

RESOLUTION NO. ZR-2023-009

RESOLUTION APPROVING ZONING APPLICATION ZV/Z/ABN-2021-01863
(CONTROL NO. 2003-00020)
TYPE II VARIANCE (*CONCURRENT*)
APPLICATION OF Shawn Chemtov, 6562 Belvedere LLC
BY Schmidt Nichols, AGENT
(WINDSOR INDUSTRIAL)

WHEREAS, the Zoning Commission, pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), 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/Z/ABN-2021-01863 the Application of Shawn Chemtov, 6562 Belvedere LLC, by Schmidt Nichols, Agent, for a Type 2 Variance to allow a reduction of the width of a Type 3 Incompatibility buffer; substitute wall with chain link fence and locate it on the property line, reduction in number of palms or pines; elimination of small shrubs; reduction in front setback; and, to replace a 12-foot wall loading area screening with an 8-foot hedge on 2.55 acres; an Official Zoning Map Amendment to allow a rezoning from the Community Commercial (CC) Zoning District to the Light Industrial (IL) Zoning District on 2.55 acres; and a Development Order Abandonment to abandon a Convenience Store with Gas Sales on 2.55 acres was presented to the Zoning Commission at a public hearing conducted on March 2, 2023;

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/Z/ABN-2021-1863 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/Z/ABN-2021-01863, the Application of Shawn Chemtov, 6562 Belvedere LLC, by Schmidt Nichols, Agent, for a Type 2 Variance to allow a reduction of the width of a Type 3 Incompatibility buffer;

substitute wall with chain link fence and locate it on the property line, reduction in number of palms or pines; elimination of small shrubs; reduction in front setback; and, to replace a 12-foot wall loading area screening with an 8-foot hedge on 2.55 acres, 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 March 2, 2023, 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 Kelly moved for the approval of the Resolution.

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

John Kern, Vice Chair	- Aye
Cheri Pavlik	- Absent
Michael Kelley	- Aye
Glen Gormann	- Aye
Sheri Scarborough	- Aye
Nicole Karuzas	- Absent
Alex Brumfield III	- Aye
Mark Beatty	- Aye
Jess Sowards	- Aye

The Chair thereupon declared the resolution was duly passed and adopted on March 2, 2023.

This resolution is effective when filed with the Palm Beach County Zoning Division on March 2, 2023.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: 
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

A PORTION OF THE EAST HALF OF TRACT 5, BLOCK 5, "PALM BEACH FARMS COMPANY PLAT No. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45-54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF TRACT "R", "TERRACINA TRACT "R-1" REPLAT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 109, PAGE 117 OF SAID PUBLIC RECORDS, SAID POINT BEING THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF JOG ROAD WITH THE SOUTH LINE OF SAID TRACT 5; THENCE SOUTH 89°03'03" WEST ALONG SAID SOUTH LINE, ALSO BEING THE NORTH LINE OF SAID TRACT "R" 189.17 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF SAID TRACT 5; THENCE NORTH 00°56'57" WEST ALONG THE WEST LINE OF THE EAST HALF OF SAID TRACT 5 FOR 633.57 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-3 CANAL; THENCE NORTH 89°03'03" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE 159.93 FEET TO A POINT ON THE AFOREMENTIONED WESTERLY RIGHT-OF-WAY LINE OF JOG ROAD; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, THE FOLLOWING FOUR (4) COURSES AND DISTANCES; 1) SOUTH 03°13'49" EAST 76.91 FEET; 2) SOUTH 04°08'49" EAST 36.00 FEET; 3) SOUTH 04°08'46" EAST 213.94; 4) SOUTH 03°13'49" EAST 307.42 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING AND BEING IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 111,052 SQUARE FEET (2.5494 ACRES), MORE OR LESS.

PARCEL 1:

THE WEST HALF (W 1/2) OF THE EAST HALF (E 1/2) OF TRACT 5, BLOCK 5, "THE PALM BEACH FARMS CO. PLAT No. 3", WHICH LIES SOUTH OF THE PALM BEACH CANAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE NORTH 26 FEET THEREOF AS CONVEYED IN DEED BOOK 67, PAGE 412.

PARCEL 2:

THE EAST QUARTER (E 1/4) OF TRACT 5, BLOCK 5, LYING WEST OF THE JOG ROAD RIGHT-OF-WAY, "THE PALM BEACH FARMS CO. PLAT No. 3", WHICH LIES SOUTH OF THE PALM BEACH CANAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

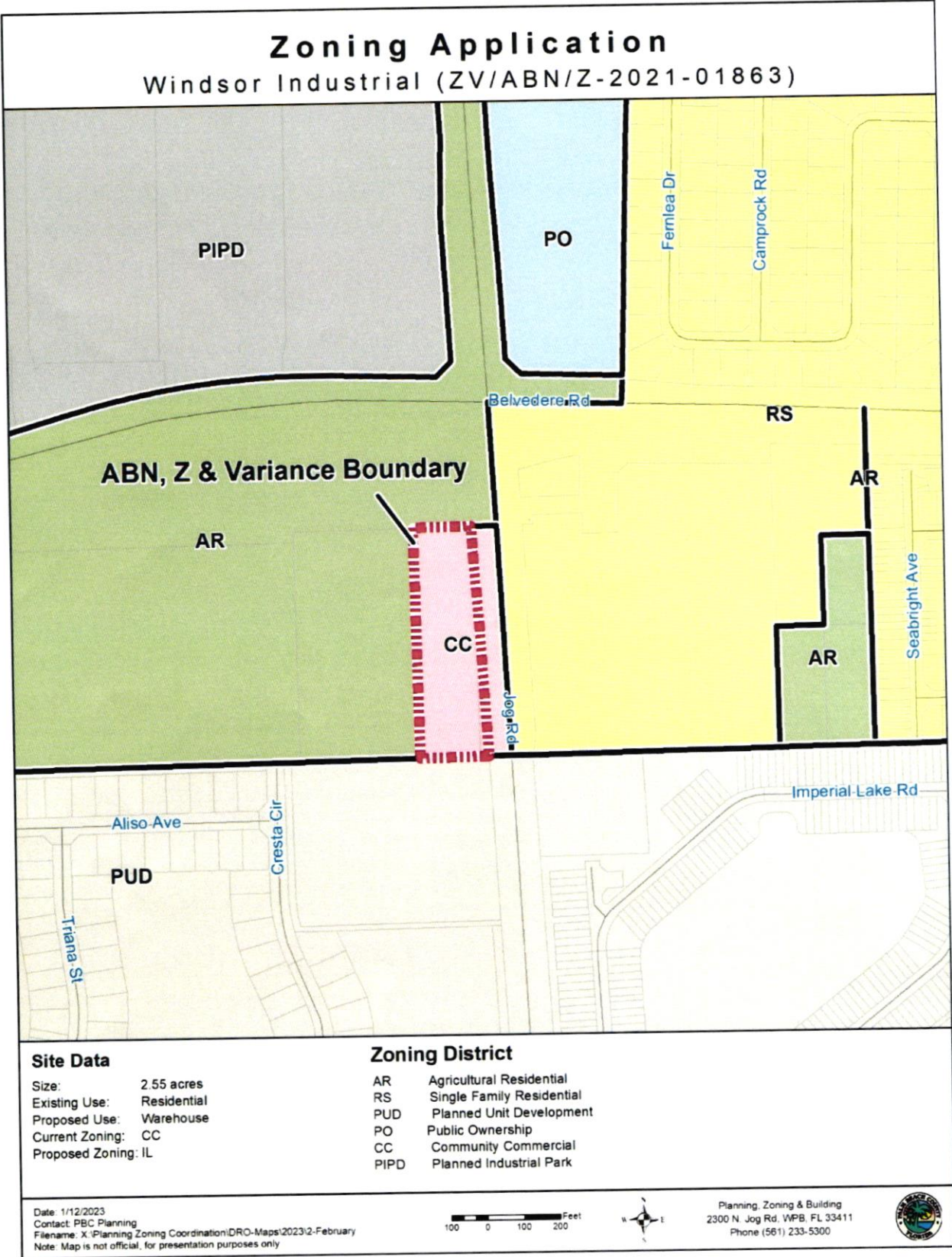


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Preliminary Site Plan and Preliminary Landscape Plan are dated December 15, 2022. 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)
2. Prior to Final Approval by the Development Review Officer, the Landscape Plan shall be updated to include the medium shrubs. (DRO: ZONING - Zoning)
3. 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. (BLDGPMT: BUILDING DIVISION - Zoning)
4. Use of large commercial vehicles, such as semi-tractor trailers or dump trucks, is prohibited on site, based on the configuration of the building, reduction of screening, and size of the loading areas. (ONGOING: CODE ENF - 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

#	ULDC Article	Required	Proposed	Variance
V1	3.D.1.A Front Setback	40 feet	25 feet	15 feet reduction
V2	6.E.4.A.3 Loading Standards	12 foot wall for loading area screening	8 foot hedge loading area screening	Substitution of the 12 foot wall with an 8 foot hedge
V3	7.C.2.C Incompatibility Buffer	-20 feet Type 3 Incompatibility Buffer (West Property Line) - 6-feet high Opaque wall -1 Canopy Tree per 20 linear feet (31 canopy trees) -1 palm or pine per 30 linear feet (21 Palm or Pines) -1 Row of small shrubs- (1 per 2 linear feet) -1 Row of medium shrubs- (1 per 4 linear feet)	-8 foot landscape buffer -chain link fence -1 Canopy tree per 20 linear feet (31 canopy trees) -1 palm or pine per 70 linear feet (9 palm or pines) -1 Row of medium shrubs- 1 per 4 linear feet	-a 12 foot reduction of the buffer width -Substitution of a 6 foot wall with a 6 foot Chain link fence; located on the property line; -Reduction in number of palms or pines from 21 to 9 - Elimination of all small shrubs

SITUS ADDRESS:	6562 Belvedere Rd West Palm Beach 33413	
OWNER NAME & ADDRESS:	6562 Belvedere Llc 11410 SW 95th Ave Miami, FL 33176-4242	
PCN:	00-42-43-27-05-005-0051 00-42-43-27-05-005-0054	
ZONING DISTRICT:	CC	
BCC DISTRICT:	2	
PROJECT MANAGER:	Imene Haddad, Senior Site Planner	
LAND USE:	CL/2	S/T/R: 27-43-42
CONTROL #:	2003-00020	
LOT AREA:	2.55 acres +/-	
APPLICANT REQUEST:	to allow a reduction of the width of a Type 3 Incompatibility buffer; substitute wall with chain link fence and locate it on the property line, reduction in number of palms or pines; elimination of small shrubs; reduction in front setback; and, to replace a 12-foot wall loading area screening with an 8-foot hedge on 2.55 acres	