

RESOLUTION NO. ZR-2023- 12

RESOLUTION APPROVING ZONING APPLICATION ZV/PDD-2022-01469  
(CONTROL NO. 2022-00057)  
TYPE II VARIANCE (*CONCURRENT*)  
APPLICATION OF Joseph Mulvehill  
BY JMorton Planning & Landscape Architecture, AGENT  
(STATE ROAD 7 BUSINESS PLAZA)

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/PDD-2022-01469 the Application of Joseph Mulvehill, by JMorton Planning & Landscape Architecture, Agent, for a Type 2 Variance to allow a 100 percent buffer overlap within a preserve on 40.00 acres; for an Official Zoning Map Amendment to allow a rezoning from the Agricultural Reserve (AGR) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District on 40.00 acres was presented to the Zoning Commission at a public hearing conducted on May 4, 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/PDD-2022-01469 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/PDD-2022-01469, the Application of Joseph Mulvehill, by JMorton Planning & Landscape Architecture, Agent, for a Type 2 Variance to allow a 100 percent buffer overlap within a preserve on 40.00 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 May 4, 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 Kern 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:

Jess Sowards, Chair	- Aye
Cheri Pavlik, Vice Chair	- Absent
John Kern,	- Aye
Michael Kelley	- Aye
Glenn Gromann	- Aye
Sheri Scarborough	- Aye
Lisa Reves	- Aye
Alex Brumfield III	- Aye
Mark Beatty	- N/A

The Chair thereupon declared the resolution was duly passed and adopted on May 4, 2023.

This resolution shall only become effective upon the adoption of a resolution approving Zoning Application ZV/PDD-2022-01469 by the Board of County Commissioners.

This resolution was filed with the Palm Beach County Zoning Division on May 4, 2023.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS ZONING COMMISSIONERS

BY:

  
COUNTY ATTORNEY

BY:

  
CHAIR



EXHIBIT A

LEGAL DESCRIPTION

DESCRIPTION: MUPD

DEVELOPMENT PARCEL

BEING A PORTION OF TRACTS 13, 14, 15, 16, 17, 18, 19 AND 20, BLOCK 18, THE PALM BEACH FARMS CO PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 18; THENCE ALONG THE NORTH LINE OF SAID SECTION 18, N89°07'36"E, A DISTANCE OF 200.62 FEET TO THE NORTHWEST CORNER OF SAID TRACT 16, BLOCK 18; THENCE ALONG THE WEST LINE OF SAID TRACT 16, BLOCK 18, S01°17'43"E, A DISTANCE OF 33.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF 33-FOOT WIDE LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY, AS RECORDED IN OFFICIAL RECORDS BOOK 6495, PAGE 761 AND OFFICIAL RECORDS BOOK 32440, PAGE 940 OF SAID PUBLIC RECORDS AND TO THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH LINE, N89°07'36"E, A DISTANCE OF 1,320.76 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID TRACT 13, BLOCK 18; THENCE ALONG SAID EAST LINE AND THE EAST LINE OF SAID TRACT 20, BLOCK 18, S01°13'27"E, A DISTANCE OF 1,023.15 FEET; THENCE S89°07'14"W, A DISTANCE OF 1,311.99 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF 15-FOOT WIDE ROAD EASEMENT, AS SHOWN ON SAID THE PALM BEACH FARMS CO PLAT NO. 1; THENCE ALONG SAID EAST LINE, S01°17'29"E, A DISTANCE OF 296.81 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID TRACT 17, BLOCK 18; THENCE ALONG SAID SOUTH LINE, S89°07'45"W, A DISTANCE OF 7.48 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 17, BLOCK 18; THENCE ALONG THE WEST LINE OF SAID TRACTS 16 AND 17, BLOCK 18, N01°17'43"W, A DISTANCE OF 1,320.11 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,352,976 SQUARE FEET/31.0601 ACRES, MORE OR LESS.AND:

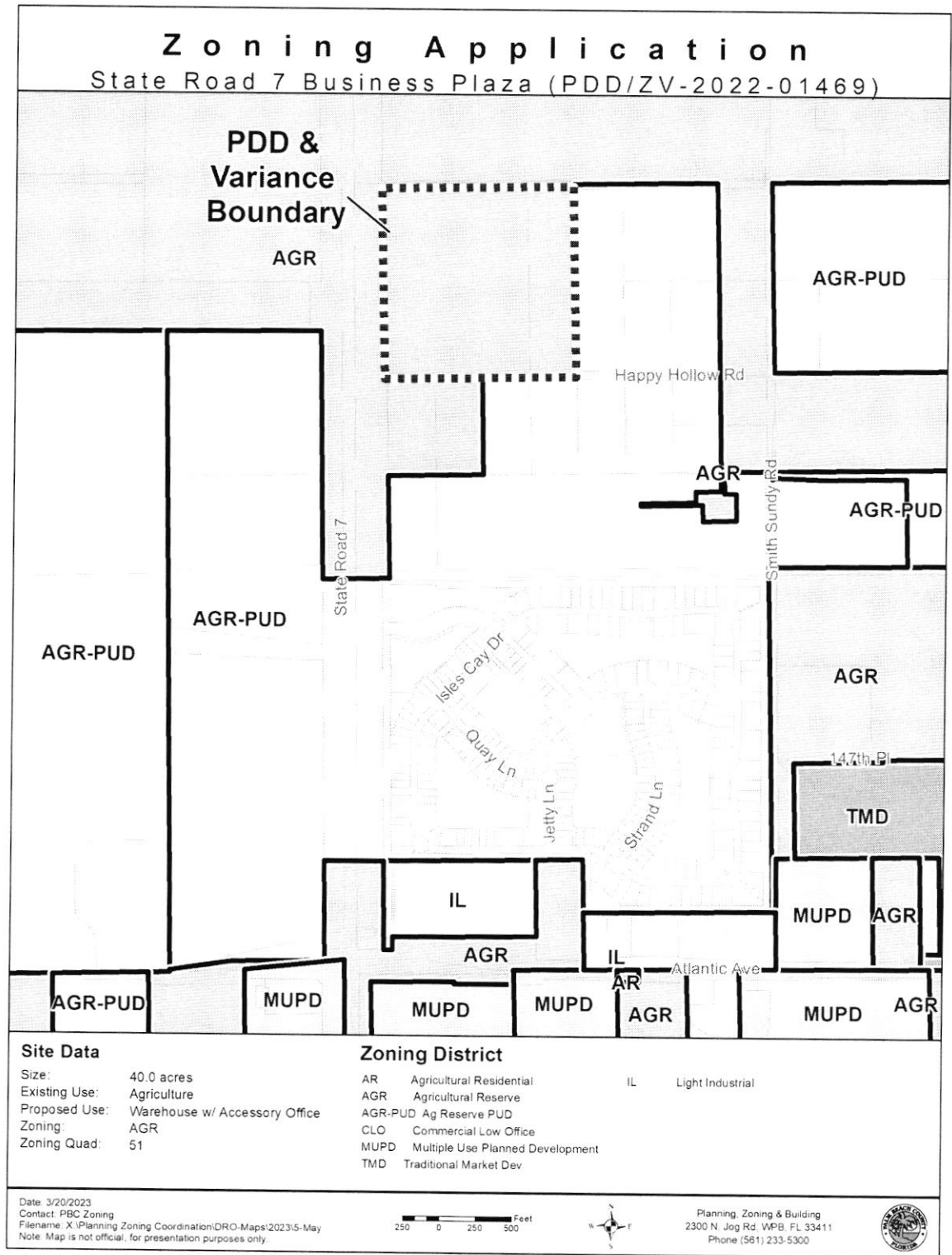
DESCRIPTION PRESERVE 1:

BEING A PORTION OF TRACTS 17, 18, 19 AND 20, BLOCK 18, THE PALM BEACH FARMS CO PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 18; THENCE ALONG THE WEST LINE OF SAID SECTION 18, S00°45'55"E, A DISTANCE OF 1,352.74 FEET; THENCE N89°14'05"E, A DISTANCE OF 213.14 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 17, BLOCK 18; THENCE ALONG THE SOUTH LINE OF SAID TRACT 17, BLOCK 18, N89°07'45"E, A DISTANCE OF 7.48 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF 15-FOOT WIDE ROAD EASEMENT, AS SHOWN ON SAID THE PALM BEACH FARMS CO PLAT NO. 1 AND TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE SOUTH LINE OF SAID TRACTS 17, 18, 19 AND 20, BLOCK 18, N89°07'45"E, A DISTANCE OF 1,311.64 FEET TO THE SOUTHEAST CORNER OF SAID TRACT 20, BLOCK 18; THENCE ALONG THE EAST LINE OF SAID TRACT 20, BLOCK 18, N01°13'25"W, A DISTANCE OF 297.01 FEET; THENCE S89°07'14"W, A DISTANCE OF 1,311.99 FEET TO A POINT OF INTERSECTION WITH SAID EAST LINE OF 15-FOOT WIDE ROAD

EASEMENT; THENCE ALONG SAID EAST LINE, S01°17'29"E, A DISTANCE OF 296.81 FEET TO THE POINT OF BEGINNING.  
CONTAINING 389,477 SQUARE FEET/8.9412 ACRES, MORE OR LESS.  
SAID PARCEL BEING 1,742,453 ± SQUARE FEET OR 40.001± ACRES MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH





## EXHIBIT C

### CONDITIONS OF APPROVAL

#### **Type 2 Variance - Concurrent**

##### **ALL PETITIONS**

1. This Variance is approved based on the layout as shown on the Preliminary Site Plan dated March 21, 2023. Only minor modifications by Zoning Commission or Development Review Officer shall be permitted provided the changes are consistent with this Preliminary Site Plan. (ONGOING: 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. (BLDG PERMIT: BLDG - Zoning)
3. The Development Order for this Concurrent Variance shall be tied to the Time Limitations of the Development Order for ZV/PDD-2022-01469. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance.

##### **VARIANCE**

1. Prior to the submittal for Final Approval by the Development Review Officer, the approved Variance(s) and any associated Conditions of Approval shall be shown on the Preliminary Site Plan. (DRO: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) (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) (ONGOING: ZONING - 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
Table 7.C.2.A, R.O.W and 7.C.2.C 15 Buffers Requirements and Incompatibilities Buffer Types	South R.O.W Buffer within the Development Area	15 feet R.O.W Buffer along the 1,319 feet of South Property Line with 100 percent overlap within the 8.94 acres Preserve	To allow 100% overlap within the 8.94 acres Preserve of the R.O.W buffers along the South (Happy Hollow RD) Property Line
	West R.O.W Buffer within the Development Area	20 feet R.O.W Buffer along 296 feet of the West Property Line with 100 percent overlap within the 8.94 acres Preserve	To allow 100% overlap within the 8.94 acres Preserve of the R.O.W buffers along the West (State Road 7) Property Line
	East 15 feet Incompatibility Buffer within the Development Area	15 feet Incompatibility Buffer along the 297 feet of the East Property Line with 100 percent overlap within the 8.94 acres Preserve	To allow 100% overlap within the 8.94 acres Preserve of the 15 feet Incompatible buffer along the East property line

SITUS ADDRESS:	9773 Happy Hollow Rd Delray Beach 33446 9863 Happy Hollow Rd Delray Beach 33446 9867 Happy Hollow Rd Delray Beach 33446 9821 Happy Hollow Rd Delray Beach 33446	
OWNER NAME & ADDRESS:	Joseph Mulvehill 18359 181st Cir S Boca Raton, FL 33498-1631	
PCN:	00-42-46-18-01-000-0132; 00-42-46-18-01-000-0140	
ZONING DISTRICT:	AGR	
BCC DISTRICT:	5, Vice Mayor Maria Sachs	
PROJECT MANAGER:	Cody Sisk, Senior Site Planner	
LAND USE:	AGR	S/T/R: 18-46-42
CONTROL #:	2022-00057	
LOT AREA:	40 acres +/-	
APPLICANT REQUEST:	a Type 2 Variance to allow a 100 percent buffer overlap within a preserve on 40.00 acres	