

RESOLUTION NO. ZR-2020-030

RESOLUTION APPROVING ZONING APPLICATION ZV-2020-00792

CONTROL NO. 2019-00175

TYPE 2 VARIANCE (*STAND ALONE*)

APPLICATION OF Concert Fountains Properties, LLC

BY WGINC, AGENT

(LAKESHORE AT THE FOUNTAINS)

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 27, 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-2020-00792 was presented to the Zoning Commission at a public hearing conducted on September 3, 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, 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-2020-00792, the Application of Concert Fountains Properties, LLC, by WGINC, Agent, for a Type 2 Variance to reduce the setback for an existing wall in a Landscape Buffer; reduce the planting width on the exterior side of the wall, and to eliminate or reduce the percentage of canopy trees required along the exterior side of the wall, 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 September 3, 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 Beatty 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	-	Absent
Michael Kelley	-	Yes
Marcelle Griffith Burke	-	Yes
Alex Brumfield III	-	Yes
Mark Beatty	-	Yes
Jess Sowards	-	Yes

The Chair thereupon declared the resolution was duly passed and adopted on September 3, 2020.

This resolution is effective when filed with the Palm Beach County Zoning Division on September 23, 2020.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY


BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN SECTION 27 AND 28, TOWNSHIP 44 SOUTH, RANGE 42 EAST, ALSO, BEING A PORTION OF THE GOLF COURSE TRACT, PLAT NO. 3, PALM BEACH GOLF CLUB ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 29, PAGE 107, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 27, THENCE N. 00°58'02" E. ALONG THE EAST LINE OF THE WEST HALF OF SAID SECTION 27 FOR 3399.71 FEET; THENCE S. 89°02'02" W. FOR 582.50 FEET; THENCE N. 00°57'58" W. FOR 1005.00 FEET; THENCE S. 89°02'02" W. FOR 330.00 FEET; THENCE N. 00°57'58" W. FOR 260.00 FEET; THENCE S. 89°02'02" W. ALONG THE SOUTH RIGHT OF WAY OF THE LAKE WORTH DRAINAGE DISTRICT L-12 CANAL FOR 1350.00 FEET TO THE POINT OF BEGINNING, AND A POINT ON THE WEST RIGHT OF WAY LINE OF GOLF CLUB DRIVE, PALM BEACH GOLF CLUB ESTATES PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 29, PAGE 23, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID POINT ALSO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 362.79 FEET AND A CENTRAL ANGLE OF 51°23'21" FROM WHICH THE RADIUS POINT BEARS S. 89°02'03" E., THENCE LEFT ALONG SAID CURVE AND ALONG THE SAID WEST RIGHT OF WAY LINE FOR AN ARC LENGTH OF 325.39 FEET, SAID CURVE HAVING A CHORD BEARING OF S. 26°39'38" E.; THENCE CONTINUE ALONG SAID WEST RIGHT OF WAY LINE S. 52°21'18" E. FOR 12.74 FEET; THENCE CONTINUE ALONG SAID WEST RIGHT OF WAY LINE AND ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1001.74 FEET AND A CENTRAL ANGLE OF 66°58'54" FOR AN ARC LENGTH OF 1171.08 FEET, SAID CURVE HAVING A CHORD BEARING OF S. 18°51'51" E.; THENCE CONTINUE ALONG SAID WEST RIGHT OF WAY LINE S. 14°37'36" W. FOR 385.07 FEET; THE NEXT 13 COURSES ARE ALONG THE BOUNDARY OF TRACT 6, SAID PLAT NO. 3, PALM BEACH GOLF CLUB ESTATES, THENCE N. 88°25'13" W. FOR 97.68 FEET; THENCE N. 08°23'51" W. FOR 115.97 FEET; THENCE N. 70°24'36" W. FOR 93.33 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING RADIUS OF 220.00 FEET AND A CENTRAL ANGLE OF 57° 19' 48" FOR AN ARC LENGTH OF 220.13 FEET, SAID CURVE HAVING A CHORD BEARING OF N. 41°44'42" W.; THENCE N. 13° 04'48" W. FOR 227.95 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 220.00 FEET AND A CENTRAL ANGLE OF 35°49'52" FOR AN ARC LENGTH OF 137.58 FEET, SAID CURVE HAVING A CHORD BEARING OF N. 30°59'44" W; THENCE N. 48°54'40" W. FOR 153.53 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 130°15'54" FOR AN ARC LENGTH OF 227.36 FEET, SAID CURVE HAVING A CHORD BEARING OF S. 65°57'23" W; THENCE S. 00°49'26" W. FOR 264.48 FEET; THENCE S. 07°06'12" E. FOR 313.91 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 300.00 FEET AND A CENTRAL ANGLE OF 54°16'30" FOR AN ARC LENGTH OF 284.18 FEET, SAID CURVE HAVING A CHORD BEARING OF S. 34°14'27" E.; THENCE S. 61°22'42" E. FOR 524.70 FEET; THENCE S. 44°39'17" E. FOR 105.97 FEET; TO THE BEGINNING POINT OF A CURVE TO THE LEFT HAVING A RADIUS OF 803.94 FEET AND A CENTRAL ANGLE OF 03°57'46" FROM WHICH THE RADIUS POINT BEARS N. 76°33'05" E., THENCE LEFT ALONG SAID CURVE FOR AN ARC LENGTH OF 55.60 FEET, SAID CURVE HAVING A CHORD BEARING OF S. 15°25'48" E.; THENCE S. 69°13'53" W. ALONG THE NORTH LINE OF TRACT 1A, PLAT NO. 2A PALM BEACH GOLF CLUB ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 29, PAGE 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA FOR 40.66 FEET; THENCE N. 21°21'00" W. FOR 19.19 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 132.00 AND A CENTRAL ANGLE OF 46°29'00" FOR AN ARC LENGTH OF 107.09 FEET, SAID CURVE HAVING A CHORD BEARING OF N. 44°35'30" W.; THENCE N. 67°50'00" W. FOR 158.00 FEET; THENCE N. 72°35'40" W. FOR 86.00 FEET; THENCE N. 75°58'00" W. FOR 104.00 FEET; THENCE S. 88°54'34" W. FOR 83.00 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 237.00 FEET AND A CENTRAL ANGLE OF 19°07'00" FOR AN ARC LENGTH OF 79.07 FEET, SAID CURVE HAVING A CHORD BEARING OF N. 81°31'56" W.; THENCE N. 71°58'26" W. FOR 5.00 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 215.00 FEET AND A CENTRAL ANGLE OF 16°18'00" FOR AN ARC LENGTH OF 61.17 FEET, SAID CURVE HAVING A

CHORD BEARING OF N. 80°07'26" W.; THENCE N. 88°16'26" W. FOR 11.00 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 185.00 FEET AND A CENTRAL ANGLE OF 22°08'00" FOR AN ARC LENGTH OF 71.47 FEET, SAID CURVE HAVING A CHORD BEARING OF N. 77°12'26" W; THENCE N. 66°08'26" W. FOR 75.00 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 162.62 FEET AND A CENTRAL ANGLE OF 24°49'32" FOR AN ARC LENGTH OF 70.46 FEET, SAID CURVE HAVING A CHORD BEARING OF N. 78°33'12" W; THENCE S. 89°02'02" W. FOR 111.34 FEET; THENCE N. 00°57'58" W. ALONG THE WESTERLY LINE OF THE GOLF COURSE TRACT, SAID PLAT NO. 3, PALM BEACH GOLF COURSE ESTATES, FOR 1210.00 FEET; THENCE S. 89°02'02" W. FOR 135.00 FEET; THENCE N. 00°57'58" W. FOR 140.00 FEET; THENCE N. 89°02'02" E. FOR 465.00 FEET; THENCE N. 00°57'58" W. FOR 590.00 FEET; THENCE N. 89°02'02" E. FOR 300.00 FEET, TO THE OF BEGINNING.

THE AREA BEING 1397304.490 SQ.FT. OR 32.078 ACRES MORE OR LESS.

EXHIBIT B

VICINITY SKETCH



EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance - Standalone

ALL PETITIONS

1. The approved Preliminary Subdivision Plan is dated July 27, 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 Zoning Commission (ONGOING: ZONING - Zoning)

VARIANCE

1. 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. (BLDGPMPT: BUILDING DIVISION - Zoning)

2. The Development Order for this Standalone Variance shall be tied to the Time Limitations of the Development Order for DRO-2019-01278, Control No. 2019-00175. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)

LANDSCAPE - PERIMETER-PERIMETER LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING LAKE WORTH ROAD)

1. Prior to the issuance of any Building Permits, the Property Owner shall submit a revised Tree Disposition for review and approval by the Landscape Section. The Tree Disposition shall indicate the location and disposition of the four Date Palms on the exterior side of the concrete wall in the Right-of-Way Buffer. (BLDGPMPT: ZONING - Zoning)

2. In the event the four Date Palms referenced in Landscape Condition 1 require removal, they shall be relocated within the same buffer; or replaced with a tree of the same height and species within the same buffer. (BLDGPMPT/ONGOING: ZONING - Zoning)

3. Concurrent with the submittal for Building Permits, the Property Owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related Conditions of Approval as contained herein and shall include a detailed cross section of the R-O-W Buffer where the existing walls and existing trees and shrubs are located. (BLDGPMPT: 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 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)

EXHIBIT D

TYPE 2 VARIANCE SUMMARY

ULDC CODE SECTION	#	REQUIRED	PROPOSED	VARIANCE
Table 7.D.4.D, Requirements for a Wall or Fence in a Landscape Buffer	V.1	Setback for the Wall or Fence: 10 feet from the edge of the Base Building Line	2 feet from the edge of the Base Building Line	- 8 feet
	V.2	Planting Width: 7.5 feet on both sides of the wall, or 10 feet if a continuous footer is used	2 foot planting width on the exterior side of the wall	- 5.5 feet
	V.3	Canopy Tree Planting: 75% of required trees shall be located along the exterior side of the wall or fence	Required trees to be located along the interior side of the wall only	No trees along exterior side of wall if existing trees are required to be removed by L.W.D.D.*
*Removal of the existing trees would be subject to Landscape Conditions 1 & 2.				