

RESOLUTION NO. ZR-2016-015

RESOLUTION APPROVING ZONING APPLICATION ZV/Z-2014-02333
(CONTROL NO. 1989-00112)
TYPE II VARIANCE (*CONCURRENT*)
APPLICATION OF Pronto Enterprises of PBC Inc, Norberto Calderon
BY Land Research Management, Inc., AGENT
(DOS HERMANOS)

WHEREAS, the Zoning Commission, pursuant to Article 2 (Development Review 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 a request;

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Procedures) of the ULDC have been satisfied;

WHEREAS, Zoning Application ZV/Z-2014-02333 was presented to the Zoning Commission at a public hearing conducted on April 7, 2016;

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 Process) for a Type II 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/Z-2014-02333 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.A.1.K.3 (Board Action) of the ULDC requires that the 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/Z-2014-02333, the Application of Pronto Enterprises of PBC Inc, Norberto Calderon, by Land Research Management, Inc., Agent, for a Type II Variance to allow reductions to the mixed use requirements; reduce the build to line; reduce frontage requirements; eliminate arcade or gallery; width reduction for the right-of-way (ROW) buffers; and, to allow access to the front of the property, on a parcel of land generally described in the legal description as shown 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 April 7, 2016, 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 Caliendo and, upon being put to a vote, the vote was as follows:

| | |
|-------------------------------|----------|
| Mark Beatty, Chair | - Aye |
| Sheri Scarborough, Vice Chair | - Aye |
| Amir Kanel | - Aye |
| Joseph Snider | - Aye |
| William Anderson | - Aye |
| Tinuade Peña | - Absent |
| Alex Brumfield III | - Aye |
| Sam Caliendo | - Aye |
| Robert Currie | - Aye |

Filed with the Palm Beach County Zoning Division on June 17, 2016.

This resolution shall not become effective unless or until the effective date of the resolution approving Zoning Application No. ZV/Z-2014-02333 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

LOTS 16, 17, 18, 19, 24, 25, 26, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59 AND 60, BLOCK 27 OF WEST GATE ESTATES (NORTHERN SECTION) ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 8, PAGE 38 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS AND EXCEPT THAT PORTION OF LOT 60, CONVEYED TO PALM BEACH COUNTY FOR RIGHT OF WAY CONTAINED IN OFFICIAL RECORDS BOOK 7220, PAGE 652, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 77,716.36 SQUARE FEET, 1.78 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

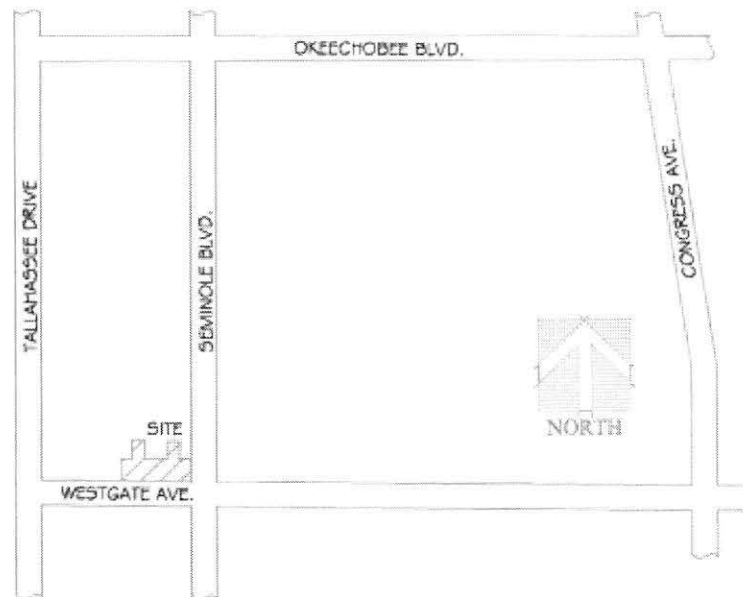


EXHIBIT C

CONDITIONS OF APPROVAL

Type II Variance – Concurrent

V1 (Min % Mixed Use), **V2** (Front and Side Build-to line), **V3** (Min Frontage 1st floor Westgate), **V-4** (Min Frontage 2nd floor Westgate), **V5** (Arcades and Galleries), **V9** (Right of way Buffer reduction Seminole Blvd) and **V10** (Rear Driveway Access).

ALL PETITIONS

1. The approved Preliminary Site Plan is dated February 11, 2016, and the Preliminary Regulating Plan is dated December 28, 2015. 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)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for Buildings #1 and #2 shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the architectural guidelines as indicated in the Westgate Community Redevelopment Area Overlay (WCRAO) , and in Article 5.C of the Unified Land Development Code (ULDC). Development shall be consistent with the approved DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

VARIANCE

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. The Development Order for this Variance shall be tied to the Time Limitations of the Development Order for Application Number ZV/Z-2014-02333. (ONGOING: MONITORING - Zoning)

3. 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)

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; 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.B/14-E WCRAO Mixed Uses in NC Sub-area | 25% minimum (min.) for residential and 75% maximum (max.) for non-residential uses | 20% residential, and 80% non-residential | -5% residential, and +5% non-residential |
| V2 | Table 3.B.14.F WCRAO Sub-area PDR's Build-to Line | 10 ft. front and side street build-to line for NC subarea | 15.1 ft. front and side street setback | -5.1 ft |
| V3 | Table 3.B.14.F WCRAO Sub-area PDR's, Frontage (Westgate Ave.) | 80% min. building frontage | 46% building frontage | -34% |
| V4 | Table 3.B.14.F WCRAO Sub-area PDR's, Frontage (Westgate 2 nd level) | 80% min. building frontage | 13.7% building frontage for 2 nd level | -66.3% |
| V5 | Table 3.B.14-G Arcade and Galleries | Arcades and galleries are required on Westgate Ave. in NC sub-area | No Arcade or Gallery | No Arcade or Gallery |
| V9 | Table 7.F.7.A - ROW Buffer (Seminole Blvd.) | 20 ft. width of ROW buffer with 50% reduction is 10 ft. minimum allowable | 7.5 ft. ROW buffer at Seminole Ave. | -2.5 ROW buffer at Seminole Ave. |
| V10 | Table 3.B.14.G WCRAO Supplementary Standards - Driveway | Rear driveway access only when there is rear frontage | Front driveway access | Front driveway access |

| | | |
|-----------------------|---|-----------------|
| SITUS ADDRESS: | 2706 Cherokee Ave West Palm Beach 33409 2727 Westgate Ave West Palm Beach 33409 3611 Westgate Ave West Palm Beach 33409 2717 Westgate Ave West Palm Beach 33409 2715 Westgate Ave West Palm Beach 33409 | |
| OWNER NAME & ADDRESS: | Norberto Calderon, Enterprises Pronto, Pronto Enterprises Of Palm Beach Inc., Pronto Enterprizes of PBC Inc. 6765 Escondida West Palm Beach, FL 33406-5214 | |
| PCN: | 00-43-43-30-03-027-0240, 00-43-43-30-03-027-0410, 00-43-43-30-03-027-0440, 00-43-43-30-03-027-0460, 00-43-43-30-03-027-0510, 00-43-43-30-03-027-0530, 00-43-43-30-03-027-0160. | |
| ZONING DISTRICT: | General Commercial District (CG) | |
| BCC DISTRICT: | 7 | |
| PROJECT MANAGER: | Melissa Matos, Senior Site Planner | |
| LAND USE: | Commercial High, with an underlying HR-8 (CH/8) | S/T/R: 30-43-43 |
| CONTROL #: | 1989-00112 | |
| LOT AREA: | 1.79 acres +/- | |
| APPLICANT REQUEST: | to allow reductions to the mixed use requirements; reduce the build to line; reduce frontage requirements; eliminate arcade or gallery; width reduction for the right-of-way (ROW) buffer; and, to allow access to the front of the property. | |