

RESOLUTION NO. ZR-2023-024

RESOLUTION APPROVING ZONING APPLICATION ZV/PDD/CA-2022-01785
(CONTROL NO. 2016-00163)
TYPE II VARIANCE (*CONCURRENT*)
APPLICATION OF Jon Channing, BC Boynton Industrial, LLC,
Randall Thorne, Paul Dye
BY JMorton Planning & Landscape Architecture, AGENT
(BC COMMERCE CENTER)

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/CA-2022-01785 the Application of Jon Channing, BC Boynton Industrial, LLC, Randal Thorne, Paul Dye by JMorton Planning & Landscape Architecture, Agent, for a Type 2 Variance to allow a 100 percent buffer overlap within a preserve on 47.21 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; a Class A Conditional Use to allow a Brewery-Distillery Manufacturing and Processing use with a Taproom on 47.21 acres; and A Class Conditional Use to allow Limited Access Self Service Storage on 47.21 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/PDD/CA-2022-01785, the Application of Jon Channing, BC Boynton Industrial, LLC, Randall Thorne, Paul Dye, by JMorton Planning & Landscape Architecture, Agent, for a Type 2 Variance to allow a 100 percent buffer overlap within a preserve on 47.21 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 Gromann 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 |
| Glen Gromann | - Aye |
| Sheri Scarborough | - Absent |
| Lisa Reves | - Nay |
| Alex Brumfield III | - Aye |
| Mark Beatty | - Recusal |

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

This resolution shall only become effective upon the effective date of a resolution approving Zoning Application ZV/PDD/CA-2022-01785 by the Board of County Commissioners.

This resolution was with the Palm Beach County Zoning Division on August 3, 2023.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY

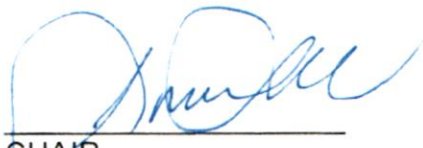
BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

THE EAST ONE-HALF (E 1/2) OF LOT 99 AND THE EAST ONE-HALF (E 1/2) OF LOT 122, BLOCK 50, THE PALM BEACH FARMS CO. PLAT NO. 3, A SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THAT PORTION OF LOT 122 CONTAINED IN THE ORDER OF TAKING RECORDED IN O. R. BOOK 6366, PAGE 721, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

THE WEST ONE-HALF (W 1/2) OF TRACT 99, TRACTS 100, 101, 102, 119, 120, 121 AND THE WEST ONE-HALF (W 1/2) OF TRACT 122, BLOCK 50 OF THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE SOUTH 30 FEET OF TRACTS 119, 120, 121 AND THE WEST ONE-HALF OF TRACT 122, BLOCK 50 OF THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AS DESCRIBED IN THAT RIGHT-OF-WAY DEED RECORDED IN DEED BOOK 1018, PAGE 449, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THE PROPERTY DESCRIBED IN THAT ORDER OF TAKING RECORDED IN O.R. BOOK 6366, PAGE 721, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF TRACTS 119, 120, 121 AND 122 OF BLOCK 50 OF THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, AT PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING AND BEING IN SECTION 20, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE FOUND 1/2" ROD MARKING THE INTERSECTION OF THE BASELINE OF SURVEY FOR BOYNTON BEACH BOULEVARD (S.R. 804) AND THE BASELINE OF SURVEY FOR ACME DAIRY ROAD SOUTH; THENCE N 89° 26'12" E ALONG THE SAID BASELINE OF SURVEY FOR BOYNTON BEACH BOULEVARD (S.R. 804) FOR A DISTANCE OF 66.97 FEET; THENCE N°00 33'48" W, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING; THENCE N 46°22'41" W, A DISTANCE OF 37.30 FEET; THENCE N 00°33'48" W, A DISTANCE OF 98.00 FEET; THENCE S 89°26'12" W, ALONG A LINE 184 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE SAID BASELINE FOR BOYNTON BEACH BOULEVARD (S.R. 804), A DISTANCE OF 25.00 FEET; THENCE S 00°33'48" E, A DISTANCE OF 144.00 FEET; THENCE N 89°26'12" E, A DISTANCE OF 1320.00 FEET; THENCE N 00°33'48" W A DISTANCE OF 65.14 FEET TO A POINT ON A CURVE CONCAVE TO THE SOUTH HAVING A CHORD BEARING OF S 86°25'28" W AND A RADIUS OF 8972.64 FEET; THENCE WESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 434.20 FEET THROUGH A CENTRAL ANGLE OF 02°46'22" TO A POINT OF REVERSE CURVATURE HAVING A CHORD BEARING OF S 87°14'15" W AND A RADIUS OF 7579.44 FEET; THENCE WESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 581.86 FEET THROUGH A CENTRAL ANGLE OF 04°23'55"; THENCE S 89°26'12" W A DISTANCE OF 253.39 FEET TO THE POINT OF BEGINNING.

ALSO KNOW AS:

BEING A PORTION OF TRACTS 119, 120, 121 AND 122, ALL OF TRACTS 99, 100, 101 AND 102, BLOCK 50, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH

54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 20, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT 102, BLOCK 50; THENCE ALONG THE NORTH LINE OF SAID TRACTS 99, 100, 101 AND 102, BLOCK 50, N89°02'57"E, A DISTANCE OF 1,650.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT 99, BLOCK 50; THENCE ALONG THE EAST LINE OF SAID TRACTS 99 AND 122, BLOCK 50, S00°57'03"E, A DISTANCE OF 1,221.25 FEET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF PARCEL 108, AS DESCRIBED ON OFFICIAL RECORDS BOOK 6366, PAGE 721 OF SAID PUBLIC RECORDS; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE, THE FOLLOWING TWO (2) COURSES AND DISTANCES: THENCE S89°02'57"W, A DISTANCE OF 75.42 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 8,972.64 FEET AND A CENTRAL ANGLE OF 01°37'33"; THENCE WESTERLY ALONG THE ARC, A DISTANCE OF 254.62 FEET TO A POINT OF INTERSECTION WITH THE NORTHEAST CORNER OF RIGHT-OF-WAY LINE OF PARCEL 105, AS DESCRIBED ON OFFICIAL RECORDS BOOK 6366, PAGE 721 OF SAID PUBLIC RECORDS; THENCE ALONG THE NORTH LINE OF SAID RIGHT-OF-WAY LINE OF PARCEL 105, THE FOLLOWING SIX (6) COURSES AND DISTANCES: SAID POINT BEING ON A CURVE TO THE LEFT, HAVING A RADIUS OF 8,972.64 FEET AND A CENTRAL ANGLE OF 02°46'22"; THENCE WESTERLY ALONG THE ARC, A DISTANCE OF 434.20 FEET TO A POINT OF REVERSE CURVATURE TO THE RIGHT, HAVING A RADIUS OF 7,579.44 FEET AND A CENTRAL ANGLE OF 04°23'55"; THENCE WESTERLY ALONG THE ARC, A DISTANCE OF 581.86 FEET; THENCE S89°02'57"W, A DISTANCE OF 253.39 FEET; THENCE N46°45'56"W, A DISTANCE OF 37.30 FEET; THENCE N00°57'03"W, A DISTANCE OF 98.00 FEET; THENCE S89°02'57"W, A DISTANCE OF 25.00 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID TRACT 119, BLOCK 50; THENCE ALONG SAID WEST LINE AND THE WEST LINE OF SAID TRACT 102, BLOCK 50, N00°57'03"W, A DISTANCE OF 1,146.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,056,563 SQUARE FEET/47.2122 ACRES, MORE OR LESS.

DESCRIPTION:

PRESERVE PARCEL:

BEING A PORTION OF TRACTS 99, 100, 101, 102, 121 AND 122, BLOCK 50, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 20, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT 99, BLOCK 50; THENCE ALONG THE EAST LINE OF SAID TRACT 99, BLOCK 50, S00°57'03"E, A DISTANCE OF 118.60 FEET; THENCE S88°50'48"W, A DISTANCE OF 343.49 FEET; THENCE S01°03'32"E, A DISTANCE OF 726.55 FEET; THENCE S89°12'32"W, A DISTANCE OF 461.11 FEET; THENCE N00°57'14"W, A DISTANCE OF 726.28 FEET; THENCE S88°53'43"W, A DISTANCE OF 821.74 FEET TO A POINT ON THE LINE 25.00 FEET EAST OF, AS MEASURED AT RIGHT ANGLES, AND PARALLEL WITH THE WEST LINE OF SAID TRACT 102, BLOCK 50; THENCE ALONG SAID PARALLEL LINE, N00°57'03"W, A DISTANCE OF 121.00 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID TRACTS 99, 100, 101 AND 102, BLOCK 50; THENCE ALONG SAID NORTH LINE, N89°02'57"E, A DISTANCE OF 1,625.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 528,790 SQUARE FEET/12.1393 ACRES, MORE OR LESS.

DESCRIPTION:

DEVELOPMENT PARCEL:

BEING A PORTION OF TRACTS 99, 100, 101, 102, 119, 120, 121 AND 122, BLOCK 50, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 20, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 99, BLOCK 50; THENCE ALONG THE EAST LINE OF SAID TRACT 99, BLOCK 50, S00°57'03"E, A DISTANCE OF 118.60 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE EAST LINE OF SAID TRACTS 99 AND 122, BLOCK 50, S00°57'03"E, A DISTANCE OF 1,100.65 FEET; THENCE S89°02'57"W, A DISTANCE OF 75.42 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 8,974.64 FEET AND A CENTRAL ANGLE OF 00°42'08"; THENCE WESTERLY ALONG THE ARC, A DISTANCE OF 109.99 FEET; THENCE N78°08'43"W, A DISTANCE OF 50.79 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S01°58'05"E, A RADIAL DISTANCE OF 8,986.64 FEET; THENCE WESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 02°31'43", A DISTANCE OF 396.61 FEET TO A POINT OF NON-TANGENCY; THENCE S50°34'02"W, A DISTANCE OF 20.98 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S04°36'23"E, A RADIAL DISTANCE OF 8,974.64 FEET; THENCE WESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 00°44'35", A DISTANCE OF 116.39 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N04°52'46"W, A RADIAL DISTANCE OF 9,843.98 FEET; THENCE WESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 04°52'32", A DISTANCE OF 837.68 FEET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF BOYNTON BEACH BOULEVARD (S.R. 804), AS DESCRIBED IN PARCEL 105, AS RECORDED IN OFFICIAL RECORDS BOOK 6366, PAGE 721 OF SAID PUBLIC RECORDS; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE, N46°45'56"W, A DISTANCE OF 33.67 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY PROLONGATION OF THE LINE 25.00 FEET EAST OF, AS MEASURED AT RIGHT ANGLES, AND PARALLEL WITH THE WEST LINE OF SAID TRACTS 102 AND 119, BLOCK 50; THENCE ALONG SAID PARALLEL LINE, N00°57'03"W, A DISTANCE OF 1,123.00 FEET; THENCE N88°53'43"E, A DISTANCE OF 821.74 FEET; THENCE S00°57'14"E, A DISTANCE OF 726.28 FEET; THENCE N89°12'32"E, A DISTANCE OF 461.11 FEET; THENCE N01°03'32"W, A DISTANCE OF 726.55 FEET; THENCE N88°50'48"E, A DISTANCE OF 343.49 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,490,498 SQUARE FEET OR 34.2171 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

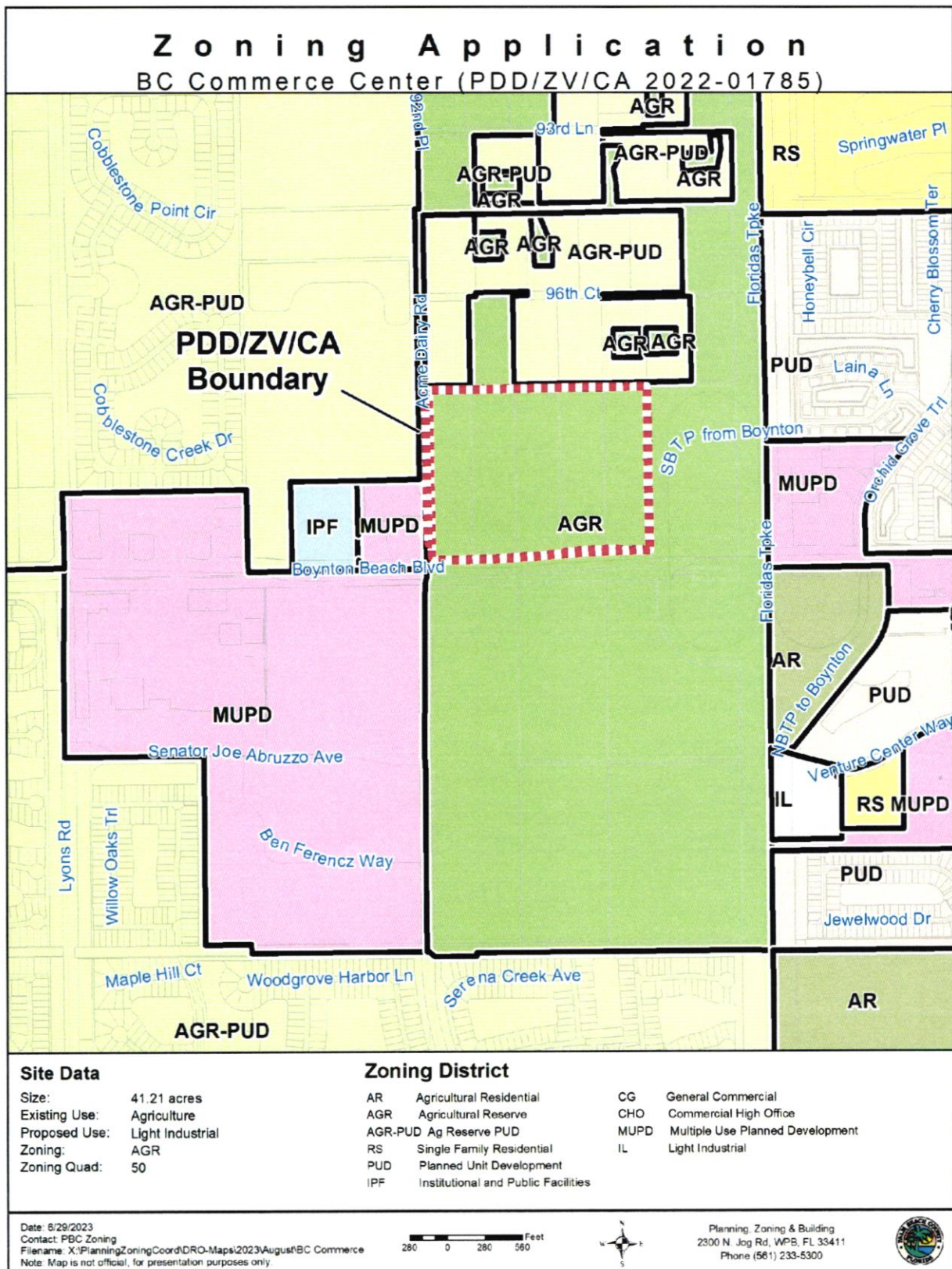


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 15, 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)
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/PDD/CA-2022-01785. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: ZONING - Zoning)

LANDSCAPE- PERIMETER –NORTH PROPERTY LINE

1. Prior to final approval by the DRO, the Site Plan shall be revised to be a Type 3 Incompatibility buffer along the north property line, as the road for the right of way easement does not exist. The Applicant may shift the location of the wall to the property line, as an alternative buffer, based on the overlap of the buffer within the preserve. (DRO: ZONING – ZONING)
2. In addition to the requirements for a Type 3 Incompatibility buffer, the Property Owner shall install one pine tree for each 15 lineal feet, in place of the palm/pine requirement of Art 7. The pines may be clustered in accordance with the ULDC. A detail shall be included on the Regulating Plan. (DRO/BLDG PERMIT: ZONING – Zoning)

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: 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.

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
Table 7.C.2.C 15 Buffers Requirements and Incompatibilities Buffer Types	North 15 feet Right of way within the Development Area	15 feet Right of Way Buffer along the North Property Line with 100 percent overlap within the 12.14 acres Preserve	To allow 100% overlap within the 12.14 acres Preserve of the 20 foot Type 3 Incompatibility buffer along the North property line

SITUS ADDRESS:	8289 Boynton Beach Blvd Boynton Beach 33472 8255 Boynton Beach Blvd Boynton Beach 33472	
OWNER NAME & ADDRESS:	Nurseries Valico Paul Dye 8289 Boynton Beach Blvd Boynton Beach, FL 33472-4413	
PCN:	00-42-43-27-05-050-0991; 00-42-43-27-05-050-0992 00-42-43-27-05-050-1000; 00-42-43-27-05-050-1010 00-42-43-27-05-050-1020	
ZONING DISTRICT:	AGR	
BCC DISTRICT:	5, Vice Mayor Maria Sachs	
PROJECT MANAGER:	Carlos Torres, Principal Site Planner	
LAND USE:	AGR (COMR Proposed)	S/T/R: 27-43-42
CONTROL #:	2016-00163	
LOT AREA:	47.21 acres +/-	
APPLICANT REQUEST:	to allow a 100 percent buffer overlap within a preserve on 47.21 acres	