

RESOLUTION NO. ZR-2021-007

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/CAW-2019-01324
(CONTROL NO. 1978-00207)
TYPE II VARIANCE (CONCURRENT)
APPLICATION OF 7-Eleven, Inc.
BY Gunster, Yoakley & Stewart, PA, AGENT
(7-ELEVEN @ 5960 S MILITARY TRAIL #34967)

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/CAW-2019-01324 was presented to the Zoning Commission at a public hearing conducted on February 4, 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/CAW-2019-01324 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/CAW-2019-01324, the Application of 7-Eleven, Inc., by Gunster, Yoakley & Stewart, PA, Agent, for a Type 2 Variance to reduce the Right-of-Way Buffer width, and the setback for a wall or fence in a Landscape 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 February 4, 2021, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Caliendo moved for the approval of the Resolution.

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

Sheri Scarborough, Chair	- Yes
Sam Caliendo, Vice Chair	- Yes
Cheri Pavlik	- Yes
John Kern	- Yes
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/W-2019-01324 by the Board of County Commissioners.

This resolution is effective when filed with the Palm Beach County Zoning Division on February 4, 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

LOTS 80 THROUGH 94 INCLUSIVE, A PORTION OF LOTS 61 THROUGH 79 INCLUSIVE, A PORTION OF ORANGE AVENUE, AND A PORTION OF THE WALKWAY ADJACENT TO LOTS 93 AND 94, "RE-PLAT OF ARCANUM", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 23, PAGE 33, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF LOT 79, "RE-PLAT OF ARCANUM", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 23, PAGE 33, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND RUN ON AN ASSUMED BEARING OF N2°24'14"E ALONG THE EAST BOUNDARY OF SAID LOT 79 FOR 14.00 FEET TO THE POINT OF BEGINNING; THENCE RUN N88°07'31"W ALONG A LINE PARALLEL WITH AND 14.00 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE NORTH RIGHT-OF-WAY LINE OF LANTANA WEST ROAD, AS SHOWN ON SAID PLAT "RE-PLAT OF ARCANUM" FOR A DISTANCE OF 143.45 FEET; THENCE RUN N52°58'26"W FOR 28.79 FEET; THENCE RUN N17°49'21"W ALONG A LINE PARALLEL WITH AND 10.00 FEET EAST OF AS MEASURED AT RIGHT ANGLES TO THE EAST RIGHT-OF-WAY LINE OF MILITARY TRAIL (S.R. 809) AS SHOWN ON SAID PLAT "RE-PLAT OF ARCANUM" FOR A DISTANCE OF 78.29 FEET TO A POINT OF CURVATURE; THENCE RUN NORTHWESTERLY ALONG A CIRCULAR CURVE TO THE RIGHT AND CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 2804.93 FEET AND A CENTRAL ANGLE OF 3°44'45" FOR AN ARC DISTANCE OF 183.38 FEET TO A POINT OF NON-TANGENCY, SAID POINT BEARING S75°55'24"W FROM THE RADIUS POINT OF THE LAST DESCRIBED CURVE; THENCE RUN S87°39'24"E ALONG THE SOUTH RIGHT OF WAY LINE OF ORANGE AVENUE, BEING COINCIDENT WITH THE NORTH BOUNDARY LINE OF LOT 77 FOR A DISTANCE OF 146.94 FEET; THENCE RUN S2°24'14"W ALONG THE WEST RIGHT-OF-WAY LINE OF ORANGE AVENUE BEING COINCIDENT WITH THE EAST BOUNDARY OF LOT 77 FOR A DISTANCE OF 10.00 FEET TO A POINT, SAID POINT BEING 8.75 FEET NORTH OF THE SOUTH BOUNDARY OF LOT 77; THENCE S87°15'20"E 40.00 FEET TO A POINT ON A LINE COINCIDENT WITH THE WEST BOUNDARY OF LOT 88, SAID POINT BEING 12.65 FEET NORTH OF THE SOUTH BOUNDARY LINE OF LOT 88; THENCE RUN N2°24'14"E ALONG THE EAST RIGHT OF WAY LINE OF ORANGE AVENUE, BEING COINCIDENT WITH THE WEST BOUNDARY OF LOTS 89, 90 AND 91, AND A PORTION OF LOT 88 FOR 46.03 FEET TO THE NORTHWEST CORNER OF LOT 91; THENCE RUN N87°35'46"W ALONG THE WESTERLY LINE EXTENSION OF THE NORTH BOUNDARY OF LOT 91 FOR 4.24 FEET; THENCE RUN N47°22'09"W ALONG A LINE PARALLEL WITH THE WESTERLY BOUNDARY OF LOT 92, SAID LINE ALSO BEING THE CENTER OF A SIX (6) FOOT WALKWAY AS SHOWN ON SAID PLAT "RE-PLAT OF ARCANUM" FOR 20.80 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WEST BOUNDARY LINE OF LOT 94; THENCE RUN N2°24'14"E ALONG THE SOUTHERLY EXTENSION OF THE WEST BOUNDARY LINE OF LOT 94 FOR A DISTANCE OF 54.57 FEET TO THE NORTHWEST CORNER OF SAID LOT 94; THENCE RUN S87°39'24"E ALONG THE NORTH BOUNDARY AND EASTERLY EXTENSION OF THE NORTH BOUNDARY OF LOT 94 FOR A DISTANCE OF 54.62 FEET; THENCE RUN S2°24'14"W ALONG THE NORTHERLY EXTENSION OF THE EAST BOUNDARY OF LOT 93 AND THE EAST BOUNDARY OF LOTS 93 THROUGH 80 INCLUSIVE AND A PORTION OF LOT 79 FOR A DISTANCE OF 367.78 FEET TO THE POINT OF BEGINNING, SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

THE ABOVE PARCEL ALSO BEING DESCRIBED AS FOLLOWS:

A PARCEL OF LAND BEING A PORTION OF LOTS 61 THROUGH 79, A PORTION OF ORANGE AVENUE, A PORTION OF A WALKWAY LYING BETWEEN LOTS 93

AND 94 AND ALL OF LOTS 80-94 AS SHOWN ON "RE-PLAT OF ARCANUM" AS DESCRIBED IN PLAT BOOK 23, AT PAGE 33, AS RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT A 5/8" REBAR FOUND IN PLACE AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY OF ORANGE AVENUE WITH THE EASTERLY RIGHT-OF-WAY OF N. MILITARY TRAIL; THENCE S 87°39'24" E ALONG SAID SOUTH RIGHT-OF-WAY A DISTANCE OF 146.94 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET AT THE NW CORNER OF LOT 77 AS SHOWN ON SAID "RE-PLAT OF ARCANUM"; THENCE S 87°15'20" E A DISTANCE OF 40.00 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006142) SET; THENCE S2°24'14"W ALONG THE WEST RIGHT-OF-WAY LINE OF ORANGE AVENUE BEING COINCIDENT WITH THE EAST LINE OF LOT 77 A DISTANCE OF 10.00; THENCE N02°24'14" E A DISTANCE OF 46.03 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET; THENCE N 87°35'46" W A DISTANCE OF 4.24 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET; THENCE N 47°22'09" E A DISTANCE OF 20.80 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET; THENCE N 02°24'14" E A DISTANCE OF 54.57 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET AT THE NW CORNER OF LOT 94 AS SHOWN ON SAID "RE-PLAT OF ARCANUM"; THENCE S 87°39'24" E A DISTANCE OF 56.53 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET ON THE WESTERLY RIGHT-OF-WAY LINE OF A 20' ALLEY AS SHOWN ON SAID "RE-PLAT OF ARCANUM"; THENCE S 02°24'14" W ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF A 20' ALLEY A DISTANCE OF 367.78 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET ON THE NORTHERLY RIGHT-OF-WAY LINE OF LANTANA ROAD; THENCE N 88°07'31" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF LANTANA ROAD A DISTANCE OF 145.44 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET; THENCE N 52°58'26" W CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF LANTANA ROAD A DISTANCE OF 28.79 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET ON THE EASTERLY RIGHT-OF-WAY LINE OF N. MILITARY TRAIL; THENCE N 17°49'21" W ALONG SAID EASTERLY RIGHT-OF-WAY OF N. MILITARY TRAIL A DISTANCE OF 78.29 FEET TO A PK NAIL SET; THENCE WITH A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 183.38 FEET, WITH A RADIUS OF 2804.93 FEET, AND A CHORD BEARING OF N 15°56'58" W, A CHORD DISTANCE OF 183.35 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, CONTAINING 60,561 SQUARE FEET (1.3903 ACRES) MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

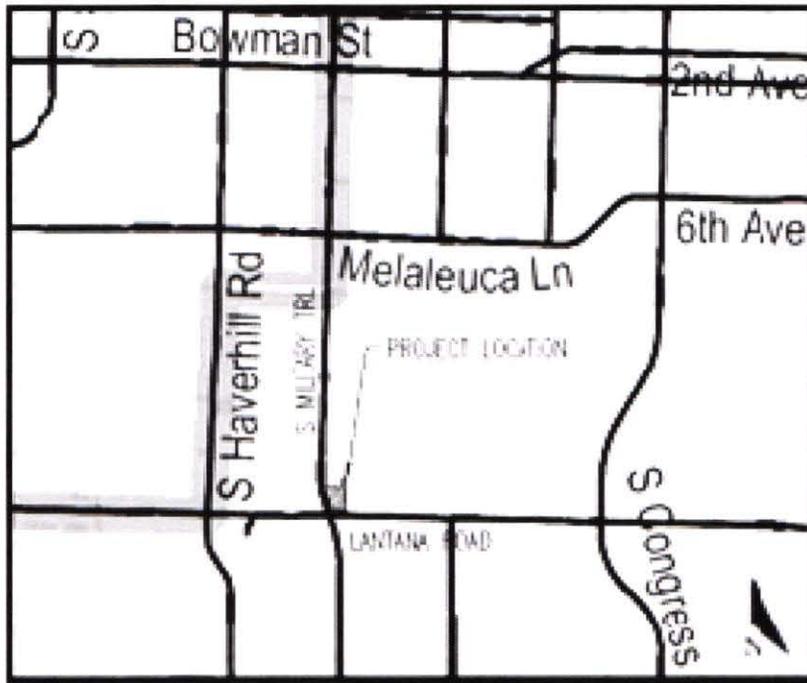


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Preliminary Site Plan is dated December 14, 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. Prior to the submittal for Final Approval by the Development Review Officer, the approved Variances shall be shown on the Final Site Plan. (DRO: ZONING - 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)

3. The Development Order for this Concurrent Variance shall be tied to the Time Limitations of the Development Order for ZV/ABN/CAW-2019-01324. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)

4. The height of the wall along the eastern and northern Type 2 Incompatibility Landscape Buffer shall be maintained at eight (8) feet. (BLDGPM/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 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 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)

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 7.D.4.D, Requirements for a Wall or Fence in a Landscape Buffer	Setback for a Wall or Fence: 10 feet from the edge of the property line.	7.5 feet (east and north property line)	-2.5 feet (-25 percent)
V.2	Table 7.C.2.A, Width of R-O-W Buffer	20 feet when width of ultimate R-O-W is 100 feet or greater	10.6 feet (limited to buffer adjacent to 40 ft. corner clip at intersection of Military Trail and Lantana Road)	-9.4 feet (-53 percent)