

RESOLUTION NO. ZR-2023-023

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/DOAW-2022-01312  
(CONTROL NO. 1977-00031)

TYPE II VARIANCE (*CONCURRENT*)

APPLICATION OF Restoration Property Holdings Inc., Posh Hospitality No. 3,  
Congress Avenue LLC

BY Dunay, Miskel and Backman, LLP, AGENT  
(POSH HOSPITALITY NO. 3)

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/ABN/DOAW-2022-01312, the Application for Posh Hospitality No. 3, by Dunay, Miskel, and Backman, LLP, for a Type 2 Variance to reduce the lot size, and the front and side street setbacks, a Development Order Abandonment of a Hotel use, a Development Order Amendment to reconfigure the Site Plan, add land area and access points; and to delete square footage, and a Type 2 Waiver to allow an extension of the hours of operation for a non-Residential use located within 250 feet of a parcel of land with a residential future land use designation or use on 2.78 acres was presented to the Zoning Commission at a public hearing conducted on August 3, 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, 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/DOAW-2022-01312, the Application of Restoration Property Holdings Inc., Posh Hospitality No. 3, Congress Avenue LLC, by Dunay, Miskel and Backman, LLP, Agent, for a Type 2 Variance to reduce the lot size and the front and side street setbacks on 2.78 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 August 3, 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 Pavlik and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared the resolution was duly passed and adopted on August 3, 2023.

This resolution shall only become effective upon the adoption of a resolution approving Zoning Application ZV/ABN/DOAW-2022-01312 by the Board of County Commissioners.

This resolution was filed with the Palm Beach County Zoning Division on August 3, 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

PARCEL 1:

LOTS 1 THROUGH 13 AND 25, BLOCK 2, PALM ACRES ESTATES, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 20, PAGE 5, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

LOTS 23 AND 24, BLOCK 2, PALM ACRES ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 20, PAGE 5, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

THE NORTH 25 FEET OF THE FOLLOWING DESCRIBED TRACT: A PORTION OF OKLAHOMA STREET BEING A 50 FOOT WIDE PUBLIC RIGHT OF WAY, ADJOINING THE SOUTH LINE OF LOTS 5 THROUGH 13 INCLUSIVE, BLOCK 2 AND THE NORTH LINE OF BLOCK 1 OF "PALM ACRES ESTATES", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 20, PAGE 5, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

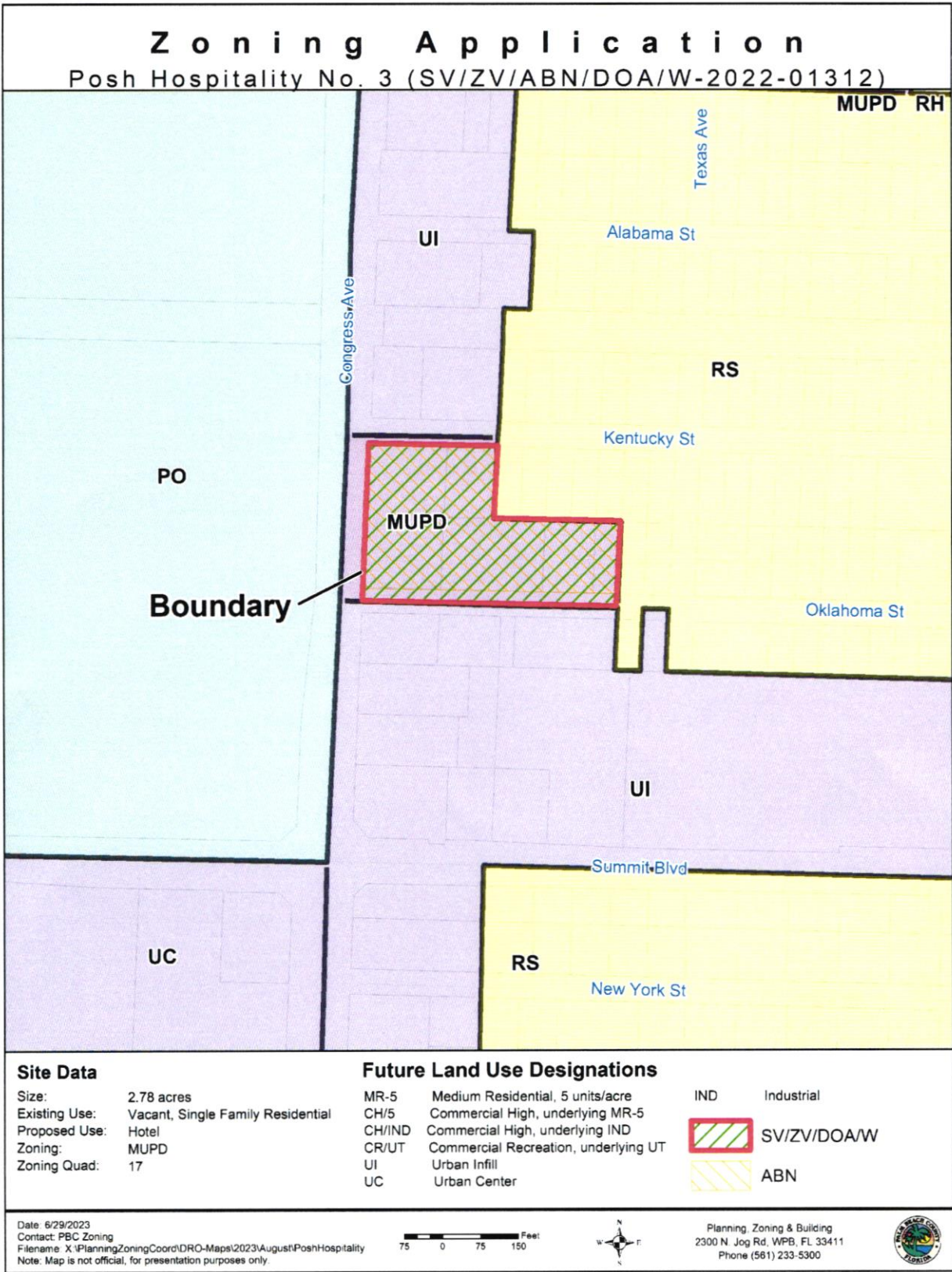
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" IRON REBAR AT THE SOUTHWEST CORNER OF LOT 5 OF SAID PLAT, SAID POINT ALSO BEING THE WEST LINE OF SAID PLAT AND THE EAST RIGHT-OF-WAY LINE OF CONGRESS AVENUE (SR 807); THENCE ALONG THE SAID EAST RIGHT-OF-WAY LINE NORTH 02°32'46" EAST A DISTANCE OF 287.01 FEET TO THE NORTHWEST CORNER OF LOT 1; THENCE DEPARTING SAID EAST LINE SOUTH 88°38'09" EAST A DISTANCE OF 254.45 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF KENTUCKY STREET TO THE NORTHEAST CORNER OF LOT 23; THENCE DEPARTING SAID SOUTH LINE SOUTH 02°59'04" WEST A DISTANCE OF 143.53 FEET TO THE SOUTHEAST CORNER OF LOT 23; THENCE SOUTH 88°38'09" EAST A DISTANCE OF 249.26 FEET TO THE NORTHEAST CORNER OF LOT 13; THENCE SOUTH 03°06'40" WEST A DISTANCE OF 168.54 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 25.00 FEET OF A ABANDONED PORTION OF OKLAHOMA STREET (TO BE ABANDONED BY SEPARATE INSTRUMENT); THENCE RUNNING ALONG SAID SOUTH LINE NORTH 88°38'09" WEST A DISTANCE OF 500.95 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF CONGRESS AVENUE (SR 807); THENCE ALONG THE SAID EAST RIGHT-OF-WAY LINE NORTH 02°32'46" EAST A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 120,961 SQUARE FEET OR 2.78 TOTAL ACRES.



EXHIBIT B  
VICINITY SKETCH





## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Type 2 Variance - Concurrent

##### ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 20, 2023. 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)

##### VARIANCE

1. The Development Order for this Concurrent Variance, for the reduction in setbacks, shall be tied to the Time Limitations of the Development Order for SV/ZV/ABN/DOAW-2022-01312. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING/BLDG PERMIT: MONITORING - Zoning)

2. The Development Order for this Concurrent Variance, for the reduction in lot size, shall be tied to the Time Limitations of the Development Order for SV/ZV/ABN/DOAW-2022-01312. The Property Owner shall secure a Plat approval to vest this Variance. (ONGOING/PLAT: MONITORING - 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. (BLDG/PMT: 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)

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 II VARIANCE SUMMARY

	ULDC Article	Required	Proposed	Variance
V1	3.E.3.D MUPD Property Development Regulations	Minimum 5 acres	2.78 acres	Reduction of 2.22 acres
V2	3.E.3.D MUPD Property Development Regulations	45 foot front setback	26 feet	Reduction of 19 feet
V3	3.E.3.D MUPD Property Development Regulations	45 foot side street setback	26.6 feet side street setback from Kentucky Street	Reduction of 18.4 feet

SITUS ADDRESS:	530 S Congress Ave West Palm Beach 33406 2960 Kentucky St West Palm Beach 33406 2956 Kentucky St West Palm Beach 33406	
OWNER NAME & ADDRESS:	Restoration Property Holdings Inc Po Box 14052 North Palm Beach, FL 33408-0052	
PCN:	00-43-44-05-08-002-0010; 00-43-44-05-08-002-0230 00-43-44-05-08-002-0070; 00-43-44-05-08-002-0110 00-43-44-05-08-002-0130;	
ZONING DISTRICT:	MUPD	
BCC DISTRICT:	3, Commissioner Michael Barnett	
PROJECT MANAGER:	Jerome Ottey, Senior Site Planner	
LAND USE:	CH/5/MR-5	S/T/R: 05-44-43
CONTROL #:	1977-00031	
LOT AREA:	2.78 acres +/-	
APPLICANT REQUEST:	to reduce the lot size and the front and side street setbacks on 2.78 acres	