

RESOLUTION NO. ZR-2022-004

RESOLUTION APPROVING ZONING APPLICATION ZV-2021-01760
CONTROL NO. 2021-00092
TYPE II VARIANCE (*STAND ALONE*)
APPLICATION OF JJ Gilbane, LLC, FLM Jupiter Gardens, LLC
BY Shutts and Bowen, LLP, Gentile Glas Holloway O'Mahoney & Associates, Inc.,
AGENT
(JUPITER GARDENS APARTMENTS)

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-2021-01760 was presented to the Zoning Commission at a public hearing conducted on February 3, 2022;

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-2021-01760, the Application of JJ Gilbane, LLC, FLM Jupiter Gardens, LLC, by Shutts and Bowen, LLP, Gentile Glas Holloway O'Mahoney & Associates, Inc., Agent, for a Type 2 Variance to eliminate a Compatibility Buffer and a Type 1 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 February 3, 2022, 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 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:

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

The Chair thereupon declared the resolution was duly passed and adopted on February 3, 2022.

This resolution is effective when filed with the Palm Beach County Zoning Division on February 3, 2022.

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 IN THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 41 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT 330 FEET WEST OF THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 41 SOUTH, RANGE 42 EAST; THENCE NORTH A DISTANCE OF 660 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH A DISTANCE OF 660 FEET; THENCE WEST 330 FEET; THENCE SOUTH 660 FEET; THENCE EAST 330 FEET TO THE POINT OF BEGINNING; LESS AND EXCEPTING THEREFROM ROAD RIGHT OF WAY OVER AND UPON THE NORTH 16 ½ FEET THEREOF, AND LESS THE NORTH 60 FEET THEREOF AS CONVEYED TO PALM BEACH COUNTY IN INSTRUMENT RECORDED IN OFFICIAL RECORD BOOK 3487, PAGE 501, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS AND EXCEPTING THEREFROM:

A 12-FOOT-WIDE PARCEL IN THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 41 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT 330 FEET WEST OF THE SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 41 SOUTH, RANGE 42 EAST; THENCE NORTHERLY A DISTANCE OF 660 FEET; THENCE WESTERLY PARALLEL WITH THE SOUTH LINE OF AFORESAID SECTION 3, A DISTANCE OF 318.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE WESTERLY 12.00 FEET; THENCE NORTHERLY PARALLEL WITH THE NORTH-SOUTH QUARTER LINE OF AFORESAID SECTION 3, A DISTANCE OF 105.00 FEET; THENCE EASTERLY PARALLEL WITH SAID SOUTH LINE SECTION 3, A DISTANCE OF 12.00 FEET; THENCE SOUTHERLY PARALLEL WITH SAID NORTH-SOUTH QUARTER LINE, A DISTANCE OF 105.00 FEET TO THE POINT OF BEGINNING. ALSO LESS AND EXCEPT ANY PORTION THEREOF THAT LIES WITHIN THE PLAT OF WEST JUPITER HOUSING 2, AS RECORDED IN PLAT BOOK 116, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING IN ALL 4.648 ACRES (202,470 SQUARE FEET), MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

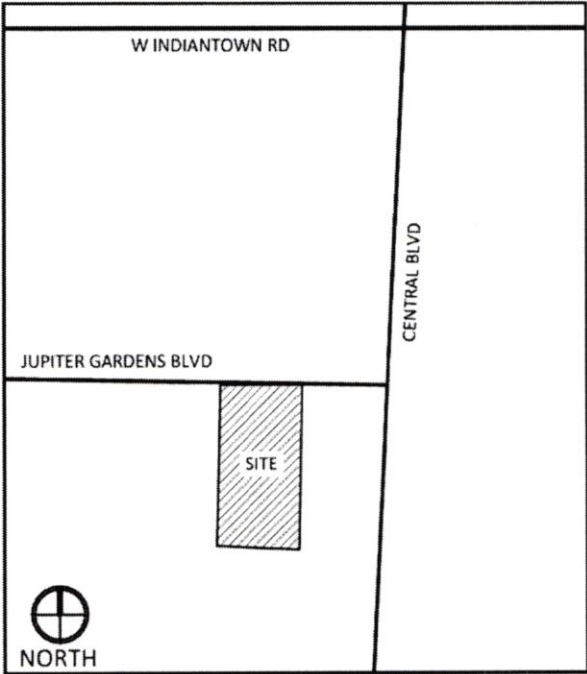


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance - Standalone

ALL PETITIONS

1. The approved Preliminary Site Plan is dated December 13, 2021. 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)

ENGINEERING

1. Prior to March 31, 2023, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (DATE: MONITORING - Engineering)

VARIANCE

1. The Development Order for this non-concurrent Variance shall be valid till February 3, 2023, a period of one year from the date of the Zoning Hearing. The Property Owner must secure a Building Permit or Commencement of Development to vest this Variance. (DATE: MONITORING - 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: ZONING - 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
7.C.2.B Compatibility Buffer	8-ft. wide Compatibility Buffer along a 114.64 ft. portion of the west property line	0-ft. Compatibility Buffer along the southern 114.64 ft. portion of the west property line	100% along the southern 114.64 ft. portion of the west property line
7.C.2.C.3 Landscape Requirements	10-ft wide, Type 1 Incompatibility buffer along a 143.75 ft. portion of the west property line	0-ft. Incompatibility Buffer along a 143.75 ft. portion of the west property line	100% along a 143.75 ft. portion of the west property line

OWNER NAME & ADDRESS:	Flm Jupiter Gardens, LLC 701 Us Highway 1 , Ste 402 North Palm Beach, FL 33408-4514	
PCN:	00-42-41-03-00-000-7361	
ZONING DISTRICT:	RM	
BCC DISTRICT:	1	
PROJECT MANAGER:	James Borsos, Site Planner II	
LAND USE:	HR-8	S/T/R: 03-41-42
CONTROL #:	2021-00092	
LOT AREA:	4.65 acres +/-	
APPLICANT REQUEST:	to eliminate a Compatibility Buffer; and, a Type 1 Incompatibility Buffer	