

RESOLUTION NO. ZR-2020-00022

RESOLUTION APPROVING ZONING APPLICATION ZV/PDD/CAW-2019-02321
(CONTROL NO. 2008-00339)
TYPE 2 VARIANCE (CONCURRENT)
APPLICATION OF Partners Smigiel
BY Urban Design Kilday Studios, AGENT
(WEST BOYNTON CENTER)

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/PDD/CAW-2019-02321 was presented to the Zoning Commission at a public hearing conducted on July 2, 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, this approval shall only become effective upon the adoption of a resolution approving Zoning Application ZV/PDD/CAW-2019-02321 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 Zoning Application ZV/PDD/CAW-2019-02321, the Application of Smigiel Partners, by Urban Design Kilday Studios, Agent, for a Type 2 Variance to eliminate the requirement for a loading space to be adjacent to the structure it serves, 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 July 2, 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	- Absent
Mark Beatty	- Yes
Jess Sowards	- Yes

Filed with the Palm Beach County Zoning Division on 7/29/2020.

This resolution shall not become effective unless or until the effective date of the resolution approving Zoning Application No. ZV/PDD/CAW-2019-02321 by the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY

BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

DESCRIPTION:

THE EAST ONE-HALF (E 1/2) OF TRACT 117 AND ALL OF TRACT 118, BLOCK 50, PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS THE SOUTH THIRTY FEET (S 30') OF SAID TRACTS AS CONVEYED TO THE COUNTY OF PALM BEACH FOR ROAD PURPOSES IN DEED RECORDED IN OFFICIAL RECORDS BOOK 158, PAGE 76; AND

LESS THE FOLLOWING AS DESCRIBED IN ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 6366, PAGE 721:

A PORTION OF TRACTS 117 AND 118, BLOCK 50, PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING AND BEING IN SECTION 20, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE FOUND 1/2" REROD MARKING THE INTERSECTION OF THE BASELINE OF SURVEY FOR BOYNTON BEACH BOULEVARD (S.R. 804) AND THE BASELINE OF SURVEY FOR ACME DAIRY ROAD SOUTH; THENCE S 89°26'12" W ALONG THE SAID BASELINE OF SURVEY FOR BOYNTON BEACH BOULEVARD (S.R. 804), A DISTANCE OF 66.53 FEET; THENCE N 00°33'48" W, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING; THENCE ALONG A LINE 60 FEET NORTH OF, AS MEASURED AT RIGHT ANGLES TO THE SAID BASELINE OF SURVEY FOR BOYNTON BEACH BOULEVARD (S.R. 804) S 89°26'12" W, A DISTANCE OF 443.48 FEET; THENCE S 00°33'48" E, A DISTANCE OF 20.00 FEET TO A POINT ON A LINE 40 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE SAID BASELINE OF BOYNTON BEACH BOULEVARD; THENCE N 89°26'12" E ALONG SAID LINE, A DISTANCE OF 495.23 FEET; THENCE N 00°33'48" W, A DISTANCE OF 144.00 FEET; THENCE S 89°26'12" W, A DISTANCE OF 25.00 FEET; THENCE S 00°33'48" E, A DISTANCE OF 98.00 FEET; THENCE S 45°15'04" W, A DISTANCE OF 37.30 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 298,508 SQUARE FEET/6.8528 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B
VICINITY SKETCH

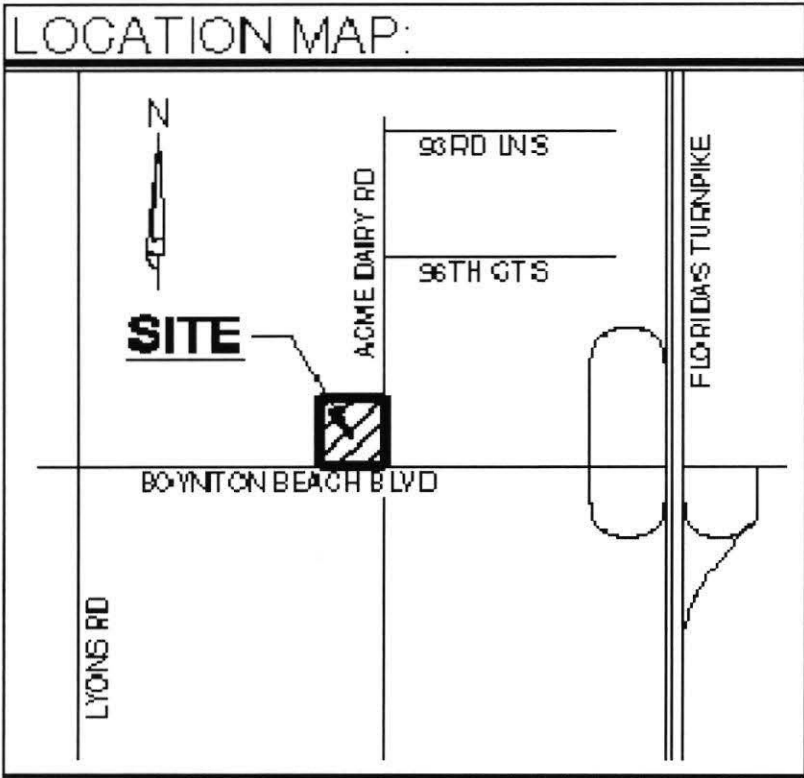


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 26, 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)
2. The Development Order for this Concurrent Variance shall be tied to the Time Limitations of the Development Order for ZV/PDD/CAW-2019-02321. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (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)

LANDSCAPE - INTERIOR

1. A minimum four (4) foot wide pedestrian walkway paved of precast paving blocks, stamped concrete or other decorative surface shall be provided connecting Building 3 to the loading area. (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 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 2 VARIANCE SUMMARY

ULDC Article	Required	Proposed	Variance
6.B.1.C.2 Parking, Loading Standards, Location, Loading Areas	A loading space shall be adjacent to the structure it serves. (Building 3)	To eliminate the requirement for a loading space to be adjacent to the structure it serves	To eliminate the requirement for a loading space to be adjacent to the structure it serves. (-75 feet)