

RESOLUTION NO. ZR-2021- 003

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/CA-2020-01103

(CONTROL NO. 1979-00226)

TYPE 2 VARIANCE (*CONCURRENT*)

APPLICATION OF WH Cleary, LLC, Palm Beach County

BY Urban Design Studio, AGENT

(HEMSTREET PARK)

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/ABN/CA-2020-01103 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/ABN/CA-2020-01103 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/ABN/CA-2020-01103, the Application of WH Cleary, LLC, Palm Beach County, by Urban Design Studio, Agent, for a Type 2 Variance to allow storage of material and activities outside of an enclosed building, 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

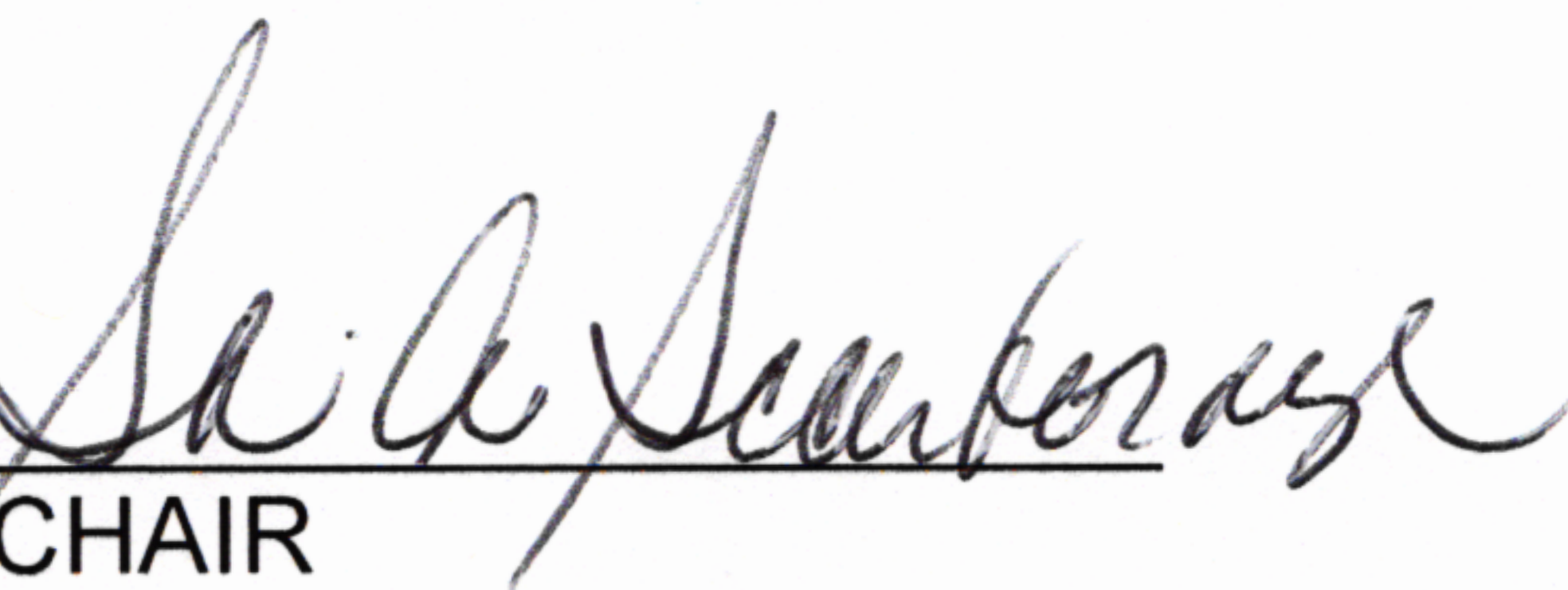
This resolution shall only become effective upon the adoption of a resolution approving Zoning Application ZV/ABN/CA-2020-01103 by the Board of County Commissioners.

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

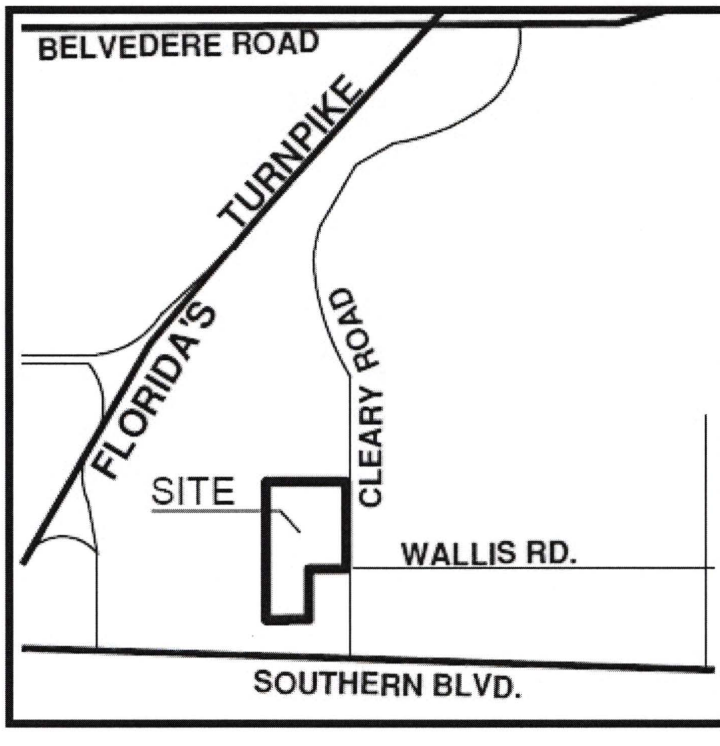
### LEGAL DESCRIPTION

ALL OF THE PLAT OF HEMSTREET PARK LESS THE EAST 5 FEET, AS RECORDED IN PLAT BOOK 42, PAGE 104 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TOGETHER WITH A PORTION OF THE 30.00 FOOT WIDE RIGHT-OF-WAY OF WALLIS ROAD, PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TOGETHER WITH A PORTION OF THE EAST 315 FEET OF THE WEST 675 FEET OF TRACT 37, BLOCK 6, PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 6 OF SAID PLAT OF HEMSTREET PARK; THENCE ALONG THE NORTHERLY LINE OF SAID PLAT OF HEMSTREET PARK, N89°03'55"E A DISTANCE OF 625.00 FEET TO THE WESTERLY LINE OF A 5 FOOT ADDITIONAL RIGHT-OF-WAY DEDICATION AS SHOWN ON SAID PLAT OF HEMSTREET PARK; THENCE LEAVING SAID NORTHERLY LINE AND ALONG SAID RIGHT-OF-WAY LINE S00°58'05"E A DISTANCE OF 675.00 FEET TO A POINT ON THE CENTERLINE OF THE 30.00 FOOT WIDE RIGHT-OF-WAY OF WALLIS ROAD AS SHOWN ON SAID PALM BEACH FARMS CO. PLAT NO. 3; THENCE LEAVING SAID WESTERLY LINE AND ALONG SAID CENTERLINE S89°03'55"W A DISTANCE OF 310.00 FEET; THENCE LEAVING SAID CENTERLINE S00°58'05"E A DISTANCE OF 416.12 FEET; THENCE N89°23'03"W A DISTANCE OF 315.12 FEET TO THE EASTERLY LINE OF THE WESTERLY 360 FEET OF TRACT 37, BLOCK 6 OF SAID PLAT OF PALM BEACH FARMS CO. PLAT NO. 3; THENCE ALONG SAID EASTERLY LINE AND THE WESTERLY LINE OF SAID PLAT OF HEMSTREET PARK, N00°58'05"W A DISTANCE OF 1082.59 FEET TO THE POINT OF BEGINNING.

CONTAINING 12.663 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 23, 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)

##### **VARIANCE**

1. This Variance is approved for Chipping and Mulching only. Any change to the use(s) shall require reconsideration of the Variance by the Zoning Commission. (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: BUILDING DIVISION - 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

V#	ULDC Article	Required	Proposed	Variance
V1	Art. 3.B.9.G.3, PBIA Enclosed Activities	All activities, except storage and sales of landscape material, shall be operated within enclosed buildings.	to allow storage of material and activities associated with Chipping and Mulching to be permitted outside of an enclosed building	100 percent for Chipping and Mulching operations.