

RESOLUTION NO. R-2023- 1183

RESOLUTION APPROVING ZONING APPLICATION ZV/PDD/CA-2022-01785
(CONTROL NO. 2016-00163)
an Official Zoning Map Amendment
APPLICATION OF Jon Channing, BC Boynton Industrial, LLC, Randall Thorne,
Paul Dye
BY JMorton Planning & Landscape Architecture, AGENT
(BC Commerce Center)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (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 Board of County Commission at a public hearing conducted on August 24, 2023;

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County Review Agencies, and the recommendation of the Zoning Commission;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for an Official Zoning Map Amendment;

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 the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS 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 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 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 24, 2023, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Sachs moved for the approval of the Resolution.

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

Commissioner Gregg K. Weiss, Mayor	- Aye
Commissioner Maria Sachs, Vice Mayor	- Aye
Commissioner Maria G. Marino	- Aye
Commissioner Michael A. Barnett	- Aye
Commissioner Marci Woodward	- Aye
Commissioner Sara Baxter	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on August 24, 2023.

Filed with the Clerk of the Board of County Commissioners on August 24th, 2023

This resolution shall not become effective until the Large Scale Land Use Amendment No. LGA-2023-00003 is effective.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY


PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:

JOSEPH ABRUZZO,
CLERK & COMPTROLLER


DEPUTY CLERK




EXHIBIT A

LEGAL DESCRIPTION

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

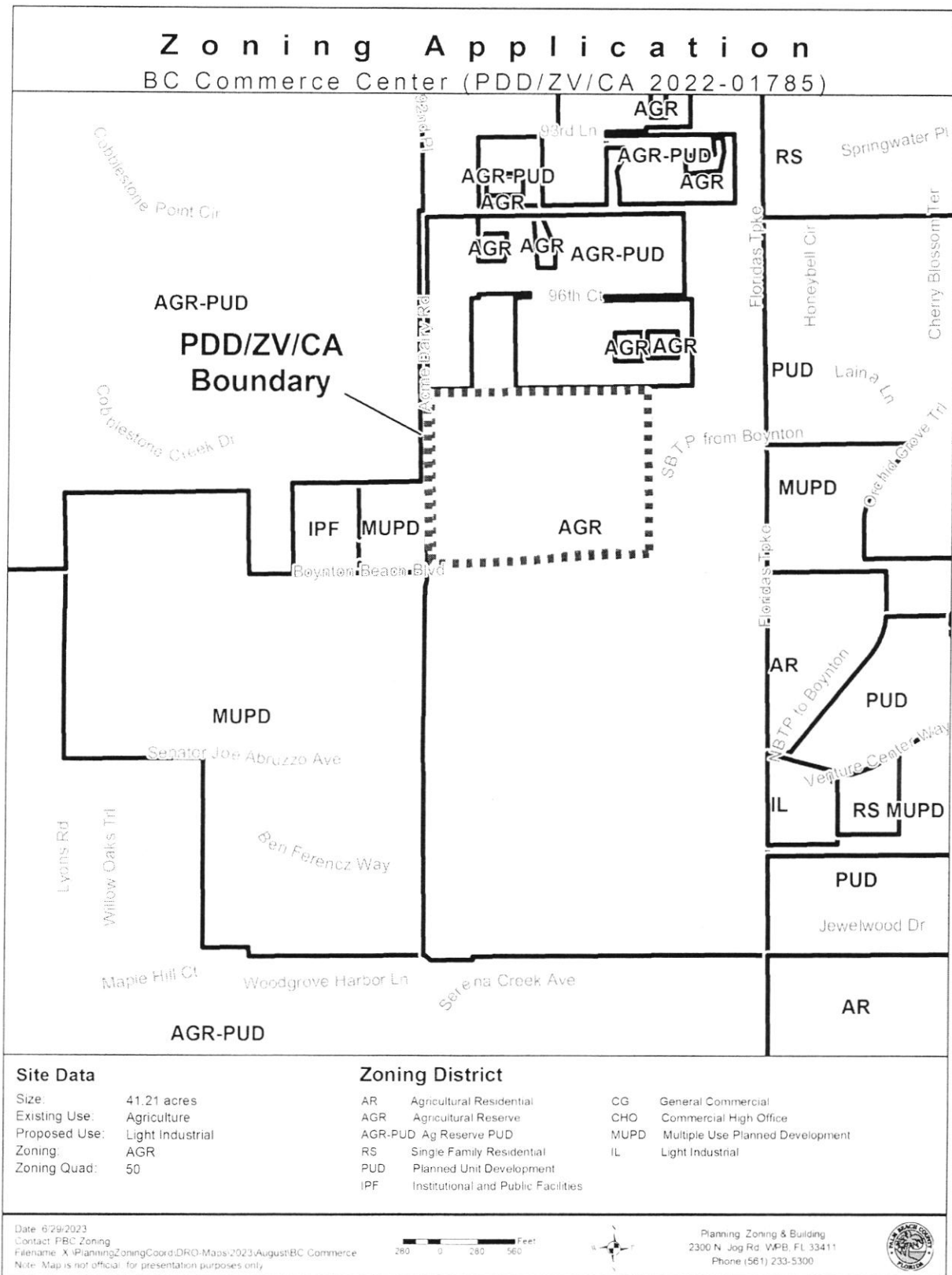


EXHIBIT C

CONDITIONS OF APPROVAL

PDD- Residential Planned Development District

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 6, 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 Board of County Commissioners. (ONGOING: ZONING – Zoning)

ENGINEERING

1. No Building Permits for the site may be issued after December 31, 2027, or as amended. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING- Engineering)

2. The Property Owner shall construct

- i) right turn lane east approach on Boynton Beach Blvd at the project entrance
- ii) a directional median opening on Boynton Beach Blvd at the project entrance allowing eastbound and westbound lefts or as approved by the FDOT

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. The length of the turn lanes shall be as approved by the permitting agencies.

a. Permits required from FDOT, as appropriate for the above constructions shall be obtained prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

3. No Building Permits shall be issued until the Property Owner makes a proportionate share payment of \$323,936.00. Note that while this proportionate share payment is based on proportionate cost of a specific roadway improvement, the County, in its sole discretion may apply such payment to one or more mobility improvements to regionally significant transportation facilities. The proportionate share payment shall be adjusted at the time of payment by the escalator calculation set forth in a later Condition below. Proportionate share payments made pursuant to the Proportionate Share Agreement shall establish road impact fee credits. The proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area. (BLDGPM: MONITORING- Engineering)

4. In recognition that construction prices may change over the life of the project, the proportionate share payments included in the above conditions shall be subject to the following escalator calculation:

Adjusted Payment (when payment is being made) = Original Payment Amount x Cost Adjustment Factor

Where,

Original Payment Amount = Proportionate Share Payment amount specified in the Proportionate Share Agreement

Cost Adjustment Factor = (Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of payment))/(Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of Prop Share Execution))

The Bureau of Labor Statistics Producer Price Index (PPI) for Commodities (Series ID: WPUIP2312301), can be found at <http://data.bls.gov/timeseries/WPUIP2312301>.

If at the time a Proportionate Share payment is due, the Commodities Code ID WPUIP2312301 is no longer used by the United States Bureau of Labor Statistics, the Adjusted Payment will be based on the Producer Price Index for non-residential commodities then in effect. In the event such an index is no longer in use, the Adjusted Payment will be based on the United States Bureau of Labor Statistics Consumer Price Index then in effect. (ONGOING: ENGINEERING- Engineering)

5. Prior to the issuance of the first building permit, 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. (BLDGPMT: MONITORING - Engineering)

6. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for Acme Dairy Road, 40 feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT/ONGOING: MONITORING- Engineering)

7. The Property Owner shall construct a right turn lane south approach on Acme Dairy Rd at the southern project entrance.

Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the entire condition shall be considered satisfied. (BLDGPMT: MONITORING- Engineering)

b. Construction shall be completed prior to issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering)

8. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING- Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPMT/PLAT: ENGINEERING - Engineering)

9. Property Owner shall construct a minimum 5 foot wide concrete sidewalk along the east side of Acme Dairy Road from Boynton Beach Boulevard to the north property line. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. The sidewalk shall be completed prior to the issuance of the first certificate of occupancy. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (CO: MONITORING - Engineering)

10. Prior to the issuance of the first building permit, the Property Owner shall provide to Florida Department of Transportation (FDOT), by deed, additional right of way for the construction of a right turn lane on Boynton Beach Boulevard at the intersection of Acme Dairy Road and the project's entrance road. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by FDOT. Additional width may be

required to accommodate paved shoulders. The right of way shall continue across the project entrance and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and corner clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDG/PMT: MONITORING - Engineering)

11. The Property Owner shall reconstruct Acme Dairy from Boynton Beach Boulevard to the north driveway connection, plus tapers, to be consistent with Palm Beach County standards for a non-plan collector roadway. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required for Improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. If approved by the County Engineer the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (BLDG PERMIT: Monitoring-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

ENVIRONMENTAL

1. Prior to the final approval by the Development Review Officer, a Phase II Environmental Site Assessment shall be provided to ERM for review. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

2. Provide a copy of a formal wetland jurisdictional determination from the Department of Environmental Protection, South Florida Water Management District and/or the Army Corps of Engineers. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

3. All vegetation species to be planted and maintained on the project shall be native to South Florida or as approved by ERM in writing. (BLDG/PMT/ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

EXCAVATION, TYPE 2

1. Prior to final approval by the DRO, the Applicant shall submit the required documents for the proposed Type 2 Excavation within the Preserve area. The Plans shall be revised to indicate the area meets the minimum 30 foot setback. (DRO: ZONING/Zoning)

2. Prior to final approval by the DRO, the Applicant shall submit a landscape plan for the Preserve area, where it is indicating a walking path for a Passive Park. Native Landscaping shall be installed around the path that enhances the use of the path by providing shading. The vegetation shall be water tolerant due to its proximity to the water areas. (DRO: ZONING - Zoning)

LANDSCAPING – GENERAL

1. Landscaping for the property development shall be 100% native material. (BLDG PERMIT/ONGOING: ZONING - Zoning)

LANDSCAPING – PERIMETER – NORTH PROPERTY LINE

2. Prior to final approval by the DRO, the north property line shall be relabeled as a 20 foot Type 3 Incompatibility buffer, as the right of way was never constructed. The wall may be constructed on the property line as allowed by the variance. (DRO: ZONING - Zoning)

3. Prior to final approval by the DRO, a Landscape Detail shall be included on the Preliminary Regulating Plan. (DRO/BLDG PERMIT: ZONING– Zoning)

LANDSCAPING – PERIMETER – WEST AND SOUTH PROPERTY LINE

4. Prior to final approval by the DRO the Applicant shall provide a detail of the buffering along Boynton Beach and Acme Dairy on the Regulating Plan. Though a reduced size, the buffer along Acme Dairy shall have similar attributes and material as that along Boynton Beach Boulevard. (DRO/BLDG PERMIT: ZONING– Zoning)

PARKING AND LOADING

1. Prior to final approval by the DRO, the applicant shall submit a request for a Type 1 Waiver for the reduction in the number of parking spaces. (DRO: ZONING– Zoning)

2. Prior to final approval by the DRO, the Applicant shall submit a request for a Type 1 Waiver for the reduction in dimension for proposed loading spaces. Commercial vehicles within the loading areas shall be compliant with the sizes of the loading spaces as depicted. Modifications to the sizes of the loading spaces will require a modification to the site plan to ensure dimensions and maneuvering areas are met in compliance with Article 6. (ONGOING/DRO: ZONING– Zoning)

3. Parking of Commercial vehicles shall only be within the loading spaces, unless outdoor storage is depicted on the site plan, compliant with the requirements of Article 5. (ONGOING: CODE ENFORCEMENT – Zoning)

PLANNING

1. Per Condition 1 of LGA-2023-003, development of the site under the Commerce future land use designation shall be subject to a maximum of 3,835 net daily trips, 723 net AM peak hour trips, and 571 net PM peak hour trips. (ONGOING: PLANNING- Planning)

2. Per Condition 2 of LGA-2023-003, the site is limited to 719,764 square feet (0.35 FAR) of uses allowed within the CMR future land use designation. (ONGOING: PLANNING- Planning)

3. Prior to Final Approval by the Development Review Officer (DRO), the Conservation Easement for the Preserve Parcel shall be submitted and recorded as approved by the County Attorney's Office and the Planning Division.

a. The Conservation Easement shall contain the following:

1) A legal description, site location, including the address of the parcel and a sketch including the area subject to the easement depicting reference points such as main streets and showing the location of the preserve within the context of the Ag Reserve;

2) A list of permitted uses, prohibited uses, and prohibited activities.

3) Title insurance for this easement shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Planning Division. (DRO: PLANNING - Planning)

4. Title Insurance for the Conservation Easement shall be based on the cost of a Single Family Transfer of Development Right (TDR) in effect at the time ZV/PDD/CA-2022-1785 was deemed sufficient (November 30, 2022), which is \$54,100 per acre for the area within the AGR Preserve Conservation Easement. (ONGOING: PLANNING- Planning)

5. Prior to Final Approval by the Development Review Officer (DRO), the Final Site Plan shall be revised to include the Official Records Book and Page of the recorded Conservation Easement for the Preserve Parcel. (DRO: PLANNING- Planning)

6. Prior to Final Approval by the Development Review Officer (DRO), submit a Preserve Management Plan for the Preserve Area. The management plan shall contain a legal description and sketch of the parcel, an inventory of existing uses and environmental assets on the site, and a plan for exotic removal and maintenance. The management plan shall be reviewed and approved by the Planning Division. (DRO: PLANNING - Planning)

SIGNS

1. Prior to final approval by the DRO, the Master Sign Plan needs to be updated to correct the tables to correctly reference the number of proposed signs as depicted on the Preliminary Master Sign Plan, and to modify the Master Sign Plan and Site Plan to indicate the location of the Outparcels. (DRO: ZONING – Zoning)

SITE DESIGN

1. Prior to final approval by the DRO, the Applicant shall submit a typical detail, on the Regulating Plan for their pedestrian pathway plan for their non-residential planned development. This circulation plan is required to indicate the shade trees benches and walkways with pavers. (DRO: ZONING – Zoning)
2. Prior to final approval by the DRO, In addition, the pathway indicated around the Preserve/Wetland area indicates an “entrance” to the east of the Preserve/Water management Tract and to the South. The Plan shall be revised in also include an “entrance” to the pathway from the west in proximity of the eastern landscape island next to Building G. (DRO: ZONING– Zoning)
3. Eight Dumpster/Recycling containers are indicated on the Preliminary Site Plan dated June 6, 2023. Any additional dumpsters shall be indicated on the Site Plan compliant with the requirements of the ULDC, and may not be located in required parking area. (ONGOING/DRO: CODE ENFORCEMENT/ZONING – Zoning)
4. Buildings C-H may be allowed to increase to 35 feet in height and Building A may be allowed to increase the height to a maximum of 45 feet for up to 200 feet of the total building length through the administrative site plan approval process subject to any increases allowed by Art. 2.C. (DRO: ZONING – Zoning)

USE LIMITATIONS

1. At time of Final DRO, the Applicant shall submit a phasing plan to indicate timing of construction of the proposed buildings. (DRO/BLDG PMT: ZONING – Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners 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 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.