; THENCE NORTH 88°57'24" WEST, A DISTANCE OF 200.00 TO THE POINT OF BEGINNING.

AND LESS AND EXCEPT PARCEL 100 UNDER THAT CERTAIN ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 6652, PAGE 157, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL NO. 100: THAT PART OF THE SW 1/4 OF THE SW 1/4 OF THE SW 1/4 OF SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42 EAST IN PALM BEACH COUNTY, FLORIDA, SAID PART BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE FOUND BRASS DISC IN THE NORTHWEST CORNER OF THE SW 1/4 OF SAID SECTION 24, THENCE S 01° 30'33" W ALONG THE WESTERLY SECTION LINE FOR SAID SECTION 24 A DISTANCE OF 2646.00 FEET TO THE BASELINE OF SURVEY FOR OKEECHOBEE BLVD. (S.R. 704); THENCE S 89° 22'26" E ALONG SAID BASELINE OF SURVEY A DISTANCE OF 90.99 FEET; THENCE N 00°37'34" E A DISTANCE OF 70.00 FEET TO THE POINT OF BEGINNING; THENCE N 44°55'46" W A DISTANCE OF 35.63 FEET; THENCE N 01°30'33" E A DISTANCE OF 19.96 FEET; THENCE S 43°55'56" E A DISTANCE OF 44.78 FEET; THENCE S 89°22'26" E A DISTANCE OF 154.00 FEET; THENCE S 01°30'33" W A DISTANCE OF 13.00 FEET; THENCE N 89°22'26" W A DISTANCE OF 160.09 FEET TO THE POINT OF BEGINNING.

DESCRIBED PARCEL CONTAINS 0.744 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

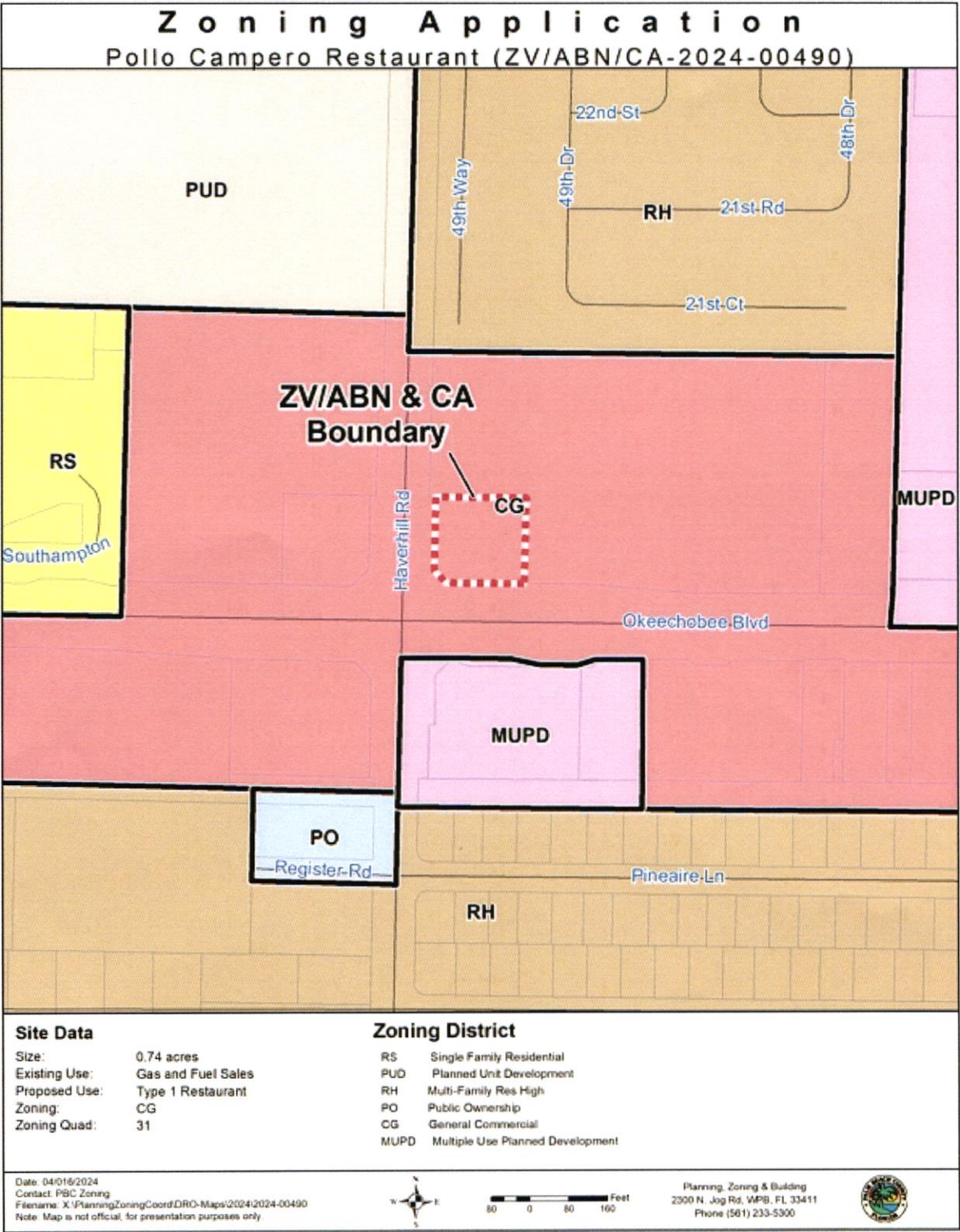


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance – Concurrent on 0.74 acres

VARIANCE

1. This Variance is approved based on the layout for the north Compatibility Buffer as shown on the Preliminary Site Plan dated September 19, 2024. Only minor modifications by Development Review Officer shall be permitted provided the changes are consistent with this variance request. (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: ZONING - Building Division)
3. Prior to the 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)

LANDSCAPING – NORTH PROPERTY LINE

1. At time of application for a building permit, the Landscape Plan shall include details of a root barrier for the landscape material that will be installed within the north five-foot compatibility buffer. The root barrier shall be installed prior to CO. The root barrier will protect the underground utilities that are located within an easement that is depicted in the Survey dated May 16, 2024, and indicated on the adjacent property along the property line. (BLDGPM/CO: ZONING - Zoning)
2. Two canopy trees that are located within the north five-foot compatibility buffer that would be planted in the area of the 44 foot by 2-foot area of an existing utility line subject to this Variance shall be relocated elsewhere on the site. These trees shall be noted on the Landscape Plans at time of building permit. Should the utility line be removed the two trees shall remain within the landscape buffer. (BLDGPM/CO: 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 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

	ULDC Article	Required	Proposed	Variance
V1	Art. 7.C.2.B – Compatibility Buffer (reduction in the width along the north property line);	8 feet	5 feet	3 feet
	Art. 7.C.5 Overlap in landscape buffers and on-site Parking Areas	No encroachment of utilities within a Compatibility buffer	2 foot encroachment for 44 feet in the north Compatibility buffer for overhead power lines	2 foot encroachment for 44 feet in the north Compatibility buffer for overhead power lines
	Art. 7.C.2.B (Table) Compatibility Buffer Landscape Requirements	Trees required at 1 per 25 feet within a Compatibility buffer	relocate two trees from the utility encroachment area of the north Compatibility buffer to elsewhere in the site	relocate two trees from the utility encroachment area of the north Compatibility buffer to elsewhere in the site

SITUS ADDRESS:	4971 Okeechobee Blvd West Palm Beach 33417	
OWNER NAME & ADDRESS:	600 N 4th St Associates, LP 102 NE 2nd St, # 305 Boca Raton, FL 33432-3908	
PCN:	00-42-43-24-00-000-7121	
ZONING DISTRICT:	General Commercial District (CG)	
BCC DISTRICT:	2, Commissioner Gregg K. Weiss	
LAND USE:	Commercial High, with an underlying HR-8 (CH/8)	S/T/R: 24-43-42
CONTROL #:	1984-00053	
LOT AREA:	0.74 acres +/-	
REQUEST:	to allow a reduction in the width of the Compatibility Buffer along the north property line (-3); 2 foot encroachment for 44 feet in the north Compatibility buffer for overhead power lines; and relocate two trees from the utility encroachment area of the north Compatibility buffer to elsewhere in the site on 0.74 acres	