

RESOLUTION NO. ZR-2020- 028

RESOLUTION APPROVING ZONING APPLICATION ZV/CA-2019-00294
(CONTROL NO. 1985-00122)
TYPE 2 VARIANCE (*CONCURRENT*)
APPLICATION OF Hypoluxo Plaza II LLC, Sidhdhi Desai
BY Schmidt Nichols, AGENT
(RIDGELINE DUNKIN)

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 No. 25, 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/CA-2019-00294 was presented to the Zoning Commission at a public hearing conducted on August 6, 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/CA-2019-00294 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/CA-2019-00294, the Application of Hypoluxo Plaza II LLC, Sidhdhi Desai, by Schmidt Nichols, Agent, for a Type 2 Variance to eliminate the requirement for frontage, and to reduce the minimum lot size and depth, 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 6, 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 Kern moved for the approval of the

Resolution.

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


Sheri Scarborough, Chair	- Yes
Sam Caliendo, Vice Chair	- Absent
Amir Kanel	- Yes
John Kern	- Yes
Michael Kelley	- Yes
Marcelle Griffith Burke	- Yes
Alex Brumfield III	- Yes
Mark Beatty	- Yes
Jess Sowards	- Yes

Filed with the Palm Beach County Zoning Division on September 3, 2020.

This resolution shall not become effective unless or until the effective date of the resolution approving Zoning Application No. ZV/CA-2019-00294 by the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
for COUNTY ATTORNEY
Asst. County Attorney Scott Stone


BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

COMMENCING AT THE NORTHWEST CORNER OF SECTION 9, TOWNSHIP 45 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 88°53'16" EAST ALONG THE NORTH LINE OF SECTION 9, SAID LINE ALSO BEING THE CENTERLINE OF HYPOLUXO ROAD AS SHOWN ON THE RIGHT-OF-WAY MAP OF S.R. NO. 9 (I-95), SECTION 03220-2412, AND ALL BEARINGS STATED HEREIN ARE RELATIVE TO SAID RIGHT-OF-WAY MAP, 200.2 FEET; THENCE SOUTH 02°15'15" WEST ALONG A LINE THAT IS 200.16 FEET EAST OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE WEST LINE OF SAID SECTION 9, SAID WEST LINE ALSO BEING THE CENTERLINE OF HIGH RIDGE ROAD, 53.01 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 02°15'15" WEST, 137.00 FEET; THENCE SOUTH 88°53'16" EAST, PARALLEL WITH THE NORTH LINE OF SAID SECTION 9, 150.00 FEET; THENCE NORTH 02°15'15" EAST, PARALLEL WITH THE WEST LINE OF SAID SECTION 9, 134.95 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF HYPOLUXO ROAD, THENCE NORTH 81°51'25" WEST ALONG SAID RIGHT-OF-WAY LINE OF 16.75 FEET OF A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF HYPOLUXO ROAD, SAID LINE BEING 53.00 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE NORTH LINE OF SAID SECTION 9, THENCE NORTH 88°53'16" WEST CONTINUING ALONG SAID RIGHT-OF-WAY LINE, 133.33 FEET TO THE POINT OF BEGINNING LESS THAT PORTION OF THE NORTH 54.00 FEET OF SECTION 9, TOWNSHIP 45 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA.

CONTAINING AREA: 20391.44 SQ. FT. OR 0.468 ACRES

EXHIBIT B
VICINITY SKETCH

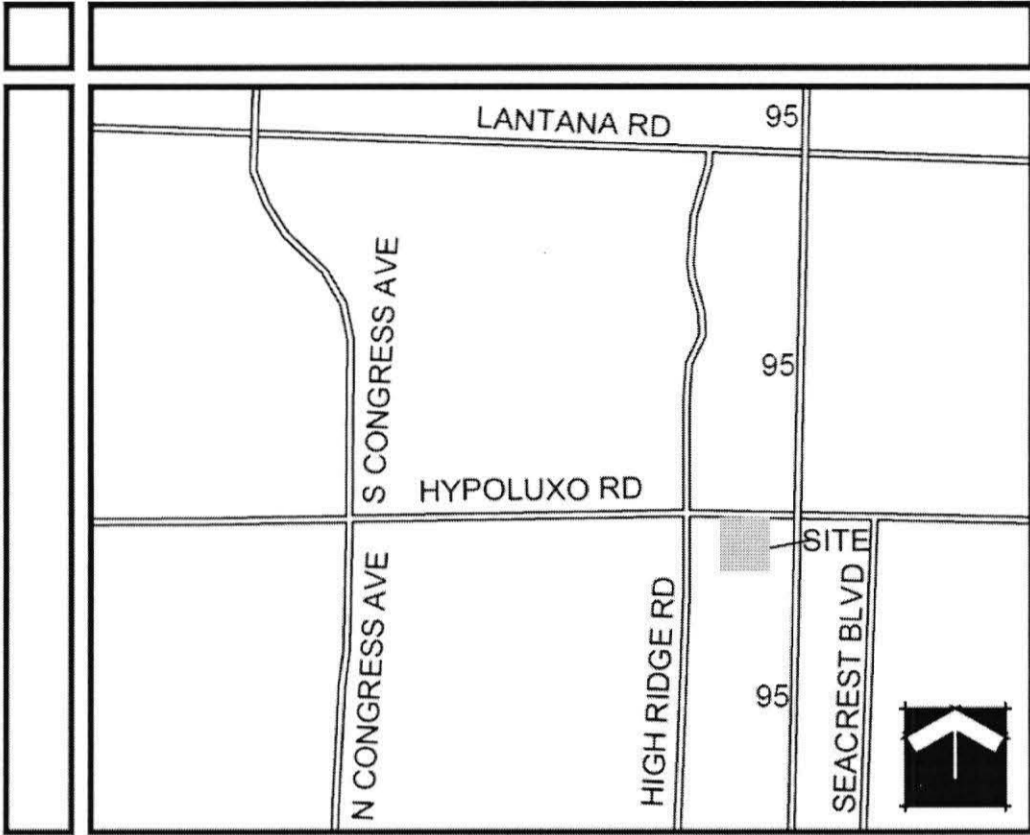


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance - Concurrent

VARIANCE

1. This Variance is approved based on the layout as shown on the Preliminary Site Plan dated June 22, 2020. Only minor modifications by the Zoning Commission or Development Review Officer shall be permitted provided the changes are consistent with this Preliminary Site Plan. (ONGOING: CODE ENF - 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 - Zoning)
3. Prior to Final Site Plan Approval by the Development Review Officer, the approved Variance(s) shall be shown on the Final Site Plan. (DRO: ZONING - Zoning)
4. Prior to Final Approval by the Development Review Officer, the Property Owner shall record a Cross Access Agreement, in a form and manner acceptable to the County Attorney's office, with the abutting property to the west (Control No. 1990-00015) to provide access to Hypoluxo and High Ridge Roads. (DRO: ZONING - Zoning)
5. Prior to or concurrent with Final Site Plan Approval by the Development Review Officer, the Site Plan for the westerly adjacent gas station property (Control No. 1990-00015) shall be amended to identify the cross access between the two properties. (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
V.1	Table 3.D.1.A, Property Development Regulations - Lot Depth	200 ft.	129.00 ft.	-71.00 ft.
V.2	Table 3.D.1.A, Property Development Regulations - Lot Area	1 acre	0.44 acres	-0.56 acres
V.3	Table 3.D.1.A, Property Development Regulations - Lot Frontage	100 ft.	No Frontage (cross access to Hypoluxo and High Ridge Roads, through development to the west)	-100 ft.