

RESOLUTION NO. ZR-2021- 002

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2020-00786

(CONTROL NO. 1975-00156)

TYPE 2 VARIANCE (*CONCURRENT*)

APPLICATION OF West Palm Realty Associates, LLC

BY Urban Design Studio, AGENT

(CROSSTOWN PLAZA)

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 as amended 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/DOA-2020-00786 was presented to the Zoning Commission at a public hearing conducted on January 7, 2021;

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/DOA 2020-00786 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/DOA-2020-00786, the Application of West Palm Realty Associates, LLC, by Urban Design Studio, Agent, for a Type 2 Variance to allow more than five feet easement overlap of a Right-of-Way and an Incompatibility Buffer; and, to reduce the width of and eliminate a six-foot high opaque wall in a Type 3 Incompatibility Buffer, 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 January 7, 2021, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Brumfield moved for the approval of the Resolution.

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

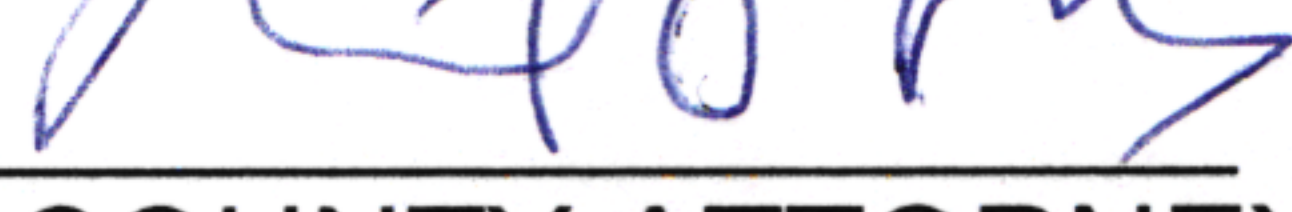
Sheri Scarborough, Chair	- Yes
Sam Caliendo, Vice Chair	Yes
Amir Kanel	- Yes
John Kern	- Absent
Michael Kelley	- Yes
Marcelle Griffith Burke	- Yes
Alex Brumfield III	- Yes
Mark Beatty	- Yes
Jess Sowards	- Yes

This resolution shall only become effective upon the adoption of a resolution approving Zoning Application ZV/DOA-2020-00786 by the Board of County Commissioners.

This resolution is effective when filed with the Palm Beach County Zoning Division on January 7, 2021.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY

BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED IN SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ONE QUARTER CORNER OF SAID SECTION 24, THENCE SOUTH $00^{\circ} 00' 23''$ WEST ALONG THE NORTH-SOUTH QUARTER SECTION LINE A DISTANCE OF 95.04 FEET; THENCE NORTH $89^{\circ} 59' 37''$ WEST A DISTANCE OF 59.64 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF MILITARY TRAIL, SAID POINT ALSO BEING A POINT ON A CURVE, THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, CONCAVE TO THE EAST, HAVING A RADIUS OF 57,355.78 FEET, SUBTENDED BY A CENTRAL ANGLE OF $0^{\circ} 01' 19''$ FOR AN ARC DISTANCE OF 22.06 AND A CHORD BEARING OF SOUTH $01^{\circ} 34' 48''$ WEST TO THE POINT OF BEGINNING.

THENCE NORTH $43^{\circ} 30' 02''$ WEST A DISTANCE OF 52.43 FEET; THENCE NORTH $88^{\circ} 34' 20''$ WEST A DISTANCE OF 405.62 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 1949.86 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, SUBTENDING A CENTRAL ANGLE OF $10^{\circ} 20' 30''$, A DISTANCE OF 351.94 FEET TO THE END OF SAID CURVE; THENCE NORTH $78^{\circ} 13' 50''$ WEST A DISTANCE OF 100.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 1869.86 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, SUBTENDING A CENTRAL ANGLE OF $10^{\circ} 20' 30''$, A DISTANCE OF 337.50 FEET TO THE END OF SAID CURVE; THENCE NORTH $88^{\circ} 34' 20''$ WEST A DISTANCE OF 56.87 FEET, THE LAST SIX (6) COURSES BEING COINCIDENT WITH THE SOUTH RIGHT OF WAY LINE OF S.W. 12TH STREET (OFFICIAL RECORDS BOOK 2535, PAGE 1520); THENCE SOUTH $01^{\circ} 27' 04''$ WEST A DISTANCE OF 664.61 FEET; THENCE SOUTH $88^{\circ} 34' 34''$ EAST A DISTANCE OF 1283.96 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY OF MILITARY TRAIL; THENCE NORTH $01^{\circ} 23' 20''$ EAST A DISTANCE OF 161.76 FEET; THENCE NORTH $88^{\circ} 38' 29''$ WEST, FOR A DISTANCE OF 12.00 FEET; THENCE NORTH $01^{\circ} 21' 31''$ EAST FOR A DISTANCE OF 202.39 FEET TO A POINT ON A CURVE; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 57,367.90, SUBTENDED BY A CENTRAL ANGLE OF $0^{\circ} 05' 25''$ AND AN ARC LENGTH OF 90.39 FEET; THENCE NORTH $15^{\circ} 13' 17''$ EAST FOR A DISTANCE OF 51.25 FEET TO A POINT ON A CURVE; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 57,355.78 FEET, SUBTENDED BY A CENTRAL ANGLE OF $00^{\circ} 02' 35''$ AND AN ARC LENGTH OF 42.98 FEET WITH A CHORD BEARING OF NORTH $01^{\circ} 24' 14''$ EAST TO THE POINT OF BEGINNING.

BEING ALL OF THE LANDS ENCOMPASSED BY THE PLAT OF CROSSTOWN PLAZA, A P.C.D., AS RECORDED IN PLAT BOOK 55, PAGE 117, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THOSE CERTAIN PARCELS SET FORTH IN THE AMENDED ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 12685, PAGE 23, AND RE-RECORDED IN OFFICIAL RECORDS BOOK 12837, PAGE 103, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 781,420 SQUARE FEET OR 17.94 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

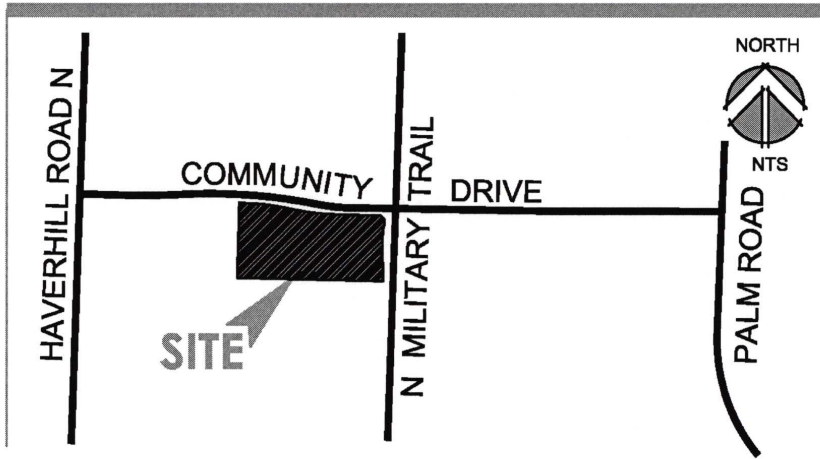


EXHIBIT C
CONDITIONS OF APPROVAL

Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Preliminary Site Plan is dated November 9, 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)

LANDSCAPE - INTERIOR-FOUNDATION PLANTING ALONG THE WEST SIDE OF BUILDING N

1. Prior to Final Approval by the Development Review Officer, the Final Site Plan shall be revised to provide foundation planting on the west facade of Building N. The foundation planting material shall be provided as follows:

- a. eight feet minimum width, for a minimum 50 percent of the facade;
- b. Tree, Palms or Pine: 1 per 20 linear feet of the length of the foundation planting area;
- d. shrub or groundcover: 1 per 10 square feet of foundation planting area; and,
- e. No width reduction or easement overlap shall be permitted.

(DRO: ZONING - Zoning)

LANDSCAPE - INTERIOR-FOUNDATION PLANTING ALONG THE NORTH SIDE OF BUILDING N (FRONTING COMMUNITY DRIVE)

2. In addition to the Code requirements, prior to Final Approval by the Development Review Officer, the Final Site Plan shall be revised to provide foundation planting along 75 percent of the north facade of the 9,000 square feet Building N, with a minimum eight feet width. No width reduction or easement overlap shall be permitted. (DRO: ZONING - Zoning)

LANDSCAPE - PERIMETER- LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING COMMUNITY DRIVE - AFFECTED AREA ONLY)

3. Prior to Final Site Plan approval by the Development Review Officer, the Property Owner shall obtain consent from the utility easement holder(s) to provide additional planting within the 15 feet wide Right-of-Way (R-O-W) Buffer or expand the buffer into the 35 feet-wide Planting Area (PA), exclusive of easements, as indicated on the Preliminary Site Plan dated November 9, 2020. (DRO: ZONING - Zoning)

LANDSCAPE - PERIMETER- LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING COMMUNITY DRIVE - AFFECTED AREA ONLY)

4. The Property Owner shall preserve the existing Crape Myrtles as indicated on the Preliminary Regulating Plan dated December 8, 2020. The Crape Myrtles may be relocated within the same buffer in the event repair or maintenance of the existing utilities conflicts with their location, subject to the Vegetation Removal and Replacement Permit process. (BLDGPM: ZONING - Zoning)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL - AFFECTED AREA ONLY)

5. Prior to Final Site Plan approval by the Development Review Officer, the Final Regulating Plan dated December 8, 2020 shall be revised to show

- a. one (1) six (6) feet high opaque hedge to be installed and maintained at six (6) feet high and spaced no more than forty-eight (48) inches apart;
- b. one (1) row of medium shrubs, 1 per 4 linear feet;
- c. one (1) row of small shrubs, 1 per 2 linear feet;
- d. one (1) palm or pine tree per thirty (30) linear feet;
- e. one (1) canopy tree per twenty (20) linear feet;

- f. Vegetation planted within the FP&L easement with overhead utilities shall comply with planting and maintenance requirements in FP&L's publication, "Right Tree, Right Place"; and,
- g. Vegetation planted within the drainage easement shall be the perpetual maintenance obligation of the Property Owner, its successors and assigns in conjunction with the care and maintenance of the drainage facilities as indicated on Plat Book 55, Page 117. (DRO/ONGOING: 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

TYPE 2 VARIANCE SUMMARY

V#	ULDC Article	Required	Proposed	Variance
V1	Table 7.C.2.C.3 Incompatibility Buffer Landscape Requirements	a 20 feet wide Type 3 Incompatibility Buffer.	10 feet along the west property line of the affected area.	-10 feet
V2		a six feet high opaque wall in a Type 3 Incompatibility Buffer.	No wall along the west property line of the affected area.	100 percent
V3	7.C.5.A Overlap in R-O-W and Incompatibility Buffers	An easement, private utilities without an easement, drainage area, or a combination thereof may be permitted to overlap by a maximum of five feet, provided there are no Conditions of Approval that prohibit width reduction or easement encroachment into the landscape buffer.	More than five feet easement overlap of the R-O-W and Type 3 Incompatibility Buffer within the affected area along the west property line of the affected area.	Up to 100 percent